APPENDIX.

APPENDIX

TO THE

CONGRESSIONAL RECORD.

Claims under the Eight-Hour Law.

SPEECH

OF

HON. JAMES E. COBB,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, December 5, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 1539) providing for the adjustment of accounts of laborers, workmen, and mechanics arising under the eight-hour law—

Mr. BLOUNT said: I yield fifteen minutes to the gentleman from Alabama [Mr. COBB].

Mr. COBB. Mr. Chairman, notwithstanding the discussion given to the pending measure at the last session of Congress, its great importance justifies additional scrutiny of its provisions. I read the bill in full in order to give it, as I shall attempt to do, fair and just analysis:

Be it enacted, etc., That whoever, as a laborer, workman, or mechanic, has been employed by or on behalf of the Government of the United States since the 25th day of June, 1868, the date of the act constituting eight hours a day's work, shall be paid for each eight hours he has been employed as for a full day's work, whether engaged at per diem compensation or piece or task work, without any redution of pay on account of the reduction of the hours of labor.

SEC. 2. That all claims for labor so performed in excess of eight hours per day are hereby referred to the Court of Claims, to be adjudicated upon the basis that eight hours constitute a day's work, and are to be paid for at the price per day as provided for in the first section of this act, and judgment given against the United States in favor of each claimant for the amount found due, to be paid as other judgments of the Court of Claims against the United States; and no statute of limitation, agreement, or payment made or receipt given for a less sum per day than the full price of a day's work, as provided in the first section of this act, shall bar the right of recovery: *Provided*, That all suits under this act shall be commenced within two years from and after its passage; and any number of said claimants may join in the same suit.

I also read in connection the act of Congress of the 25th of June, 1868, known as the eight-hour law:

Be it enacted, etc., That eight hours shall constitute a day's work for all laborers, workmen, and mechanics now enployed or who may be hereafter employed by or on behalf of the Government of the United States. (U. S. Stats. at Large, volume 15, page 77.)

This bill is remarkable in several particulars.

It construes the act just read, and makes the new construction operate retrospectively for more than twenty years.

It enlarges the act in that it authorizes its application to piece and task work, which is not within its original scope; and gives the enlargement also retroactive effect.

It repeals statutes of limitation, destroys agreements, and nullifies receipts.

Its whole tenor and scope are in contravention of the wisest and best established principles and rules of the common law.

What an invitation to litigation is here presented, if not to perjury and fraud.

In many suits likely to be brought under the provisions of the bill, if it becomes a law, the court will of necessity proceed on the *ex parte* evidence of the claimants. For in very many of the transactions of the past twenty years in which it may be alleged that laborers, workmen, and mechanics were employed by or on behalf of the Government of the United States no record was made, either as to the rendition of services or as to the character, quantity, or quality of the labor performed. This view is especially applicable to the provisions of the bill with reference to piece and task work, and with reference to employments made on behalf of the Government and not directly by it.

We may well pause at the threshold of legislation like this to consider its foundation and scope and consequences.

So far as the bill extends the eight-hour law to piece and task work heretofore done, it operates to bestow gratuities on individuals; and if such legislation is within the constitutional power of Congress, it is certainly ill-advised and improvident.

But gentlemen disclaim purpose of this sort. They urge that in no respect does the bill confer gratuity on any one. They say that the payment of additional compensation to the employés mentioned should be made because of existing right in them to demand it. The contention is that the act of Congress of June 25, 1868, was misconstrued—purposely and arbitrarily misconstrued by Government officials; that this law was in the nature of a contract with all laborers, workmen, and mechanics then employed, or thereafter to be employed by or on behalf of the Government, that they should receive a full day's pay for eight hours of labor; and that against its positive and inflexible command in this regard no contracts or agreements or settlements should stand.

In the face of such attitude, assumed with seeming confidence by the friends of the bill, what necessity exists, I pause to inquire, for its passage? What need is there for supplemental legislation if existing law is plain? Construing statutes are resorted to to remove obscurities, and are, let me observe, not favored when they are intended to have retroactive effect. If it is answered that statutes of limitation and rules of prescription bar the enforcement of just claims, these can easily be removed.

But no, sir; this bill is more far-reaching in its design than to remove limitations. Its purpose is to destroy the force and effect of decisions of the Supreme Court of the United States, and to give to the eight-hour law a construction it was not intended to bear.

To this extent it is new legislation on the subject embraced in the eight-hour law, and is vicious because, if for no other reason, it is so extensively retroactive.

I do not propose to discuss the merits or demerits of the eight-hour system. Such discussion is not in the line of my argument, nor is it involved in the pending issues.

The question I now consider is whether or not the pending bill is a proper construction of the law of July, 1868. Much has been said in debate of the opinions of prominent men. The committee reporting the bill quote largely from these opinions, and seem to rely on them to gain favorable consideration in this House. It may be conceded that the authority of the names cited is great, but it becomes of no value in presence of authoritative judicial decisions.

In Martin's case, several times cited in this debate, we have such decision, as will clearly appear by careful consideration of it. The court in that case construe the eight-hour law, and in the light, too, of the subsequent act of the 18th of May, 1872.

The court say:

On the 25th of June, 1868, Congress passed an act (15 Statutes, 77) declaring "that eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed or who may hereafter be employed by or on behalf of the Government of the United States." (Revised Statutes, section 3738.)

This was a direction by Congress to the officers and agents of the United States establishing, the principle to be observed in the labor of those engaged in its service. It prescribed the length of time which should amount to a day's work when no special agreement was made upon the subject. There are several things which the act does not regulate which it may be worth while to notice.

First. It does not establish the price to be paid for a day's work. Skilled labor necessarily commands a higher price than mere manual labor, and whether wages are high or low depends chiefly upon the inquiry whether those having labor to bestow are more numerous than those who desire the services of the laborer. The English statute-books are full of assizes of bread and ale, commencing as early as the reign of Henry II, and regulations of labor; and many such are to be found in statutes of the several States.

It is stated by Adam Smith, as the law in his day, that in Sheffield no master cutler, or weaver, or hatter could have more than two apprentices at a time, and so lately as the 8th George III, an act, which remained unrepealed until 1825,

was passed, prohibiting, under severe penalties, all master tailors in London, or within 5 miles of it, from accepting more than two shillings seven pence halfpenny a day, except in the case of general mourning.—*Smith's Wealth of Nations*, 125 (6th Oxford ed. of 1869).

A different theory is now almost universally adopted. Principals, so far as the law can give the power, are entitled to employ as many workmen and of whatever degree of skill and at whatever price they think fit, and, except in some special cases, as of children or orphans, the hours of labor and the price to be paid are left to the determination of the parties interested. The statute of the United States does not interfere with this principle. It does not specify any sum which shall be paid for the labor of eight hours, nor that the price shall be more when the hours are greater, or less when the hours are fewer. It is silent as to everything except the direction to its officers that eight hours shall constitute a day's work for a laborer.

Second. The statute does not provide that the employer and the laborer may not agree with each other as to what time shall constitute a day's work. There are some branches of labor connected with furnaces, foundries, steam or gas works, where the labor and exposure of eight hours a day would soon exhaust the strength of a laborer and render him permanently an invalid. The Government officer is not prohibited from knowing these facts, nor from agreeing, when it is proper, that a less number of hours than eight shall be accepted as a day's work. Nor does the statute intend that, where out-of-door labor in the long days of summer may be offered for twelve hours at an uniform price, the officer may not so contract with a consenting laborer.

We regard the statute chiefly as in the nature of a direction from a principal to his agent, that eight hours is deemed to be a proper length of time for a day's labor, and that his contracts shall be based on that theory. It is a matter between the principal and his agent, in which a third party has no interest. The proclamation of the President and the act of 1872 are in harmony with this view of the statute.

We are of the opinion, therefore, that contracts fixing or giving a different length of time as the day's work are legal and binding upon the parties making them.

In the case before us the claimant continued his work, after understanding that eight hours would not be accepted as a day's labor, but that he must work twelve hours, as he had done before. He received his pay of $2.50 a day for the work of twelve hours a day, as a calendar day's work during the period in question, without protest or objection.

At that time ordinary laborers under the same government received but $1.75 per day at the same place, and those engaged in the same department with the claimant in a private establishment at the same place received but $2 for a day's work of twelve hours, and the finding adds, "they had more work to do than the claimant had when similarly employed." The claimant's contract was a voluntary and a reasonable one, by which he must now be bound.

Mr. MCADOO. Which Department of the Government did the laborer who brought that case belong to?

Mr. COBB. I will see.

Mr. BUCHANAN. Was not that the case of an engineer who was exployed at Annapolis and employed under a stated agreement?

Mr. TARSNEY. And a voluntary agreement.

Mr. COBB. I will read the facts if the gentlemen desire it.

In the year 1866 or 1867 the claimant was employed by the foreman of the steam-heating and gas works at the Naval Academy, at Annapolis, to work for the defendants at $2.50 a day, with the understanding that during the season of steaming, which was from the 1st of October to the 1st of June, his time of labor was to be twelve hours a day. During the seasons of steam-heating he was fireman at the steam-boilers, and at other times he was employed in assisting in repairing pipes, digging, shoveling, or in ordinary labor and work.

Second. In July, 1868, upon the passage of the act constituting eight hours as a day's work for all laborers employed on behalf of the Government, called the "eight-hour law," 15 Stat., 77, the claimant and other laborers at said Academy spoke about that law to the foreman, who put on an additional man in the gas-works (where the claimant was not employed), and reduced the time of the labor of the men in said gas-works to eight hours a day. Soon afterwards the men told him they would rather have half a dollar a day additional than to have the eight hours' work.

Admiral Porter, then Superintendent of the Academy, was informed of what the men said, and het old the foreman that he would not give more pay, and that if any one would not work the full hours he would put some one in his place. The claimant was present and heard this conversation. Nothing more was said or done in the matter, and the claimant went on with his work, laboring the number of hours per day as before, according to the original understanding.

Now, Mr. Chairman, mark what gentlemen so strenuously insist was a special contract in this case. I repeat the portion of the statement of facts bearing on this point:

Admiral Porter, then Superintendent of the Academy, was informed of what the men said, and he told the foreman that he would not give more pay, and that if any one would not work the full hours he would put some one in his place. The claimant was present and heard this conversation. Nothing more was said or done in the matter, and the claimant went on with his work, laboring the number of hours per day as before, according to the original understanding.

This and this alone was Martin's contract, and it was no more a special or voluntary agreement than was had in the case of every laborer covered by the provisions of the bill, as I will show presently.

Mr. ROCKWELL. Will the gentleman allow a question?

Mr. COBB. Yes, sir.

Mr. ROCKWELL. If that case decides that the principal directs his agent and a third party has nothing to do with the direction, then, there being in this case upon the statute-book an eight-hour law, has not the workingman, the employé, an equitable right to come before us and ask us to relieve him equitably from the action of the agent? Congress itself being the principal, and having given the direction to the agent, has not the third party in this case a right to come and ask us to relieve him?

Mr. COBB. I will come to the matter of that question presently. It is in my line of argument. The point I wish to emphasize before reaching that raised by the gentleman from Massachusetts [Mr. ROCKWELL] is this: that inasmuch as the Supreme Court of the United States have deliberately and emphatically declared the true intent and meaning of the eight-hour law, we must rest upon the interpretation thus given as final and conclusive. It makes no difference what gentlemen, however distinguished and learned, may have thought to have been the purpose of Congress, provided we have a clear and explicit decision by the judicial department of the Government. That is the point. I assert and maintain that in Martin's case we have such a decision, and this decision is to the effect that in the eight-hour law there is no direction, positive and controlling, to the agents of the Government to stipulate for only eight hours of labor per day. That there may be no mistake as to the meaning of the Supreme Court, I quote again its language:

We regard the statute chiefly as in the nature of a direction from a principal to his agent that eight hours is deemed to be a proper length of time for a day's labor, and that his contracts shall be based on that theory. It is a matter between the principal and his agent in which a third party has no interest.

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We are of the opinion, therefore, that contracts fixing or giving a different length or time as the day's work are legal and binding upon the parties making them.

What could be clearer? As said in the head-notes of this case, the act of Congress—

Is not a contract between the Government and its laborers that eight hours shall constitute a day's work.

It is a direction merely from the Government to its agents, in which direction a third party—the laborer—has no interest. Now, then, if there is no legal claim existing on the part of these laborers there is no equity. I am using technical language. I will come in the course of my argument to consider the term equity in its broader significance.

No one pretends that the agents of the Government resorted to fraudulent practices with the laborers to secure their services. There was no deception nor concealment. The laborers knew what they were doing; they knew what the Government required and what it proposed to pay; they accepted employment on the Government's terms; they were capable of contracting, and they were paid according to contract. All this being true, no equities can arise in their favor in the absence of foundation for legal demand.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BLOUNT. Mr. Chairman, I am willing that the gentleman shall continue his remarks.

Mr. COBB. Let us look a little more into this matter of agreement. I am not aware that the facts just stated are controverted, and such facts make a contract binding in law and equity alike.

It may be true that there was not, in every instance, a specific contract entered into with the individual laborer, but after the passage of the eight-hour law the various Government agents advised the laborers under them, by proclamation or orders regularly issued, that they would receive such an amount of pay for so many hours' work. Thus advised they continued to labor and to receive remuneration according to the terms of the orders. Behind such executed contracts—call them contracts by implication, if you please—the parties to them may not go.

It is not pretended that there is a single instance in which there was not either a special agreement between the laborer and the Government agent, or such implied contract as I have described.

And how, let me here observe, incidentally, in answer to the suggestion of the gentleman from Massachusetts [Mr. ROCKWELL], can a man have an "equitable right" growing out of a matter in which he has no interest? I might rest on this one expression of the Supreme Court. But to proceed.

Mr. GEST. Will the gentleman allow me to inquire what was the purpose of Congress in the passage of the eight-hour law?

Mr. COBB. The Supreme Court in the case just read tells you the purpose.

Mr. GEST. Was it not the purpose that the hours of labor in Government employ should be changed from ten to eight hours per day, and that the pay should continue at the same rate?

Mr. COBB. If you take my construction—I do not know whether it is worth anything——

Mr. GEST. If you will refer to page 9 of the report upon the pending bill you will find that this House on the 9th day of May, 1878, passed a resolution which clearly states the purpose of this law. Its purpose was to reduce the hours of labor to eight hours per day without any reduction of wages.

Mr. COBB. But the Supreme Court of the United States has fixed the construction of the law, which is binding on us——

Mr. GEST. I would like the gentleman to answer my question.

Mr. COBB. In regard to the purpose of the law, I assume that it was the purpose of Congress to declare that, in the absence of special agreement to the contrary, eight hours should be an ordinary day's labor, and that if employés of the Government, under such circumstances, saw proper to work only eight hours in a day they should receive a day's pay. So say the Supreme Court.

Mr. FARQUHAR. Will the gentleman permit me to amplify the suggestion of the gentleman from Illinois [Mr. GEST]? The resolution of Congress to which reference has been made is in this language:

Resolved, etc., That according to the true intent and meaning of section 3733 of the Revised Statutes all laborers, workmen, and mechanics employed by or on behalf of the Government shall hereafter receive a full day's pay for eight hours'

work; and all heads of Department, officers, and agents of the Government are hereby directed to enforce said law as herein interpreted.

That is the conclusion of Congress in this matter.

Mr. COX. My friend from Alabama [Mr. COBB] yields to allow me to ask him one question. It seems to me that he confuses the distinction between law and equity. Now, my idea, on which I predicate my question, is that where the law is deficient equity comes in. And there is a larger element of equity in this case. The Government having had two hours of labor daily for which it has not paid, does not that raise an equity in favor of the laborer? The Government has received the labor, but has not paid for it. Is it not equitable that it should pay for it? Now come right down to this matter.

Mr. COBB. I will answer with pleasure.

Mr. COX. You are one of the fairest men I ever saw in debate in this House; and I ask you that question—whether it is not fair and equitable to pay these men for the labor they have given to the Government and for which they have never been paid?

Mr. COBB. I will answer the question if the gentleman will allow me. The words "equity" and "equitable" are used oftentimes in common speech somewhat loosely. When in arguing propositions of law we use them, they bear a different meaning from their ordinary acceptation. I have been talking about "equity" as recognized in the courts; and I submit this as a proposition which can not be controverted—that where two parties, capable of contracting, do contract, both of them understanding all the surrounding circumstances pertaining to the contract, and each fair and open in his dealing with the other, equity will never intervene in favor of either.

Equity, in other words, is always founded upon some subsisting right which may be termed a legal right in the sense that it would have recognition and enforcement in a court of common law if the rules of such court had sufficient flexibility—less "universality," if you please. Equity follows the law. It is not an indefinite kind of power which takes cognizance of whatsoever may be loosely designated as "fair."

Strangely enough the gentleman from New York [Mr. COX], whose profound and varied learning, keen perception, and acute powers of analysis are known of all men, permits himself to trip on a distinction with which, I am sure, he is quite familiar.

But can the provisions of this bill be considered even "fair?"

The line of my argument, from which I have been somewhat diverted, was leading me in the direction of this inquiry. I recur to it. But before doing so, I will notice more specifically the suggestions of the gentleman from Illinois [Mr. GEST] and the gentleman from New York [Mr. FARQUHAR].

The resolution to which these gentlemen refer was not a resolution of Congress. It never passed the Senate, and hence did not become a law. It has no force whatever, except as indicating the opinion of certain gentlemen of the then House of Representatives. Had it been otherwise, had the resolution become law in due form, it would have had no retroactive operation. "Shall hereafter receive" is its language. And by the very use of such language there was recognition of the correctness and binding force of the decision of the Supreme Court.

It was legislative recognition—if gentlemen will persist in deeming it legislation—of the propriety of regarding past settlements had with laborers as final. Under well-recognized rules of statutory construction, it confirmed these settlements. This resolution passed the House on the 9th May, 1878. A large portion of the claims which would be made under the pending bill is for labor performed before that day. Hence it is clear that, in any view, the resolution can have little effect on this discussion and little weight in determining our course in acting on the pending measure.

I have attempted to establish the proposition that the beneficiaries under this bill have no legal claim against the Government, and no equity that could possibly be recognized in any court. In the absence of such legal claim and equity, what is the case presented? In what respect is it just or proper that this legislation be had?

Although the persons sought to be benefited performed their labor under contract, either express or implied, as I have stated, it is urged in their favor that they were under some sort of constraint; that they were compelled to accept the terms imposed on them by the Government; and that, therefore, common fairness demands the granting of the relief here proposed. "Is it not fair and equitable," says my friend from New York [Mr. COX], "to pay these men for the labor they have given the Government, and for which they have never been paid?" We have even heard from other gentlemen the term "starvation" used in this connection.

How strange it is that learned gentlemen, especially those of them who so recently descanted eloquently on the prosperous condition of American laborers, should permit themselves to hold such language. We are told, one day, of the ever-increasing opportunities for remunerative employment in all the branches of industry in all parts of our country, and, on the next, that a few individuals must accept Government employment at Government prices or starve.

Suppose the eight-hour law had never been enacted, is it to be supposed, does any one believe, that these men would have ever conceived the idea they were badly treated?

On two assumptions—putting aside the legal view—are the so-called equities of this measure pressed; first, that the laborers were under necessity to remain in Government employment; and, secondly, that they were not fully and fairly paid. Neither assumption can be supported. The former carries with it a reproach to the independence and manhood of a body of free, intelligent American citizens; the latter, a charge against the officials unjust because unfounded.

It is common knowledge that service under the Government of the United States, in all branches of its employment, is eagerly sought.

For this service men are ever ready to abandon other fields of remunerative labor. This is true for the reason, simply, that the Government is the most liberal employer in the world. Its exactions are not harsh; its scale of wages is above the ordinary standard; and its payments are prompt and certain. This is as it should be, and is a matter of just pride to every lover of his country. Inasmuch, then, as every one of the classes described in the pending bill has received to the last farthing the money promised him; and inasmuch as every one of them received better wages than were paid by other employers for like labor, wherein is the foundation for the claim that they are "equitably" or "fairly" entitled to more?

Gentlemen will pardon me for saying that they seek to make by legislation an "equity" not now existing, and to provide extraordinary remedies for its enforcement. Mr. Chairman, look at this matter from any standpoint you please, it is, in its last analysis, a provision for the bestowment of largesses on a favored class.

There are no means of estimating with accuracy the amount of money which will be required to be expended under this bill if it shall pass. It is quite certain to be many millions of dollars, exclusive of costs. And who is to pay this enormous sum? I am of those who believe that the money in the public Treasury comes from the pockets of the people, whether procured by direct or indirect taxation.

I further believe that, under existing laws, the burdens of government press most heavily on those least able to bear them—the farmers, the mechanics, the laborers, and wage-workers of the country. These are they to whom the hand of the Government—unseen, but not unfelt—is ever extended; not to bestow bounty, but for the inevitable taxes. Taxes for what purpose collected? For the support of the Government only? Not so, verily. The ever-accumulating surplus, whose presence in the public Treasury is, among other evils produced by it, a standing invitation to extravagant and unconstitutional expenditure, demonstrates the contrary.

Month by month are unneeded millions collected by the Government from the people, while, through the same agency, millions more are being directly transferred from the scant earnings of the many to the pockets of the favored and protected few. These many—the farmers especially—have been long patient because conservative and slow to demand change in existing systems. But let no man deceive himself. They are arousing now. The spirit of inquiry is among them. They are denouncing governmental favoritism. They are demanding reform, and woe be to him who stands in the way of its accomplishment.

This measure is pressed in the name of labor; in the name of labor and in the true interest of laboring men I protest against its enactment.

Refund of the Direct Tax.

SPEECH

OF

HON. WILLIAM C. OATES,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, December 6, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (S. 139) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861—

Mr. OATES said:

Mr. CHAIRMAN: I do not intend at this time to do more than state substantially the grounds of my opposition to this bill. When it was under consideration before I occupied the floor for about one hour, and then gave my reasons very fully for opposing it. The arguments which I will now present are to some extent substantially a repetition of the arguments then made, with some additions which have occurred to me since.

The first ground of my opposition to this bill is that there is no authority in the Constitution of the United States for Congress to pass it, or to make the appropriation provided for by it. I do not believe that there is any power of appropriation of the public money vested in the Congress independent of constitutional grant, and there is no power granted by the Constitution to pass this bill. I do not contend for a narrow, restricted, foolishly strict construction of the Constitution, but I do contend for an observance of it. This appropriation is not within any of the express grants of power in that instrument, nor is it within

any of the implied grants of power. I concede that there is an implication of power in Congress where there is no express grant in all cases where it is necessary to exercise such implied power in order to give force, effect, and efficacy to the express grant.

Further than this, any exercise of power by the Congress or any department of this Government is a naked usurpation and dangerous to the public weal. So long as there is a strict observance of the Constitution by all of its departments this great Government of governments will continue to be the wonder of the world and the greatest blessing to men. I want it preserved and perpetuated, and the only way in which that can be done in its original integrity is to keep carefully and squarely within the grants of power. I believe that such an observance of constitutional limitations makes it the best government in the world. When in all of its departments, legislative, judicial, and executive, every act is done within constitutional warrant by fair interpretation, it is exactly the government its framers and the States which adopted it intended it should be. I believe that such an observance of constitutional grants of power is the best security for the liberties and rights of the American people that was ever secured to any people in the civilized world; but, sir, when these limitations are disregarded and the unbridled will of Congress is substituted therefor, the people no longer have any guaranty of their rights or that large body of rights reserved by the tenth amendment to the States and to the people.

Taxes are laid and money is collected by the United States either to pay their debts, to provide for the common defense, or for the general welfare of the United States, not of the people at large, but for the "welfare of the United States," and money legally collected and paid into the Treasury can only be taken therefrom by appropriations to effectuate some one of these purposes. The money collected by the direct tax in 1861 was legally collected. That was a constitutional enactment and the money was legally collected so far as collected under that act. That money was expended for a legal purpose—the common defense. It does not, therefore, in any sense, nor by any kind of strained construction, constitute a debt or obligation which this Government owes or has not discharged. This bill, therefore, is a donation, and there is no grant of power which can justify it.

It is claimed by some of its advocates that this is a bill to refund to those who paid it the direct tax which was collected. That is a false pretense recited in its title. The money collected was expended years ago, and the appropriation which this bill proposes is of money collected from the people to be used generally for the purposes enumerated in the instrument which authorizes Congress to lay and collect taxes. It is also contended that the power of Congress over the whole subject of taxation is absolute and unlimited, and hence it is competent for them to do whatsoever they choose with the money collected.

This is a false assumption. The power of Congress over the subject of taxation is unlimited only in respect to the amount or sum to be raised and as to whether this shall be done by the direct or indirect method. But as to the expenditure of the revenue, when raised by either method of taxation, it can only be done "in consequence of appropriations made by law" and in pursuance of some of the powers granted to Congress by the Constitution, or to perpetuate the existence of the Government.

And I would like to say that no Democrat could hold otherwise; but we have some very queer kinds of Democrats, and hence I can not say it. If Congress has absolute power over the whole subject of taxation from first to last, with the "exclusive right" to "refund" and expend the money after it is collected, it follows as a logical conclusion that the Constitution contains no limitations or restraints on Congress in the matter of appropriation and expenditure of the public money. Strange Democracy!

The gentleman from Ohio [Mr. SENEY] says that the opponents of the bill deny that there is any power vested in Congress by the Constitution "to remit or refund a tax legally laid." No one said anything of the kind. The gentleman fails to state the proposition by omitting the words "and collected." Our position is that a tax legally laid, collected, and applied, as the direct tax was, can not be "refunded," which means "repaid, or restored, as money given or received; to pay back." That gentleman further says "that Congress has the same power to remit or to refund a tax that it has to lay and collect it," and that "if Congress can not remit a tax or refund a tax, then it has not either exclusive or absolute power over the subject of taxation. If the power to remit or refund a tax be not in Congress, then it has no existence." The gentleman is guilty of the wildest kind of a confusion of terms.

If he means by the word "remit" to release or forgive a tax not collected, I admit the power of Congress to do that, because, as to that, the power continues until collection is completed, but I deny that there is any power to "refund" a tax legally collected and applied. When money is legally collected by any of the authorized methods and covered into the Treasury, Congress has no power over it except to appropriate it or by law authorize its payment out of the Treasury for some one or more of the purposes for which the Constitution authorizes its expenditure.

The Constitution invests Congress with power as follows: "To lay and collect taxes, duties, imposts, and excises," and then proceeds to express the purposes for which the power is given. It will be observed that the power is to "lay and collect," and not to "remit and refund." It seems to me that this language expresses the power with which Congress is clothed as clearly as any words in the English language can do it. The appeal of the gentleman from Ohio to the shade of Webster can not help him. His argument is outside of the Constitution.

My second objection, Mr. Chairman, is that this bill is unjust in its provisions. I shall not attempt to point out in detail or to specify all the instances of injustice. It certainly will without argument occur to the mind of every well-informed man that taxes collected from the people can never be returned and even-handed justice be done to them. The money can never be made to reach the pockets of those who paid it. As time passes on, as years roll by, the difficulty of replacing the money in the pockets of the people who paid it increases, and at this late day, after the lapse of more than a quarter of a century since the tax was paid, it is impossible to restore it to those from whom it was taken. It is said, however, by the advocates of this bill that it is necessary to pass it in order to mete out justice to the people of the United States, for the reason that this tax has never been collected from some of the States. About two and a half of the twenty millions have never been collected.

But has this claim any higher ground for an appropriation from the Treasury to pay back to the people who paid the seventeen and a half millions of this tax than that the people of the Northern States should be reimbursed any other taxes that they paid during the war? Have not the people of the States which adhered to the Union during the great war the same right to have an appropriation made out of the Treasury to refund to them the income tax, or the internal-revenue tax, or any other tax which was collected from them during that period, on the ground that the people of the Southern States did not pay any part of it? Wherein is the difference? Their argument is absurd. If, however, this House determines to pass this bill for the purpose of evening up this matter of taxation and doing justice, as the supporters of the bill claim, to the whole people of the United States, then I insist that you shall go further and adopt the amendments which I expect to offer. I insist that you shall go further back and correct other inequalities more glaring than any to which this bill applies. I do not wish to be misunderstood. I want to see this bill defeated. But if it is to pass, why should the State of New York be paid under its provisions over $2,000,000, when, on the books of the Treasury, New York owes this Government $4,000,000 and upwards, which she received on deposit under the act of 1836? Why should the State of Missouri receive over $700,000 under this bill when she has on deposit subject to call belonging to the United States something over $300,000 which she received from the distribution of 1836? Gentlemen will find on examination that the older States, those which were most populous at that time, received a much larger share of that distribution than the Western and Southern States, and in the same way they will take a larger share under this bill. Now, if this measure is to be passed why not take into the account the $28,000,000, so far as any State is by this bill entitled to share in this distribution, and to that extent set off one against the other, and in that way reach a settlement of the books of the Treasury in accordance with the recommendation of the late Secretary Folger?

In 1836, when there was a surplus in the Treasury and a disposition pervaded Congress to divide it among the States, on careful examination it was found and determined that no power existed to authorize such appropriations or distribution, and recourse was had to the enactment of a statute or a section of a statute which deposited that $28,000,000 of surplus with the States as the money of the United States subject to call, where it remains to this day.

The gentleman from Ohio [Mr. SENEY] said in respect to this act of 1836 by which the surplus in the Treasury was deposited with the States:

> Is it wrong to return to the States for the use of their people money which the Government has but does not need? Fifty-two years ago the Treasury had idle money in its vaults. Through the States it was returned to the people, and the law under which this was done had the approval of President Jackson. Was Andrew Jackson a Treasury raider, or was he what history tells us, a bold and determined champion of the rights of the people?

The learned gentleman attributes to General Jackson a doctrine which he repudiated and condemned. Let the sage of the Hermitage speak for himself and see how emphatically he condemns the very thing which he is said to have advocated. I quote from his last annual message to Congress:

> The consequences apprehended, when the deposit act of the last session received a reluctant approval, have been measurably realized. Though an act merely for the deposit of the surplus moneys of the United States in the State treasuries for safe-keeping until they may be wanted for the services of the General Government, it has been extensively spoken of as an act to give the money to the several States; and they have been advised to use it as a gift without regard to the means of refunding it when called for.
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> But, independently of the violation of public faith and moral obligation which are involved in this suggestion, when examined in reference to the terms of the present deposit act, it is believed that the considerations which should govern the future legislation of Congress on this subject will be equally conclusive against the adoption of any measure recognizing the principles on which the suggestion has been made.
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> To collect revenue merely for distribution to the States would seem to be

highly impolitic, if not as dangerous as the proposition to retain it in the Treasury. * * *

A distribution to the people is impracticable and unjust. * * * It would be taking one man's property and giving it to another. Such would be the unavoidable result of a rule of equality (and none other is spoken of or would be likely to be adopted), inasmuch as there is no mode by which the amount of the individual contributions of our citizens to the public revenue can be ascertained. We know that they contribute unequally, and a rule therefore that would distribute to them equally would be liable to all the objections which apply to the principle of an equal division of property. To make the General Government the instrument of carrying this odious principle into effect would be at once to destroy the means of its usefulness and change the character designed for it by the framers of the Constitution.

Another striking inequality and injustice done by taxation to a large part of the people of this country was the tax imposed on raw cotton by the acts of 1862 and 1866, by which the cotton producers of the Southern States were made to pay the enormous sum of $68,000,000, which reached the Treasury of the United States, and perhaps quite as much more which was stolen or embezzled by the rascally collectors. I believe, and the people of the Southern States who paid that tax believe, that the law under which it was collected was an unconstitutional enactment.

The question was once very ably argued on both sides before the Supreme Court of the United States. If the tax laid was a direct one, then it was admitted on all sides to have been unconstitutional for the want of uniformity in apportionment. If the tax laid was indirect, its constitutionality was admitted unless it was a tax upon exports.

When these questions were before the Supreme Court in a case which came up from Tennessee, eight judges sitting, four of them held that those acts were unconstitutional and four held that they were constitutional. The Chief-Justice, being sick or absent at the time, did not sit, so no decision was reached, as the court was equally divided.

Mr. HOPKINS, of Illinois. Did not that result affirm the judgment of the lower court?

Mr. OATES. Not as to the constitutional question. I am talking about that question now.

Mr. HOPKINS, of Illinois. But was not that the effect?

Mr. OATES. The constitutional question was not decided. The judgment of the court below, as every lawyer knows, stood because there was no decision of the Supreme Court; and in order that there might be no decision reached on the constitutional question thereafter, or perhaps because of the odiousness of the law, Congress immediately wiped it from the statute-book, and that is, I presume, the reason why no decision has ever been had upon the constitutional question.

At the proper time I will offer an amendment, which I send to the Clerk's desk and which I will ask to have read presently, to refund the cotton tax, and if that is voted down I will then offer another with a view of testing the constitutional question. The second one, however, I shall offer only in the event that the first is not adopted. The second amendment will present the question to this House whether they will open the Court of Claims so that a case may be made and the constitutionality of the law tried and determined by the Supreme Court of the United States; because I here affirm that if the law is constitutional, then no man who paid that tax is entitled to have it refunded. I would not vote to return one dollar of it if I did not believe that the court would hold that the law was unconstitutional. I will now ask that the Clerk read the amendments which I will offer to the bill at the proper time.

The Clerk read as follows:

SEC. —. That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit and pay to each State a sum equal to the amounts collected therein respectively as a tax or duty on raw cotton under the provisions of the act approved July 1, 1862, and the supplemental and amendatory acts thereto; which sums when so credited and paid shall be accepted and held by such States to be disposed of as their respective Legislatures elected next after such payment may direct.

Mr. OATES. Mr. Chairman, the amendment which the Clerk will next read is one which I propose to offer, if the one just read, the adoption of which I prefer, be not adopted.

The Clerk read as follows:

SEC. —. That any citizen of the United States who owned raw cotton grown or produced in any one or more of said States, and who was required by any officer or agent of the United States to pay, and did pay, on such cotton any money as a duty or tax under the act approved July 1, 1862, or the acts supplementary thereto approved July 13, 1866, entitled "An act to reduce internal taxation and to amend an act entitled 'An act to provide internal revenue to support the Government and pay interest on the public debt, and for other purposes,' approved June 13, 1864, and acts amendatory thereof," may at any time within one year after the approval of this act file his or her petition and bring suit in the Court of Claims against the United States for the recovery of the money so paid and collected from him or her as a duty or tax on such cotton; and the said Court of Claims shall hear all legal evidence and render judgment in such case; and within sixty days thereafter either party, the petitioner or the United States, shall have the right of appeal from such judgment to the Supreme Court of the United States for decision therein: *Provided*, That whenever any case is tried before said Court of Claims which fairly presents the question of the constitutionality of said acts laying a duty or tax on raw cotton as aforesaid and an appeal is taken from the decision and judgment of said court to the Supreme Court of the United States, no other suit shall be commenced or prosecuted under this act in said Court of Claims until the said Supreme Court decides such appeal and passes judgment upon the constitutionality of said laws, and in the event that said Supreme Court holds the said acts to be unconstitutional all persons who paid such tax aforesaid shall have two years thereafter to bring their suits in the said Court of Claims as aforesaid.

Mr. OATES. The next proposition which I desire to have read is one referred to by the gentleman from Arkansas [Mr. ROGERS], which is designed to come in as a proviso to the bill.

The Clerk read as follows:

Provided, That the Secretary of the Treasury, in making payment and settlement with any State, shall take into account and set off against the amount made due by this act to such State any amount which may be due by such State to the United States under an act approved June 23, 1836, entitled "An act to regulate the deposits of public money."

Refund of the Direct Tax.

SPEECH

OF

HON. S. Z. LANDES,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, December 12, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (S. 139) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861—

Mr. LANDES said:

Mr. CHAIRMAN: I am opposed to the bill under consideration for several reasons. The direct taxes were more than a quarter of a century ago collected under authority of the Constitution, and were then used in defraying expenses necessitated by the exigencies of war. The tax-payers did not then expect the return of the money, and as a matter of fact it can not be returned to the people individually from whom it was collected. And to a very small percentage of the people who paid these taxes will this bill directly or indirectly return an unexpected and very small modicum of the amount they individually paid. Hence there is but a shadow of justice in the measure, if its constitutionality is conceded.

In 1862 the population of Illinois numbered 1,750,000 souls, and paid of the direct taxes $1,146,551. We know that a large percentage of these people have died in twenty-six years, and a larger number have sought homes in the West, in States since erected and in the Territories. The population of the State now numbers about 3,500,000, and to whom it is proposed to pay the $974,568 (which is the net amount to be returned) under the pretense of doing justice to those who paid the taxes. It seems to me a bare statement of the situation shows the plea of justice to be a sham and a pretense only, and in fact a mere cover under which to reduce the Treasury surplus, in the interest of the tariff barons and against the interest of the overtaxed people.

I am opposed to the bill for the reason that the several States have no legal claim against the United States for the return of this money. These were necessary taxes and were collected under the authority of the highest attribute of sovereignty; hence there can be no legal nor equitable principle fairly invoked to justify this legislation.

It is also an admitted fact that the several States are prepared to meet their current liabilities independent of this money. In fact they are not prepared to dispose of it; and, as all history attests, money which so unexpectedly comes into the treasury of a State or into the pockets of an individual is in a large majority of cases not put to the best of uses, and I suspect the part that Illinois would get under this bill would not lessen the taxes of the State the fraction of a mill. And this rule may be expected to apply with more or less force to the other States.

It is said some of the States have failed to pay their proportion of the direct taxes, and that over $2,000,000 are still due from the delinquents. I admit the truth of this statement and the injustice of the situation, a situation brought about by the Republican party in Congress at the behest of protected interests of the country, on whose shoulders the responsibility rests; but I contend the remedy proposed by this bill is fourfold greater injustice on the people than is the present situation. Rather than refund as proposed, I favor the collection of the uncollected balance against the delinquent States.

Personally I would vote for direct taxation under the Constitution, knowing full well its unfairness to the poor populous States, as a substitute for so much of our present system as is distinctively protective.

The amount to be disbursed by this bill seems to be $17,359,685.51, and to be taken out of the money in the Treasury collected within the last ten months. Of this amount it will be safe to say $11,000,000, in round numbers, were procured under the oppressive protective-tariff laws. Under this system the taxes are paid by the people for revenue for the Government, and for protection to the manufacturers in the proportion, as I count it, of $1 for the Government and $4 for the manufacturers. So that the people paid $55,000,000 under the protective feature of the tariff laws, and $6,359,685.51 under the other modes of raising revenue, making a total of over $55,359,685 which it cost the people to put $17,359,685.51 in the Treasury of the United States and which it is now proposed to disburse.

What is the economy of taking from the people over $55,000,000 in order to return to them a little over $17,000,000? How can I justify my vote to take from the agricultural and laboring people of the West $4 in order to return to them $1? I denounce it as a species of robbery. Doubtless every protectionist here will vote for the bill because it is a money-making deal for the mill-owner. Under the protective system of taxation, let us suppose for illustration, the farmer pays $5, while the mill-owner pays $5 to the tax-gatherer at the respective stores where they deal; $1 of the $5 paid by each respectively goes into the Treasury of the United States, and $4 paid by each, being an aggregate of $8, goes into the pocket of the mill-owner for protection. Under this bill the $2 that gets into the Treasury from each of these tax-payers is paid back to them respectively. And now how does the account stand? The farmer has paid out $4 for $1 and the millionaire mill-owner has paid out $4 for $9. And this illustrates the practical operation of the theory of justice involved by the supporters of this measure.

I suppose it was similar considerations which animated President Jackson to say, when discussing the project to distribute the surplus among the States:

> Every one must be sensible that a distribution of the surplus must beget a disposition to cherish the means which created it, and any system into which it enters must have a powerful tendency to increase rather than diminish the tariff.

And speaking of the greed and clamor for protection that his prophetic mind foresaw, he exclaimed in his farewell address as a warning to the people:

> Rely upon it, the design to collect an extravagant revenue and to burden you with taxes beyond the economical wants of the Government is not yet abandoned. The various interests which have combined together to impose a heavy tariff and produce an overflowing Treasury are too strong and have too much at stake to surrender the contest. The corporations and wealthy individuals who are engaged in large manufacturing establishments desire a high tariff to increase their gains. Designing politicians will support it to conciliate their favor, and to obtain the means of profuse expenditure for the purpose of purchasing influence in other quarters.

He seems to have had in contemplation the Dudley scheme of purchasing floaters in "blocks of five" in the doubtful State of Indiana.

The law is clearly unconstitutional. That instrument specially enumerates the purposes for which taxes may be laid to raise revenue, and to refund money raised constitutionally as revenue is not enumerated as one of these purposes; hence, the proposed law is unconstitutional, and on this ground alone I am willing to justify my vote against it.

Refund of Direct Tax.

SPEECH

OF

HON. THOMAS R. STOCKDALE,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, December 12, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (S. 139) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861—

Mr. STOCKDALE said:

Mr. CHAIRMAN: I do not desire to consume the time of the committee, but simply to say a word in reference to this amendment. I believe that the proposition in that amendment to the substitute will elicit more favorable consideration of this bill for the refunding of the cotton tax than any that has been offered, and for that reason I urge its adoption.

I had this amendment prepared when my colleague [Mr. ALLEN] announced that he would offer an amendment to make the cotton tax an educational fund, and I waited to see what it would be. I concur in that amendment as far as it goes, but believe that this substitute I have offered will be acceptable to a greater number of the members of the House, because it is more specific as to the disposition and safe custody of the money and provides that it shall be applied equally for the benefit of all the educable children of the several States.

This bill is to equalize the war tax, as is claimed by its promoters, and its claims for support put solely on that ground.

That the direct war tax was legally levied and collected and used by the United States Government is admitted on all hands, and it will also be admitted that no obligation was or is upon the Government to refund the money any more than a State is under obligation to refund the taxes collected by it. There is no pretense now that any debt was created, nor that any obligation, legal or moral, was incurred on the part of the United States Government by the collection of that tax. The payment of this money, therefore, to the States is wholly voluntary and without consideration.

It is a donation pure and simple, not for any national purpose, not for any charitable purpose, but stands out as the one naked and bald and lonely act in the history of this Government, of taking money out of the United States Treasury and giving it to the States. Suppose there was no surplus in the United States Treasury, and the Government would have to levy a direct tax to get this seventeen millions of money to give to the States, how ridiculous the whole thing would appear. It would present the spectacle of the General Government levying a tax on the people of each State and collecting the money and putting it into the treasuries of the several States. No sane man would vote for the proposition nor tolerate the scheme. Every one would admit that the Government had no such power under the Constitution.

Whose money is this out of which we propose to donate seventeen millions to the States? It is the money of the people, collected for a specific purpose, to wit, to defray the expenses of the Government. It is on deposit in the Treasury for that purpose, and we are trustees of the people, with the right to appropriate it to that use, and no other. We now propose to misapply it, give it away to some of the States because others failed to pay a debt they owed the Government.

If this be the correct view the proposed legislation is in violation of the trust conferred upon Congress, in violation of the fundamental law of the land, and therefore wrong.

There is one class of men here that must be accredited with perfect honesty. They stand out in bold relief in this discussion as grand men. I mean the men who oppose this bill and who live in States which will get the money. They must act from pure convictions.

The friends of the bill undertook to justify it on the ground that it is the only mode of equalizing the war tax, and it is plain that there is a large majority in this House favorable to the passage of the measure. Then I say the same rule should apply to all war taxes.

What was the cotton tax but a war tax? Cotton never was taxed before nor since. I presume there is not a gentleman in this House that will deny that the additional cotton tax was put upon the cotton States in 1866 and 1867 because they had been in rebellion—not only to make them pay to the Government what they failed to pay of the direct war tax, but twenty-fold more. It was intended to apply to certain States and no others, and therefore unconstitutional. It would be as sincere to lay a tax on the output of anthracite coal and contend that it applied to all the States as to say that the cotton tax was meant to be general.

This additional reason exists why the cotton tax ought to be refunded: because it was taken without authority of law, and the Government owes it back; for whatever is taken without authority of law, in violation of the Constitution, did create a valid debt, and the Government was and is morally and legally bound to pay it.

This was not a tax upon personal property. The law of 1866 was passed when the crop was half advanced; it did not even give notice before planting time, so that the planter might vary his crop and plant less cotton and more of something else, but after his crop was planted and half made, too late to change it, too late to plant anything else to compensate for this increased loss, when it was well known that nearly all cotton-planters depended on that crop to purchase provisions with.

In that unprecedented way, in that unjust way, this law came upon them stealthily, and with strong hand took away from an impoverished people their means of procuring bread. I have said it was a tax levied upon a growing crop. Every boll that opened let in upon the fiber the lien created by that tax law. From that hour that lien clung to each fiber like sin to the human soul until it was washed off by the payment of 3 cents per pound. It was in effect a tax on the realty, selected by fields that were wicked enough to have cotton growing on them. Land that made a bale to the acre, of 450 pounds, was taxed $13.50.

The colored man who rented these lands at eight or ten dollars per acre, to be paid out of his crop, and purchased his supplies on credit and promised to pay out of his crop, and made his arrangements to squeeze through in this his first enterprise as a freeman, was startled to find that the Government had laid an additional embargo upon his venture that inevitably destroyed his ability to meet his engagements and served to impair his credit in the beginning of his new life—compelled him to bear the odium of broken promises and burdened him with debt carried over.

There was not a very large proportion of the colored people at that time who had set up for themselves; but there was a considerable number in the rich alluvial lands. A large portion of them worked on shares, as they call it, with their former owners; in that the owner furnished the land, and implements, and seed, and the team, and feed for the team as his part—and a house for the colored man to live in also—free of charge. The colored man did the work and got half the crop. He also had to purchase his provisions on credit, and when he came to dispose of his cotton he was surprised to find that the Government had increased the burden on his crop while it was growing silently in the field; that this insidious tax lien had in the hot days of July crept up every cotton-stalk and into every boll, nestled in every lock, and entwined itself around every fiber, so that nothing but gold would loosen its hold; and he discovered in consternation that the Government, instead of setting him up with a small farm and plow stock, took from him by force nearly one-third of his cotton crop, and he, too, had to

return home with drooping countenance and sad heart unable to liquidate his debts, instead of, as he had hoped and expected, with money in his pocket. The first money he made as a free man was taken from him.

The balance of the colored people, more than half perhaps, worked for wages and suffered nothing by that tax, the whole falling on the employer, so that three-fourths or more of that tax was paid by the white people; but they are willing that it shall go into the school fund and be disbursed equally for the benefit of white and colored children alike.

The people of the South are making a vigorous and an honest effort to educate the colored people and raise them in the scale of civilization and morality. The school laws and school system of Mississippi afford equally facilities for both races, and I want to test the sincerity of the philanthropists who insist that they want to help on the education of the negro.

"Pay what thou owest" and we will have enough money to put the school fund on a safe basis for many years to come, and we will have the pleasure to know that we spent our own money in a good cause and not a donation from the General Government.

My colleague [Mr. ALLEN] in his graphic, humorous way has described how that cotton was made in 1866 and 1867. We can laugh over it now, but I tell you he did not draw on his imagination for the picture. Memory furnishes it all, and far more. He said he would not undertake to describe the desolation and the woe of those times, and the hardships and obstacles among which the people then labored. No human tongue or pen could do that. It was the quiet of Warsaw.

If we could open the grave and rehabilitate the meteor soul of Prentiss, his matchless tongue would not be equal to that task, and history can never tell the story. None but the people who passed through the furnace and the God who looked down upon them know the facts. Money taken unlawfully from people under such circumstances constitutes a debt that appeals to both the conscience and the heart of generous men for payment as well as to the honesty of the nation. And the purpose to which this substitute I offer will appropriate it adds strength to the more than just demand.

I want the prayers of good men to aid me in search of light brilliant enough to show me how gentlemen whose consciences are so acutely sensitive to the touch of justice that they can not allow the Government to keep money legally collected and feel required to give back as a conscience fund seventeen millions of money to some of the States already teeming with wealth because others failed to pay three millions, and for no other reason—how they can complacently allow the same Government to pocket and keep sixty-eight millions wrongfully taken from the people of a devastated and impoverished part of the country.

It is said by some friends of the tax bill that the cotton-planter got a high price for his cotton and it did not hurt him—he did not really pay the tax. Better tax it again if it will raise the price as much as it is taxed, and the Government will have all the money it wants without any other source of gain.

If because the planter got a high price for his cotton is to be received as a reason why the cotton tax should not be refunded, then for shame the Northern States should not ask for the direct tax to be refunded; for the Northern farmers made more money during the four years of the war than they did in any ten years before or since.

The manufacturers then laid the foundations of the colossal fortunes that have absorbed half of the wealth of the country. All the business of the South was by the war transferred North. The North had a hundred per cent. more money and was far more prosperous after the close of the war than when it commenced. The South had no money at all and was a thousand per cent. worse off than when the war commenced. For every dollar collected from the Northern States in the direct tax they made ten. And yet they turned round after the war was over and levied a war tax on the cotton States, impoverished as they were, that yielded to the Treasury $68,000,000, but which cost the cotton States at least one hundred and ten millions in the two years of 1866 and 1867; for if we say there were but 5,000,000 bales made each year, at 400 pounds to the bale, the tax of 3 cents per pound would amount to $60,000,000 in 1866, and at 2½ cents per pound in 1867 would amount to $50,000,000, one hundred and ten millions in the two years.

What became of the remaining forty-two millions? Ask the officials through whose hands it passed. That it was paid, every dollar of it, by the men who produced the cotton there can be no question.

And now, when we ask that the amount actually received by the Government be returned—when we ought to ask for and receive the other forty-two millions received by its officers as well—we are answered by these States, whose wealth is already fabulous, and who take to themselves this direct-tax money, that the cotton States got a good price for cotton.

They remind one of the man whose wife cooked and put upon the table twelve large, fine apple-dumplings for dinner. He wanted to go out early and sat to the table alone to take his dinner in advance of the family. When he had eaten eleven of the dumplings his little boy, who had watched the operation and was very hungry, seeing it was his last chance, asked for a dumpling. The father thrust his fork into the last and twelfth dumpling and removed it to his own plate, saying, "Go 'way, my son; daddy's sick."

French Spoliation Claims.

SPEECH
OF
HON. OSCAR L. JACKSON,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,

Tuesday, December 18, 1888,

On the bill granting indemnity to citizens of the United States for French spoliations on American commerce.

Mr. JACKSON said:

Mr. SPEAKER: The claims of a number of our citizens against the Government of the United States, based on losses sustained by them by reason of French spoliations on American commerce, a part of which are provided for in this bill, have at many different times been under consideration by Congress. These claims all grow out of matters occurring prior to the ratification in 1801 of our treaty with France, and but few of the present generation of our people are at all familiar with their character and history. It is fortunate that for their full and complete consideration, so far as Congress is concerned, the official records of the Government furnish the most satisfactory evidence that could be required.

Having given that evidence in connection with contemporaneous history as careful examination as the time at my disposal would permit, I have arrived at the conclusion that these claims are just and binding on the Government, and should be promptly paid. All that should now be required is to ascertain fairly the amount of each claim and the party to whom it legally belongs.

In my judgment the act of 1885 referring these matters to the Court of Claims is sufficient legislation on this subject, and that the claims reported to us from that court should be treated as conclusively determined and at once paid.

Mr. Speaker, with the indulgence of the House, I will endeavor to briefly repeat the history of these claims and give some of the reasons that have led me to the conclusions I have just stated. I am persuaded that all that is necessary to satisfy any impartial mind of their justness is an examination of the law and the testimony. I assume that to be satisfied on this point is sufficient to secure the passage of this bill, and that the sanction and approval of the American people will as certainly follow our action. Be that as it may, Mr. Speaker, having determined for myself that these claims are just, I shall vote for their payment without inquiring how far that vote is likely to meet with popular approval. I may be allowed to say, however, in this connection that I fully believe that if popular approval be desired, as without doubt we all do desire it, that the safest plan is to vote for that which we believe to be right and just.

The first popular impressions may sometimes be wrong, but the deliberate after-thought and judgment of the people is generally right, and even as a question of policy we can always afford to vote in favor of the Government doing justice and acting honestly as a responsible moral agent.

HISTORY OF THE CLAIMS.

The story of these claims is intimately connected with the most interesting events in our country's history. They grow out of facts connected with the very foundation and organization of our Government. To properly understand them we must first recall the darkest hours of the Revolution, when success seemed almost beyond hope—the time when, after long, patient, and persistent appeal, our fathers secured the assistance of France which made our independence a certainty.

In the second place, the liability of our Government to the individual citizens arises from a later treaty, by which peace and permanence were assured to the young republic when it was most seriously threatened with foreign complications.

The close of the year 1777 was without doubt the most desperate and discouraging time of the Revolution. Philadelphia was in possession of the British, whose soldiers were comfortably housed, clothed, and fed; Washington's army, of less than nine thousand men, was in winter quarters at Valley Forge, enduring severe cold, poorly fed, and, if possible, worse clothed. Many of the civilians at home, without thought as to the condition of the patriot army, somewhat after the manner of their descendants at a later day, violently assailed Washington for not prosecuting an active winter campaign. Gates, who had become the president of the executive board of war, was using his influence against Washington, and securing the appointment of officers in the army who were unfriendly to him.

In Congress there was discontent and sharp criticism upon the conduct of the Commander-in-Chief. At Valley Forge one-third of the army was barefooted and otherwise naked. For days in succession the men were destitute of either bread or meat.

Washington wrote to Congress that unless something could be done to relieve it, the army must either "starve, dissolve, or disperse." Other high officers said "the men must be supplied, or they can not be commanded." The financial condition of the country was as bad

as the physical condition of the army. The currency was at a great discount—almost worthless. (Sparks's Washington, volume 5, pages 193-203.)

This was the condition of affairs at home when Franklin, after long and patient supplication, succeeded in negotiating treaties with France that brought joy to every American heart. These treaties were two in number, both signed February 6, 1778, by which France bound herself to "guaranty to the United States their liberty, sovereignty, and independence absolute and unlimited."

We at this day can scarcely realize the joy and gladness with which the news of these treaties was received. New hope inspired every patriot.

In the camp at Valley Forge cheers, shouts, and rejoicing were heard, such as had never been heard in this land before, equaling, if not excelling, the final surrender at Yorktown. Never has an American army since received such joyful news, unless we may compare it to Grant's and Sherman's veterans at Appomattox and Raleigh. How well France kept the guaranty of her treaty let history answer. La Fayette was then present for duty, and other able officers with veteran regiments, well armed and equipped, soon joined Washington. French fleets, able to cope with the British navy, appeared on our shores.

According to the report of their finance minister, France expended in war in the support of her guaranty fourteen hundred and forty million of francs, or about $280,000,000, an immense sum at that time. But not that alone; the best French blood was freely shed on land and sea, and mingled with the blood of the patriot soldiers of our own army, until at last the British army surrendered at Yorktown to the allied forces of Rochambeau and Washington under the guns of the fleet of De Grasse, and the war closed by the recognition of the independence of the United States. Provisional articles of peace were signed on the 30th of November, 1782, a cessation of hostilities was declared on the 20th of January, 1783, and on the 3d of September, 1783, the definitive treaty of peace was concluded.

France had kept her treaty. She not only guarantied but performed those things necessary to secure to the United States independence and sovereignty.

It adds additional luster to this glorious history to bear in mind that the action of the French Government was from first to last fully and enthusiastically approved and supported by the French people; that the love of liberty and a firm belief in the justice of our cause was the principal motive that prompted their action, and not simply a desire to cripple an ancient enemy.

It is well to recall the great services rendered our country by the French people. This is a part of our history that even after the lapse of a hundred years should be familiar to every American citizen. We might in some way repay the treasure spent in our behalf, but only by many hundreds of years of gratitude and friendship can our nation repay the greater debt we owe France for the blood she shed in our behalf and the friendship she bestowed on us in our time of need. This is a debt we scarcely can repay.

CHARACTER OF THE TREATIES.

But the engagements we made with France by the treaties of 1783 were not all on the side of France. There were express obligations assumed by the United States, and these obligations were the consideration for the great contract.

As before noticed, the treaties of 1778 were two in number, executed at the same time, and are in effect one and the same instrument. The first embraced the treaty of alliance and guaranty of independence, of most importance to us; but it contained also obligations which the United States assumed toward France. The second was called a treaty of amity and commerce, and provided especial privileges by each party to the other as to ships of war and privateers bringing prizes into ports, privileges that each nation bound itself to not grant any other nation.

The obligation that the United States assumed by the treaty of amity was—

To guaranty to France forever against all other powers all the possessions of France in America, as well as those it might acquire by any future treaty.

It is thus apparent that the treaty was not one-sided, and that it imposed on the United States a duty that was liable at any time to become a very serious burden and responsibility. It is further to be observed that this guaranty was to continue "forever."

The possessions of France in America at this time were the islands of St. Domingo, Martinique, Guadaloupe, St. Lucia, St. Vincent, Tobago, Deseada, Marie-Galante, St. Pierre, Granada, and Cayenne on the mainland, each and all of which the United States agreed to guaranty to France forever.

Nothing but our extreme necessities in 1778 could have induced us to assume such serious obligations. The consideration, however, that France gave to the United States for making this agreement was ample and sufficient.

That the obligation the United States assumed was understood at the time can not be doubted, for the treaty in express terms further provided that our guaranty to France was "to begin in case of rupture between France and England," and was to be effective after "the cessation of the war between the United States and England," then existing, and was to continue "forever."

Our Secretary of State, on 15th July, 1797, in his instructions to our plenipotentiaries, Messrs. Pinckney, Marshall, and Gerry, who were urging these claims against France, said:

Our guaranty of the possessions of France in America will perpetually expose us to the risk and expense of war, or to disputes and questions concerning our national faith.—*French Spoliation, Executive Document No. 1827, page 457.*

The treaty of amity and commerce bound the United States, first, to protect and defend by their ships of war all vessels belonging to French subjects "against all attacks, force, and violence in the same manner as they ought to protect" the vessels of citizens of the United States; second, to open their ports to French ships of war and privateers with their prizes, and to close them against those of any other power at war with France; thirdly, to allow French privateers "to fit their ships and sell what they have taken," but privateers in enmity with France were forbidden to even victual, in ports of the United States.

These were the solemn obligations of the United States, sanctioned by treaties, under which we had obtained the aid and alliance of France to secure our independence.

It is easy to see how these obligations would attract but little public attention so long as France remained in peace, especially with Great Britain. But that the United States had assumed an obligation that imposed upon us a serious duty and burden is recognized repeatedly by the highest officials of our own Government, and is persistently pressed and claimed by the representatives of the French Government from time to time, as is abundantly shown by numerous state papers in our possession. (See Spoliation, Report 41, Thirty-eighth Congress, first session.)

But France soon became involved in war. A revolution drove her king from his throne, executed him, and established a republic in the place of the monarchy. England and the other European monarchies combined against the new republic.

Early in 1793 several of the West India islands were lost to France, taken from her by war, and although requests for aid were made by the colonists on these islands and by French officials, the United States did nothing to save them or to keep the treaty she had made. From this time on for several years, as might well be expected, the relations between the United States and France were far from friendly.

France, not entirely without cause, I regret to be compelled to say, felt that we did not return to her in her need the assistance she had given us in our war for independence. Our only justification seems to be that under the circumstances it was impossible to do what we had agreed to do.

The difficulties and embarrassments that surrounded our Government then were so great that I am not willing to criticise now the justice, patriotism, and wisdom of the American statesmen of that time. We are to-day a nation of thirty-eight States, eight Territories, and a population of more than 60,000,000 people. Nowhere on the earth are intelligence, comfort, industry, and wealth so general to all classes as among our citizens. The situation is so changed we can hardly do justice to the wisdom, energy, and patriotism of the men who brought thirteen struggling colonies of less than three million people through a war with one of the mightiest and bravest nations of Europe and made possible the United States of to-day.

Our fathers, when they decided these questions, were responsible for the welfare and future of the then weak Republic. They were exhausted by seven years of war for independence, environed on this continent by the three great monarchies of the Old World, poor in money, weak in population, and an object of jealousy to every king, emperor, and aristocrat. History accords these eminent men such a high sense of justice and honesty that we must believe they decided this question, in the light of the information they had, discreetly and fairly according to their best and experienced judgment. We may regret that they were unable to deal more liberally with an ally and friend, but that is at least no reason why the Government now in its prosperity should neglect to do justice.

To make our relations with France still worse, the United States felt compelled in 1794 to conclude a treaty with Great Britain known as the Jay treaty, ratified in October, 1795, by which Great Britain was given in our ports with her ships of war, privateers, and prizes the very same rights and privileges that by the treaty of 1778 we had agreed to give exclusively to France. The conflict of these treaties was fully known at the time, and we thus openly transferred the exclusive privileges we had guarantied France to her bitter enemy, Great Britain. I do not stop now to either explain or inquire further why this was done. It is sufficient for the argument in this case to know that it was in fact done.

THE SPOLIATIONS.

We come now to the more immediate consideration of the spoliations on which these claims are based. From 1793 to 1800 the ocean swarmed with privateers representing the nations engaged in war. Our Government had issued proclamation of neutrality, but these privateers were not discriminating, and our merchant vessels suffered capture and loss to some extent from all. France at first alleged, so far as she was concerned, that the captures of our vessels were made by mistake on account of our people speaking the same language as the people of Great Britain. But when the necessity to obtain provisions and supplies became great she did not hesitate to seize our merchant

vessels by virtue of decrees made by her that were wholly illegal and unauthorized by international law.

England and her allies undertook to starve France, and issued proclamations forbidding neutrals to carry provisions or supplies to any of her ports. France retaliated by issuing decrees forbidding neutral vessels to carry English goods anywhere. Numerous proclamations and decrees were issued by both sides that were not authorized by international law, but their violation was made the pretext for capture and condemnation of our ships and their cargoes.

Our Government protested against these outrages, but without avail, at the time. Our merchants were so much alarmed that they well hesitated to risk vessels and cargoes on the high seas. To encourage our shipping the National Government came forward with assurance of protection and redress. In a circular letter, dated August 27, 1793, Mr. Jefferson, then Secretary of State, issued the following:

> I have it in charge from the President to assure the merchants of the United States concerned in foreign commerce that our attention will be paid to any injuries they may suffer on the high seas contrary to the law of nations.

Washington adopted this circular in his message of December 5, 1793, and promised that due measures should be taken to obtain redress for the past and security for the future.

These promises and assurances our Government has kept to all sufferers except the ones now under consideration. As early as 1794 our citizens obtained from Great Britain nearly $10,000,000 on account of British spoliations.

Similar indemnities have since been obtained from Spain, Naples, and Denmark, but the French spoliations prior to 1800 alone remain unpaid. It is a part of the history of those times that the difficulties with France induced conflicts that almost amounted to a state of war on the ocean, and that whilst actual hostilities did not occur between the two nations as such, that the United States passed laws contemplating a declaration of war, and that provision was made for increasing the Army in case war should be declared; that our minister left the French capital, and that all commercial relations between the two countries was suspended.

But actual war was averted, and after years of negotiation peaceful relations were again secured between the two nations, and France abandoned her claim of right to seize our merchant vessels. In these negotiations the United States demanded from France payment for the spoliation inflicted on our merchant vessels. It does not appear that France disputed the justness of this claim, but admitted she had made illegal seizures and captures for which she was liable. But at the very outset of these negotiations France set up as an offset her counter-claim for damages against the United States by reason of our failure to keep with her the treaty of 1778.

France claimed damages because we had allowed her American possessions to be taken from her and had deprived her of rights to our ports we had promised. We could not well dispute these claims against us, and there was beside a great desire on the part of our Government to be released from all further liability under the treaty of 1778. The history of these negotiations shows that our plenipotentiaries were authorized to offer a sum of money to secure our release from the old treaties, which France refused to accept; and that we looked upon this release as of the utmost importance to the United States.

France insisted on holding us to the treaty of 1778 and in claiming damages for our failure to comply with it up to that time.

Without repeating the details of these long negotiations, it may be briefly stated that a treaty was agreed upon and ratified finally by the First Consul of France 31st July, 1801, and by United States 21st December, 1801, by which France released all future claims on the United States under the treaty of 1778; and further, that the United States released all claims for spoliations on her citizens, and France released all claims for damages by reason of our breach of the treaty of 1778. In short, that the United States set off and used the spoliation claims of her citizens to settle and pay the damages she, as a nation, owed France for the breach of the treaty of 1778, and to obtain a release from future liability under it.

CLAIMS ASSUMED BY THE UNITED STATES.

The natural consequence of this set-off and use of these claims by the United States was an assumption of them by our Government. It must be conceded that these claims were good and valid against France, and that it was the duty of our Government to see that they were collected for our citizens. The United States did undertake their collection, spent years of negotiation for this purpose, but eventually found it convenient to use them in payment of a national obligation. On the plainest principles of honesty and according to all public law this makes the United States Government liable for their payment to the citizen.

There seems to be no doubt but that our plenipotentiaries who negotiated this treaty so understood it, and that they so represented it at the time; that other high officials of the Government, including Mr. Pickering, Secretary of State, and Chief-Justice Marshall, who were familiar with all the facts, entertained the same views; that the claimants themselves had the same expectation, and very soon after the ratification of the treaty applied to Congress for their payment, and through the long intervening years have continued to press their claims without relinquishment; that many of the ablest statesmen of our country, who have from time to time examined and reported on these claims, including Clay, Clinton, Livingston, Everett, Webster, Cushing, Choate, and Sumner, have agreed that the claims are just and that our Government should pay them.

The late Senator Sumner, in a very able and elaborate report made by him to the Senate of the United States on behalf of the Committee on Foreign Relations in the Thirty-eighth Congress, on this point uses the following language:

> The natural consequence of this set-off and mutual release was the assumption by our Government of the original obligations of France to American citizens, and its complete substitution for France as the responsible debtor. Had the claims on each side been national no subsequent question could have occurred, but each would have extinguished the other in all respects forever. It was the peculiarity of this case that on one side the claims were "national" and on the other "individual." But a set-off of "individual" claims against "national" claims must of course leave that government responsible which has appropriated the "individual" claims to this purpose. It is according to common sense that any "individual" interest appropriated to a "national" purpose must create a debt on the part of the nation.
>
> It is according to reason that any person intrusted with the guardianship of particular interests becomes personally responsible for his conduct in regard to them, especially if he undertakes to barter them against other interests for which he is personally responsible. In this case our Government was attorney to prosecute the "individual" claims of its citizens, and compelled to regard all it obtained as a trust-fund for the claimants. Duty enjoins upon government the protection of its citizens against foreign spoliation and prosecution of their claims to judgment. A waiver of national duty, especially when made for the national benefit, must entail national obligation. The Constitution also plainly requires what has seemed so obvious to common sense, reason, and duty, when it declares that private property shall not be taken for public use without just compensation. Public law is also in harmony with the Constitution in this requirement. According to Vattel, the sovereign may in the exercise of his right of eminent domain dispose of the property, and even the person of a subject, by a treaty with a foreign power; but as it is for the public advantage that he thus disposes of them, the state is bound to indemnify the citizens who are sufferers by the transaction.—*Vattel, Law of Nations*, book 4, chapter 2, section 12.

Edward Livingston, the distinguished jurist, statesman, and diplomatist, knew these claims as a cotemporary, and afterwards, as a member of the United States Senate, made a report in regard to them in which he used this language:

> The committee think it sufficiently shown that the claim for indemnities was surrendered as an equivalent for the discharge of the United States from its heavy national obligations and for the damages that were due for their preceding non-performance of them. If so, can there be a doubt that the sufferers are entitled to indemnity? To lessen the public expenditure is a great legislative duty; to lessen it at the expense of justice, public faith, and constitutional right would be a crime. Conceiving that all these require that relief should be granted, they beg leave to bring in a bill for that purpose.

In the long and tedious negotations for the settlement of these claims, and in the extensive correspondence between the two governments and their representatives, two points are clearly settled. First, that our Government at all times earnestly asserted that these claims were just. Second, that France at no time denied her liability for them, but insisted on her right to set off against them her claims against the United States under the treaties of 1778. That France as well as our own Government understood that these claims were in fact set off the one against the other is shown by the statement dictated by the Emperor Napoleon to Gourgaud at St. Helena. Speaking of the second article of the convention, which was suppressed, he says:

> The suppression of this article at once put an end to the privileges which France had possessed by the treaty of 1778 and annulled the just claims which America might have made for injuries done in time of peace. This was exactly what the First Consul had proposed to himself in fixing these two points as equiponderating each other.—*Gourgaud's Memoirs*, volume 2, page 129.

We thus see that the testimony of representative men of both governments is in harmony, and corroborates the official records and current history, showing conclusively that these individual claims were originally just, and that the Government of the United States appropriated them for a national purpose.

OBJECTIONS.

When we examine the objections made to the payment of these claims by the United States we find little, if any, dispute as to facts. The history and character of the claims are settled beyond any reasonable question or doubt. In the course of this debate we find those who oppose their payment neither arguing against the justice of the claims originally nor undertaking to show that they were not used by our Government in way of set-off; but the opposition confine themselves to offering excuses for further neglect. The distinguished member from Pennsylvania [Mr. BUCKALEW] says their payment has been so long delayed that payment now would be a reflection on the honesty of our fathers.

This is truly a very remarkable way to avoid payment of old debts, debts that he must believe are entirely just, for he intimates he would be willing to consent to so far reflect on the fathers as to pay a percentage of these claims. It is most unfortunate that justice has been so long delayed. Many of the original owners of these claims went down to bankruptcy and died in poverty—direct results of these losses. To pay now their descendants and legal representatives is still justice, and these extreme cases show the great unfairness of the rule the Government adopts, that it will not pay interest on claims against itself.

The delay in these cases has not been the fault nor on the part of the claimants. The convention with France by which they were released was promulgated by the President December 21, 1801, and at the first session of Congress afterward, in February, March, and April, 1802, a large part of the claimants petitioned Congress for relief.

The official records of the House and Senate show that the claimants have not only persistently urged their claims on Congress since that time, but that twenty-four reports on the subject by committees have been made in the Senate and over twenty in the House, all of which, except three, have been in favor of their payment. And it is worthy of notice that no adverse report has been made since the publication in 1826 of the correspondence which showed the facts in regard to their settlement with France. Bills to provide for their payment in whole or in part have at eight different times passed the Senate; three of them also passed the House. One was vetoed by President Polk and another by President Pierce. The other is the act under which they have been referred to the Court of Claims.

The Legislatures of each of the thirteen original States have passed resolutions in favor of their payment, some of them more than once. In view of all these facts I insist that Congress can not claim their age as an excuse for still longer neglecting their payment.

Again, it is suggested as an excuse for non-payment that these claims have mostly been bought up by speculators, and are holden by these purchasers. This statement, whilst not a valid defense to their payment and in no respect a release of the United States, is yet well calculated to diminish the favor with which they might otherwise be considered. But it is not true in fact. They are now all presented to the Court of Claims that can be under the provisions of the act of 1885. The third section of that act requires the court to determine their present ownership, and, if assigned, the date of assignment with the consideration paid for the same. This makes it necessary that the court shall require the true ownership to be set out in the petition and be proved by the papers, vouchers, and other evidence. An inspection of the records of this court will satisfy any one that the statement that these claims have been largely bought up by speculators is an error. They have been assigned in some instances, mostly in settlement of family affairs. They have been transmitted from parent to child by will and inheritance, and carefully preserved through several generations by those who have relied in the belief that some day the good faith and honor of the Government would be maintained by their payment.

In some cases they are held by the assignees of insolvent debtors or by insurance companies who paid the original losses, and who, by the universal commercial law of the world, succeed to the owner's right; but there is no evidence whatever that any considerable number of them have passed into the hands of speculators. If there be any such cases the owners must prove in court the amount they have paid for the claims, and Congress will be able to do justice as each particular case seems to require.

AMOUNT OF THE CLAIMS.

It has been urged here that these claims are at this late day incapable of accurate and honest determination, and that they are of almost fabulous amount. These statements are not supported by the facts, but on the contrary the circumstances surrounding them are such that their numbers are well known and their authenticity easily determined. The act of the Forty-ninth Congress, under which they were referred to the Court of Claims, limits the time for filing to two years ending January 20, 1887. No claim can be favorably reported from that court until it is proven to be a just and legal claim.

Our Government, as early as Washington's administration, began collecting lists of these claims, with proofs, for the purpose of presenting them against France, and these records are still preserved. Investigations of different committees of Congress with other Government reports show, without room for doubt, their character and amount. The vessels, when captured, were taken into prize courts and their ownership, value, and value of cargo, together with alleged cause of capture, made a matter of judicial investigation, determination, and record. These records must form the basis of every claim, and of themselves render it absolutely impossible to now originate or prove fictitious claims.

Mr. Webster, in 1835, estimated the amount of these claims at $10,000,000, which was not perhaps on a basis of full value. Other gentlemen concerned in this investigation have since then estimated their amount at from fourteen to sixteen million dollars, and there is the best reason to believe from the petitions filed in the Court of Claims that these latter estimates can be relied on as reasonably accurate. The most liberal estimate of these claims shows that their amount is but a small part of the sum that France spent in our behalf in the war for independence.

Her claims against us for failure to comply with the treaty of 1778 would certainly not be less than the amount of money she had spent, and reasonably could be claimed to be much more. In any view of the case we set off these claims against a much larger sum than any one now pretends they can amount to. I do not concede that their size affects either their justice or validity. Our Government is able to pay all it owes, and I would insist on payment of just liabilities without regard to their size. But as size has seemed to be urged as an excuse for non-payment, I think it proper that the facts should be made known.

WE ARE IN HONOR BOUND TO FRANCE TO PAY THESE CLAIMS.

In addition to doing justice to our own citizens, there is another reason affecting the nation's honor why these claims should be paid. France, our friend and ally in the war of the Revolution, beside precious blood, had spent in our behalf a large sum of money. By solemn treaty in 1778 we had agreed to repay this by defending her possessions in America, and by giving her vesssels special privileges in our ports. We broke our agreements and failed to repay in either way. By the convention of 1800 France generously agreed to release our Government from both damages for past neglect and future liability under the treaty of 1778 on condition that she should be released and we would assume and pay the spoliation claims for which she was liable.

We cheerfully accepted these terms, as a proper construction of the agreements will show, and are in honor bound to France to pay them. They are in amount a small part only of the sum France expended in our behalf, but if we paid them we could at least say we have done that much to reimburse her, and she agreed to accept it as in full. As it stands to-day the young men and young women of the United States who study the history of their country are unable to find wherein their Government has ever made the slightest recompense to France for the moneys she expended in its behalf in the Revolution. They are further compelled to learn with regret that for some cause their Government has failed to keep its twice-made solemn agreements to make recompense for these expenses. By payment of these claims Congress can at least to that extent redeem the nation's honor. It can not be denied that except by the assumption of these claims the United States never gave nor promised France anything to be released from the heavy responsibilities of this treaty of 1778.

DID WAR EXIST BETWEEN THE UNITED STATES AND FRANCE?

It has been said that at the time of these spoliations war existed between the United States and France; that this justified France in making the captures, and our citizens could have no valid claim against her for indemnity.

It is true that these seizures were by force; that they were contested, in many cases, by our seamen, and that our people fitted out armed vessels to defend the merchantmen, and in some cases actually recaptured vessels that had been taken, and that these contests amounted to a partial naval war. But that there was a general public war between the two nations either on land or sea is inconsistent with the facts, and was never so claimed by either.

France at no time defended these seizures on the ground of war. The records of the prize courts do not show any condemnations on the ground of war. They are based on alleged violations of the French decrees, and in most cases on the arbitrary decree requiring all neutrals to carry a "crew-list," which our vessels never had been accustomed to do. There was no declaration of war on either side. As stated by Mr. Clayton, the civil courts of both France and the United States were at all times open to the citizens of each other as in times of peace. The courts of France did not treat our citizens as alien enemies, and French citizens were not considered alien enemies in the courts of the United States.

There was undoubtedly a strained condition of affairs that tended to war. Our Government made some preparation for a war that seemed imminent, but which was happily averted. On the part of the United States the declarations are explicit that war did not exist. Congress was convened in May, 1797, to deliberate on the threatening aspect of affairs, and passed at that session and in 1798 and 1799 several acts looking to the public defense, every one of which negatives the idea that war actually existed. The act of May 28, 1798, after reciting that—

> Armed vessels of France have committed depredations on the commerce of the United States, and have recently captured vessels and property of citizens thereof on and near the coast—

proceeds to authorize the seizure of any such armed vessel, but nothing is said of war. Another act of same date authorizes a provisional army "in the event of a declaration of war." The act of June 25, 1798, authorizes our vessels to subdue and capture any French armed vessel "from which an assault or other hostility shall be first made." The act of July 6, 1798, begins with "whenever there shall be a declared war." The act of March 2, 1799, authorizes an increase of the Army "in case war shall break out." An act passed the next day provided that certain troops already authorized shall not be raised "unless war shall break out."

And as late as February 10, 1800, another act was passed, providing that further enlistment should be suspended—

> Unless in the recess of Congress and during the continuance of the existing differences between the United States and the French Republic war shall break out between the United States and the French Republic.

These are the solemn statements of Congress, which alone under the Constitution has power to declare war, made at the very time when these spoliations occurred. It certainly can not be claimed that it was the understanding of our Government that war actually existed.

The declarations of the French Government are equally explicit. Her plenipotentiaries, in a communication to ours, August 20, 1800, called the difficulties—

> A state of misunderstanding which has existed for some time, but has not been a state of war, at least on the side of France.

Afterward they speak of the condition of affairs as "almost hostile." (French Spoliation, 1826, pages 559-561.)

The terms of the convention which settled these claims exclude the

idea that there had been a war, and in no part of the negotiations did the representatives of France rely on the claim of war for a defense. It is somewhat remarkable that it has been left to Americans, many years after the occurrences, to discover a defense to these claims on the ground of war, a defense that was never thought of by the French plenipotentiaries and statesmen of that day, skilled and learned as they were in diplomacy.

But this defense has no foundation in fact, and I am surprised that it should be seriously urged by any one. The United States has so constantly denied that there was a state of war that, in any event, it should be estopped from setting up such a claim now.

It will certainly astonish the people of the United States, who supposed they were familiar with its history, to learn that it is seriously asserted in Congress that their Government once had a war with France.

CONCLUSION.

It seems to me, therefore, that it has been clearly established that these claims were originally just and valid debts of our citizens against France; that it was the duty of the United States to collect these debts for its citizens, and that it did undertake to do so; that, through several years of negotiation, the United States urged their payment by France as just and legal liabilities; that France did not deny her liability to pay them, but set up a counter-claim against the United States, under the treaties of 1778, which the United States could not successfully dispute; that finally the United States used these claims of her citizens as a set-off against her liabilities for breach of the treaties of 1778, and to obtain a release of the continuing obligations under them; that, by reason of the use of these claims of her citizens, the United States became liable to indemnify and pay them for so taking and using them, and that, therefore, these citizens have just claims for the amount of their losses against the United States.

This claim of the citizen against the United States, although just and valid, is not one that can be enforced in the courts in the ordinary sense for the reason that the citizen can not sue the Government without its consent.

But there is the highest duty and obligation resting on the Government to do justice to its citizens. The Government should set an example of honesty and good faith to the citizen. It demands of him a payment of all liabilities, a strict rendering of every duty, and if it would inculcate and stimulate loyalty and respect in the citizen, it should be prompt and exact to do him justice.

It is the duty of Congress to decide on the justice of these claims and fix the liability of the Government. We can refer to the Court of Claims the question of finding facts and amounts, as we have done, but the question of duty or liability of the Government to pay remains with Congress, and Congress can not relieve itself of this responsibility by referring that question to the courts, as has been suggested by some on this floor.

These claims, in my opinion, are as just as any that were ever presented against the Government. I trust there will be no further delay in providing for their payment. Our full and overflowing Treasury and our present great ability to pay may appear by comparison as some excuse for past neglect, but afford additional reasons for prompt action now. The nation has a reputation to maintain for honesty, integrity, and morality, and its highest honor and the honor of all its citizens will be promoted by a payment of these national obligations.

Refund of the Direct Tax.

SPEECH

OF

HON. RICHARD W. TOWNSHEND,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, December 12, 1888,

On the bill (S. 139) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861.

Mr. TOWNSHEND said:

Mr. CHAIRMAN: This bill has been so grossly misrepresented by some and misunderstood by many others, I have concluded to briefly state the reasons which shall govern my vote. In doing so it will be proper to explain its nature and history.

The majority of the Judiciary Committee, over which the distinguished gentleman from Texas [Mr. CULBERSON] presides, has reported it back to this House with a favorable recommendation. The report accompanying the bill furnishes the following statement of facts and reasons why it should pass:

The Committee on the Judiciary, to whom was referred the bill S. 139, "An act to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861," submit the following report:

The act of Congress approved August 5, 1861, levied and apportioned among the inhabitants of the several States and Territories a direct tax of $20,000,000, and provided machinery for its collection.

Under that act and amendments thereto subsequently enacted, collections were made from individuals residing in various States, and many of the States assumed the amounts apportioned to their respective inhabitants, and paid such amounts, less 15 per cent. thereon allowed them by law to cover the expense of collection and losses in making the same. Some of the States and Territories have paid the entire sum allotted to their citizens, others have paid but part, and one Territory (Utah) has paid nothing.

In some instances debts due to a State from the United States have been credited as a set-off to the tax, by consent of the States, or by a sort of compulsion. The legality of the act assuming the tax has in some instances been questioned and denied, and unpleasant controversies have arisen in consequence between some of the States and the General Government. Certain of the States borrowed the money with which they paid the tax and have been paying interest on it, or on a part of it, ever since, while other States have neither assumed nor paid the tax, except so far as some of their citizens have been compelled to pay by levy and sale.

The collection of the tax, so far as it is unpaid, has, for many years, been suspended, and a feeling of injustice in bearing unequally the burdens of the Government has become wide-spread and is increasing.

The tax should be collected in full or abandoned, and restitution made those who have paid. It is not difficult to discern which course is wise and practicable.

Direct taxation under the provision of the Constitution is onerous by reason of the means required to collect it, and bears unequally because it is apportioned among the States according to population without regard to the means of payment.

This bill proposes to repay to the citizens and to the States the amounts by them respectively paid, and to remit and relinquish the tax so far as it is unpaid.

The following is the bill as it has been amended and now stands before the House for final action, except the second section, which I omit because it relates only to the taxes collected in South Carolina:

An act to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861.

Be it enacted, etc., That it shall be the duty of the Secretary of the Treasury to credit to each State and Territory of the United States, and the District of Columbia, a sum equal to all collections, by set-off or otherwise, made from said States and Territories and the District of Columbia, or from any of the citizens or inhabitants thereof or other persons, under the act of Congress approved August 5, 1861, and the amendatory acts thereto.

SEC. 3. That all moneys still due to the United States on the quota of direct tax apportioned by section 8 of the act of Congress approved August 5, 1861, are hereby remitted and relinquished.

SEC. 4. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to reimburse each State, Territory, and the District of Columbia for all money found due to them under the provisions of this act; and the Treasurer of the United States is hereby directed to pay the same to the governors of the States and Territories and to the commissioners of the District of Columbia: *Provided*, That where the sums, or any part thereof, credited to any State, Territory, or the District of Columbia have been collected by the United States from the citizens or inhabitants thereof, or any other person, either directly or by sale of property, such sums shall be held in trust by such State, Territory, or the District of Columbia for the benefit of those persons or inhabitants from whom they were collected, or their legal representatives: *And provided further*, That no part of the money collected from individuals and to be held in trust as aforesaid shall be retained by the United States as a set-off against any indebtedness alleged to exist against the State, Territory, or District of Columbia in which such tax was collected: *And provided further*, That no part of the money hereby appropriated shall be paid out by the governor of any State or Territory, or by any other person, to any attorney or agent under any contract for services now existing or heretofore made between the representative of any State or Territory and any attorney or agent. All claims under the trust hereby created shall be filed with the governor of such State or Territory and the commissioners of the District of Columbia, respectively, within six years next after the passage of this act, and all claims not so filed shall be forever barred, and the money distributable thereto shall belong to such State, Territory, or the District of Columbia, respectively, as the case may be.

Accompanying the report is a table furnished by the Treasury Department, as follows:

Statement of the condition of the direct-tax accounts of the several States and Territories and the District of Columbia, under acts of August 5, 1861, and June 7, 1862, as appears from the books of the Register of the Treasury to date.

15 per cent. allowance.	State or Territory.	Amount imposed.	Amount collected.	Balance due United States.
....	Alabama	$529,313.33	$18,285.03	$511,028.30
.....	Arkansas.....	261,886.00	184,082.18	77,803.82
....	California.....	254,538.67	254,538.67	.....
.....	Colorado.....	22,905.33	22,189.96	715.37
$46,232.10	Connecticut	308,214.00	261,981.90	.....
.....	Dakota	3,241.33	3,241.33	.....
4,350.50	Delaware.....	74,683.33	70,332.83	.....
.....	District of Columbia	49,437.33	49,437.33	.....
....	Florida	77,522.67	43,529.81	33,992.86
.....	Georgia	584,367.33	106,963.17	477,404.16
171,982.70	Illinois.....	1,146,551.33	974,568.63	....
135,731.30	Indiana	904,875.33	769,144.03	.....
67,813.20	Iowa.....	452,088.00	384,274.80	.....
.....	Kansas.....	71,743.33	71,743.33	.....
107,054.30	Kentucky	713,695.33	606,641.03	.....
.....	Louisiana.....	385,886.67	268,515.12	117,371.55
63,123.90	Maine	420,826.00	357,702.10	.....
65,523.50	Maryland	436,823.33	371,299.33	.....
123,687.19	Massachusetts.....	824,581.33	700,894.14	.....
75,264.50	Michigan	501,763.33	426,238.83	.....
16,278.60	Minnesota.....	108,524.00	92,245.40	.....
.....	Mississippi.....	413,084.67	101,717.04	311,367.63
114,169.10	Missouri.....	761,127.33	646,958.23	....
.....	Nebraska.....	19,312.00	19,312.00	....

Statement of the condition of the direct-tax accounts, etc.—Continued.

15 per cent. allowance.	State or Territory.	Amount imposed.	Amount collected.	Balance due United States.
.....	Nevada	$4,592.67	$4,592.67	.....
32,761.00	New Hampshire	218,406.67	185,645.67	.....
67,519.17	New Jersey	450,134.00	382,614.83	.....
.....	New Mexico	62,648.00	62,648.00	.....
390,587.81	New York	2,603,918.67	2,213,330.86	.....
.....	North Carolina	576,194.67	386,194.45	$190,000.22
236,063.40	Ohio	1,567,089.33	1,332,025.93	.....
.....	Oregon	35,140.67	35,140.67	.....
292,007.90	Pennsylvania	1,946,719.33	1,654,711.43	.....
17,544.56	Rhode Island	116,963.67	99,419.11	.....
.....	Tennessee	669,498.00	387,734.31	281,763.69
.....	Texas	355,106.67	130,008.06	225,098.61
.....	Utah	26,982.00	.....	26,982.00
31,660.20	Vermont	211,068.00	179,407.80	.....
.....	Virginia	729,071.02	515,569.72	213,501.30
27,172.72	West Virginia	208,479.65	181,306.93	.....
.....	Washington	7,755.33	4,268.16	3,487.17
30,346.43	Wisconsin	519,688.67	454,944.84	25,397.40
.....	South Carolina	393,570.67	377,961.30	.....

ROS. A. FISH,
Assistant Register.

TREASURY DEPARTMENT,
Register's Office, March 22, 1886.

It will be seen from this statement that Illinois paid the full amount of the quota of the direct taxes apportioned against that State, which, after deducting the 15 per cent. allowed as a credit, aggregated the sum of $974,568.63, or nearly $1,000,000. This statement also shows that, notwithstanding the sum of $529,313.33 was at the same time apportioned against the State of Alabama, yet only $18,285,000 was actually paid by Alabama, leaving a balance due from that State of $511,028.30. Georgia owes over $477,000; Mississippi owes over $311,000; Tennessee owes over $281,000; Texas owes over $225,000; Virginia owes over $286,000. Arkansas owes 40 per cent. of her qouta. Florida paid $5,000 on her quota of $77,385. Utah has not paid anything.

Now, owing to the fact that the Treasury is overflowing with an enormous surplus it is deemed unnecessary to collect the balances due from the eleven States in arrears; and it is proposed to remit or relinquish the quota apportioned against them. These amounts have been due from the States in arrears since 1861. It must be admitted by all who are just that, as declared in the report of the committee, "the tax should be collected in full or abandoned and restitution made those who have paid." Under these circumstances why should any member refuse to refund the amounts paid by the State of Illinois and twenty-seven other States. It strikes me that it is wrong for members from the States that have refused or neglected to pay their quota to the Government in its distress to refuse the return of the sums collected from other States. Certainly, sir, I feel that fidelity to the State I represent demands that I shall so cast my vote as to secure that measure of simple justice provided in this bill.

It is said that the policy of the incoming administration will be to diminish the surplus in the Treasury by purchasing outstanding bonds before maturity at high rates of premium, as has been done to some extent in the past. I prefer to see the direct tax which was exacted from my State returned to her tax-payers rather than see it used in paying a high premium to the bondholders. Justice and good conscience require that the tax-payers of Illinois should be placed upon an equality with the States that have failed to pay their quota of the direct tax. This equality is a requirement of the Constitution of the United States. (See section 8, Article I.) Every tax-payer in Illinois will be benefited by the return of this money to her treasury. It will be unfair to them if this is not done.

Some of the newspapers have grossly misrepresented this bill in many particulars. I will notice two of such misrepresentations.

First. It is asserted that this bill is pressed in the interest of attorneys or claim agents who expect to obtain a commission on allowances to the States they claim to represent. This is untrue. Illinois has employed no such agent or attorney, and therefore no such benefit can accrue to any one claiming to serve in such capacity for that State. I do not know whether any other State has such an agent or not; but if it has, no such agent or attorney can receive any such benefit from this bill, because the amounts provided in the bill are to be paid over directly to the States respectively entitled thereto, and for the further reason, as will be seen by reading the clause of the bill—

That no part of the money hereby appropriated shall be paid out by the governor of any State or Territory, or by any person, to any attorney or agent under any contract for services now existing or heretofore made between the representative of any State or Territory and any attorney or agent.

The bill itself refutes that false charge.

Second. It is asserted that this measure is of a political character. This is absolutely false, and is made by the enemies of the bill in order to confuse the public mind. It is in no sense whatever a political measure, and can not be so construed. This bill is strongly advocated by Senators and members of this House belonging to both political parties, and until the bill came here at this session such an intimation was never heard. It will be seen by the following facts that when it was first acted upon in the Senate during the last Congress every Senator who voted supported the bill except one—Mr. Van Wyck, a Republican, as will be seen by a reference to the proceedings of the Senate February 5, 1887. The following is the roll-call on the passage of the bill at that time:

YEAS—53.

Aldrich,	Dolph,	McMillan,	Sherman,
Allison,	*Eustis*,	*McPherson*,	Spooner,
Beck,	Evarts,	Mahone,	Stanford,
Blackburn,	Farwell,	Manderson,	Teller,
Blair,	Frye,	Mitchell of Oregon,	*Vest*,
Bowen,	*George*,	Morrill,	*Voorhees*,
Call,	*Gorman*,	Palmer,	*Walthall*,
Cameron,	Gray,	*Payne*,	*Whithorne*,
Cheney,	*Hampton*,	*Ransom*,	Williams,
Cockrell,	Hawley,	Riddleberger,	Wilson of Iowa,
Coke,	Hoar,	Sabin,	*Wilson of Md.*
Conger,	*Jones of Arkansas*,	*Saulsbury*,	
Cullom,	Jones of Nevada,	Sawyer,	
Dawes,	*Kenna*,	Sewell,	

NAY—1.

Van Wyck.

ABSENT—22.

Berry,	Edmunds,	Ingalls,	Platt,
Brown,	*Fair*,	*Jones of Florida*,	Plumb,
Butler,	*Gibson*,	*Maxey*,	*Pugh*,
Camden,	Hale,	Miller,	*Vance*.
Chace,	*Harris*,	Mitchell of Pa.,	
Colquitt,	Harrison,	*Morgan*,	

The names of the Democratic Senators are in Italics.

This vote shows that only one vote was cast against it, and that every Democrat voting was in favor of the bill. When the bill was finally acted upon in the Senate during the present Congress, on January 19, 1888, the vote upon it was as follows:

YEAS—48.

Aldrich,	*Colquitt*,	*Hampton*,	*Ransom*,
Allison,	Cullom,	*Harris*,	*Reagan*,
Bate,	*Daniel*,	Hawley,	Sawyer,
Beck,	Davis,	Hiscock,	Sherman,
Blodgett,	Dawes,	Hoar,	Spooner,
Bowen,	Dolph,	Ingalls,	Stanford,
Brown,	Evarts,	Jones of Nevada,	Stewart,
Butler,	Farwell,	Manderson,	Stockbridge,
Cameron,	*Faulkner*,	Mitchell,	*Turpie*,
Chace,	Frye,	*Payne*,	*Voorhees*,
Cockrell,	*Gorman*,	*Pugh*,	*Walthall*,
Coke,	Hale,	Quay,	Wilson of Iowa.

NAYS—10.

Berry,	Paddock,	*Saulsbury*,	*Wilson of Maryland*.
Blair,	Platt,	Teller,	
Jones of Arkansas,	Plumb,	*Vest*,	

ABSENT—18.

Blackburn,	*George*,	*McPherson*,	Riddleberger,
Call,	*Gibson*,	*Morgan*,	Sabin,
Chandler,	*Gray*,	Morrill,	*Vance*.
Edmunds,	*Hearst*,	Palmer,	
Eustis,	*Kenna*,	*Pasco*,	

From this ballot it will be seen that as many Republicans as Democrats voted against the bill.

I quote the following extracts from some of the speeches of Democratic Senators and Members of the House favoring the passage of the bill. The views of these distinguished and leading members of both Houses of Congress have had great weight in strengthening my conviction that this bill is right, and that no one can truthfully charge that such a just and constitutional measure can be considered undemocratic. I have no hesitation in reaching this conclusion when I find the bill is supported by such able and distinguished leaders of the Democratic party as Senators BECK, VOORHEES, HAMPTON, BUTLER, COCKRELL, REAGAN, COKE, GORMAN, HARRIS, RANSOM, TURPIE, Representatives HOLMAN, HEARD, MANSUR, MATSON, OUTHWAITE, SENEY, TILLMAN, and other prominent Democratic members of both branches of Congress.

On February 5, in 1887, Senator BECK, of Kentucky, said in debate on this bill:

Mr. BECK. I had the honor to serve for, I believe, six years upon the Committee on Ways and Means of the House and eight years in this body, and this has been a bone of contention and annoyance ever since I first came to Congress, and I see no other equitable way to settle it unless the way we now propose. We are able to do it. We shall never do it in any other way. It has been a contention all the time. Any attempt to give up what is charged to the Southern States when the others have paid the tax would be utterly impracticable, and such a proposition never could approach success. We can not do it in any other way than this. The Senator from Massachusetts [Mr. DAWES] knows that when he was chairman of the Committee of Ways and Means in the House, and I served under him, we had the subject before us, and at last, I believe, there is no way to do it but this.

Mr. VAN WYCK. If the Southern States had directly paid their quota under this law, does the Senator think there would ever have been a proposition to repay the other States what they paid?

Mr. BECK. I think not. I think there would have been no necessity for it in that contingency.

And on January 19 last Senator BECK said, when this bill was before the Senate:

Mr. BECK. As one of the members of the committee which reported this bill two or three times, I have supposed that it was a fair measure of justice to restore to the States which had paid their proportion of the direct tax the money they had paid, or else to put the machinery of the Government, with all the force that could be brought to bear, to collect the tax not yet paid off the prop-

erty of the people of the States which did not pay the amount. One thing or the other ought to be done; and as far as my vote will go, if this refund is not agreed to, I will enforce the tax against every State that has not paid if there is any power to do so, because uniformity among the States in that class of taxes is required by the Constitution, and ought to be carried out.

I submitted heretofore a statement of the condition of the account. I submitted a report of Secretary Folger, which appears in the RECORD of January 11, 1888, which exhausts the whole argument, and if Senators will read it carefully they will find the whole case stated fully. Among other things, he says:

"Indeed, it would be unjust to the people of the loyal States to release the people of the once insurrectionary States from their liability without refunding to the former the sums paid by them, and there are analogies in the legislation of Congress.

* * * * * * *

"It can scarcely be expected that there would be cheerful aid from the State authorities in the enforcement of it. It may be doubted whether there would be any. Indeed, it would, without further legislation, have to be enforced by the machinery provided by the act under which it was laid. This would call for the appointment of numerous Federal officials who would go among the people as obnoxious exactors. I think it must be conceded that there is, and ever will be, great reluctance to ever setting about the collection of this tax. That it never had great favor is shown by that it was never put in force but one year. In practical effect, then, the law for it is obsolete. Why, then, should there remain this unenforced liability a menace to the people, the enforcement of which is called for by no public need nor by any public opinion?

"In my judgment the people and the property of the States in default should be relieved and discharged from it."

He argued it from that standpoint, and that is the standpoint from which the Committee on Finance regarded it, that we ought not to put the machinery of the Federal Government in motion to endeavor to collect this tax at all, and that as we were required to have uniformity, justice required that the States which had paid it should receive back just what they had paid, because nearly every State, as shown by the statement furnished, had paid it with the 15 per cent. discount, which we do not propose to allow. This may not work exact justice; all the money may not go exactly into the hands of the people from whom it was taken, but this is the nearest approach possible, and I am for it, standing on the report of Secretary Folger, to which I again call attention. I think Senators will find the argument substantially exhausted there.

Senator VOORHEES, of Indiana, speaking at the same time, said:

Mr. VOORHEES. I desire to say a word or two in explanation of the vote which I shall give on this question. That bill I look upon as a measure of high justice, and very creditable to the gentlemen who have been most active and prominent in bringing it forward. I am not about to discuss any of its features or provisions. It is a matter, however, that has been considered in the Committee on Finance more or less for the last two or three years, and is a measure of substantial relief in some respects, and of absolute justice in all.

The question is not always, Mr. President, what is just, but what is practicable and attainable. I look upon the bill as presented here as a practical measure, settling and closing up a difficult subject, one that has embarrassed the Treasury in its accounts, and one which has worked inequality, irregularity, and injustice in many States.

Senator HAMPTON, of South Carolina, said:

Mr. HAMPTON. Mr. President, I do not propose to discuss the bill brought in by the Finance Committee; I did so at the last session; but I would like to call the attention of the Senate to two or three facts to show the peculiar hardship under which the citizens of my State labor.

The quota of South Carolina was $363,000. By the report of the Treasury it is shown that, by the sales of lands and the payment of money, the State actually paid $377,000, an excess of $14,000 above the quota. In addition to that there were 53,000 acres of the most valuable sea-island lands. The whole county of Beaufort was sold, and the profit which the Government has made from the resales of land amounts to $315,000, so that practically the State of South Carolian was assessed $363,000 and actually paid within a fraction of $700,000.

Senator GEORGE, of Mississippi, said, February 5, 1887:

Mr. GEORGE. I do not care anything about this bill. I think they ought not to charge the State of Mississippi with this amount; but I see they are going to do it; I see they have been doing it all along; I see that the present Administration will not change the rule on that subject; and there is some sort of equity, I suppose, in the idea that as these Northern States paid their money to whip us fellows down there, and we did not pay our share of the cost of the whipping, now after the whipping is all over we ought to return to them the money which they paid for whipping us.

The gentleman from Ohio [Mr. SENEY], a member of the Judiciary Committee of this House, said, in his advocacy of this bill:

Mr. Chairman, the legislation proposed by the bill now before the House can not be intelligently understood unless we have in mind the condition of the country at the time this direct tax was levied and in part paid. We were then in the midst of a great civil war, and to maintain the Union side in that struggle vast sums of money were required. The public Treasury was empty and the public credit was low. The revenues of the Government, sufficient in peace, were insufficient in war. Bonds were made, paper money issued, duties on imports increased, internal taxes imposed, and a direct tax was levied. This direct tax, amounting to $20,000,000 a year, was levied in August, 1861.

* * * * * * *

Most of the States assumed the payment of their shares of this tax, and for so doing the law provided a discount of 15 per cent. It will be observed that the law required the payment of $20,000,000 each year; but it is to be remarked that no payments or collections were made except for the year ending in August, 1862. It is to be remarked, also, that the law has no provisions respecting the time it shall continue in force, nor has the law, to my knowledge, been repealed.

At the Treasury Department the books show that $17,359,685.51 of this tax is paid and $2,640,314.49 thereof is unpaid. These books show also that twenty-seven States, two Territories, and the District of Columbia paid in full, and that eleven States and two Territories are delinquent.

* * * * * * *

Mr. Chairman, with this condition of the direct-tax account there is great discontent. The eleven non-paying States and two non-paying Territories and their 13,209,325 people are apparently satisfied, but the twenty-seven paying States and two paying Territories and the District of Columbia and their 36,813,460 people are dissatisfied. The tax-paying States do not complain of the law under which this direct tax was levied, but they do complain of the manner in which the law has been executed. The fact is before us that the administration of this law has not been uniform. Against twenty-seven States the law has been enforced and against eleven States it has not been enforced.

One State has paid less than 4 per cent. of her tax, another State less than 7 per cent., another about 20 per cent., another 27 per cent., two States less than 36 per cent. each, one about 52 per cent., two 61 per cent. each, while from all of the other States full payment was exacted. Had this law been executed differently these inequalities would not exist, and that they do exist is proof that great injustice has been done. The fact that some of the States have paid their respective shares of this tax and other States have not suggests that some legislation is needed to make equal the burdens imposed by the direct-tax law of 1861. Whether or not Congress, at this late day, ought to compel the delinquent States to pay what they still owe of this direct tax is a question which ought to be thoughtfully considered.

These tax debts, for obvious reasons, ought to be either collected or released, and what is to be done in this respect ought to be done now. If we were to insist on their collection, the delinquent States could not in fairness complain, nor could they of right complain if, to the sums they ought to have paid twenty-six years ago, interest be added from then until payment is made. It is safe to assume that no part of these delinquent taxes will be voluntarily paid, and for several reasons their payment ought not to be enforced.

Twice did Congress suspend the collection against the non-paying States; the first time in July, 1866, until January 1, 1868, and again in July, 1868, until January, 1, 1869, and since the last suspension, now twenty years ago, nothing has been done upon the part of the Government to compel either of the non-paying States to make good its deficiency. Indeed it would seem that all purpose to collect these arrearages was long ago abandoned by the Treasury Department, and this policy, whether it be wrong or be right, appears to have had the favor of Congress, if not the approval of the people.

Again, the delinquent States were greatly impoverished by the war, and to exact from them at this time two and a half million dollars would be no inconsiderable hardship. Then, again, the Government is not in need of money unless it be to make larger the large idle surplus now in the Treasury. While there may be no intention at this time to collect these unpaid taxes, yet the obligation to pay them is in full force; and unless it be otherwise enacted it is possible, if not probable, that their payment may be enforced at some future day. The intention of which we speak as long as it exists is, perhaps, as an effectual release from the payment of what is due as any law we might pass for that purpose. Still, in the absence of a statute remitting these debts, the questions before us to-day will remain open, and as the years come and go be more and more difficult to close.

Sir, the equalization of the burdens imposed by the direct-tax law of 1861 ought not to be longer delayed. The plan of equalization proposed by the bill now under consideration seems to be equitable and just, and no reason occurs to me at this time why it should not have a cordial support.

The bill, it will be noticed, proposes to refund all of the direct tax paid, and it proposes also to remit all that is unpaid. This is equitable, this is just.

If it were proposed to refund what has been paid without remitting what is unpaid, or if it were proposed to remit what is due without paying back what has been paid, then the bill would be manifestly inequitable and unjust and would have no favor at my hands. To the eleven delinquent States and to the two delinquent Territories this bill is a generous measure. It is generous because it releases them from the payment of a large sum of money which they owe to the Government, and which the Government, if so disposed, could compel them to pay.

The bill is just because it proposes to refund what has been paid as well as remit what is unpaid. The seemingly settled purpose of the Government not to collect this delinquent tax creates an obligation, equitable at least, to refund all taxes paid, and to this obligation we ought not to be indifferent. This controversy is between States having equal claims to legislative regard. Upon the basis of perfect equality all existing differences may be readily and satisfactorily adjusted. If we can put the States upon an equal footing respecting this direct tax our whole duty is done. This bill if enacted into a law will place each and every State where it stood in 1861, when this direct tax was levied. As every court in our country treats copartners or the members of a corporation where assessments are made to promote a common interest and some are paid and some are not paid, so let us treat the States in legislating respecting these paid and unpaid tax levies.

Mr. Chairman, the purpose of this measure is grossly misrepresented to the people. In the newspapers and at political gatherings it is said that this bill is a mere raid by the so-called loyal States upon the Treasury of the United States.

Read the bill; read also the law imposing the tax, and then examine the direct-tax account, and it will be seen that the so-called disloyal States will receive their due proportion of the money. The loyal States, including Delaware, Kentucky, Maryland, and Missouri, paid $15,022,773 of this tax, and therefore they would be entitled to receive this sum. The disloyal States paid $2,336,911 and would get back this sum, and in addition would be released from their existing obligation to pay $2,305,727. In other words, to the disloyal States the bill, if it becomes a law, has a value of $4,642,638, and if twenty-seven years' interest be added to their unpaid tax, then the value is $6,747,915, and to the loyal States the value is $15,022,773.

These facts show plainly that the eleven disloyal States have more to get out of this so-called scheme than the twenty-seven loyal States.

It is true, sir, that this bill if it becomes a law will take from the Treasury surplus $17,359,685.51, but it will be observed that this money is not to be wasted or squandered or go into individual or corporate hands, for the bill directs that it be paid to the States, and by the States it will be used in the interests of their tax-paying people.

The money this bill appropriates belongs to the people, and the sooner it is legislated out of the Treasury and into their pockets the better it will be for the Government, and the better, too, will be the condition of the country. This money the people need, and for it the Government has no use. In the Treasury at Washington it does harm rather than good, while in the different State treasuries it will help in no small degree to lighten the tax burdens of the people. The State of Ohio paid $1,332,025.98 of this direct tax, and if this sum be paid back it will go into her treasury and thus directly benefit all of her people.

The direct tax paid by other States, if returned, will go into their treasuries and thus benefit all who pay taxes under their laws. Refunding to the States what they paid to the Government as a direct tax during the war will directly or indirectly benefit each and every one of our people. Is it wrong to return to the States for the use of their people money which the Government has but does not need? Fifty-two years ago the Treasury had idle money in its vaults. Through the States it was returned to the people, and the law under which this was done had the approval of President Jackson. Was Andrew Jackson a Treasury raider, or was he what history tells us, a bold and determined champion of the rights of the people?

The raising of revenue by a direct tax is in no particular favor with the American people. While the Constitution provides for laying such a tax, it is worthy of remark that but twice in our history have direct taxes been levied. In 1812 Congress laid a direct tax, and again in 1861. These years are remembered as years of war. When we are at peace, at peace with ourselves and the rest of the world, other methods for raising revenue are employed. A levy of a direct tax in war, and for war purposes only, has every appearance of a compulsory loan. This tax, it will be remembered, was not collected from the people, but the amount of tax, less 15 per cent., the loyal States paid to the Government. Were these payments advances? Ohio laid no tax upon her people to pay her share of the direct-tax levy. By a pledge of her credit she had raised money and used it in putting her sons into the Union army until advances for the Government footed up in the millions.

From Ohio's account against the Government for these advances an amount equal to the amount of her direct tax was taken and put to her credit. Is Ohio raiding on the Treasury in asking that what she thus advanced to the Government be paid back?

Mr. Chairman, it will be remembered that this bill passed the Senate at the last session after a brief debate and with only ten opposing votes. When the bill reached the House in April last it met with an opposition which resulted in what is known to parliamentary bodies as a dead lock, and this dead lock continued for ten consecutive days. During this period it was quite apparent that the House by more than a two-thirds majority favored the bill, but the small minority opposing it succeeded by divers and sundry parliamentary maneuvers in preventing its passage; and, strange to say, Representatives from the non-paying States led in these revolutionary movements.

Mr. Chairman, in the course of this debate much has been said about the Constitution of the United States, but no more, perhaps, than is said about that instrument in most of the debates of this body. The Constitution, for mere talking purposes, is a great favorite, not only in the House, but in the Senate.

* * * * * *

Sir, the enemies of this bill tell us that Congress has no constitutional power to make it a law. Point out, say the honorable gentlemen, the clause of the Constitution which authorizes Congress to remit or refund a tax legally laid. We read in the Constitution that Congress has sole power to lay and collect taxes, duties, imposts, and excises, to pay debts and provide for the common defense and general welfare of the United States. From this clause alone it is clear that the taxing power of the Government is vested in its legislative department, and therefore it is that over the subject of taxation, from first to last, the Congress of the United States has exclusive, if not absolute, power.

If this be the power of Congress respecting taxation, it necessarily follows that Congress has the same power to remit or to refund a tax that it has to lay and collect it. If Congress can not remit a tax or refund a tax, then it has not either exclusive or absolute power over the subject of taxation. If the power to remit or refund a tax be not in Congress, then it has no existence. What an oversight upon the part of the Constitution makers, and what an opportunity for Constitution amenders. The power to refund or remit a tax is a lawmaking power. Upon the well-settled principle that the less is in the greater, the power to remit and refund is in the power to lay and collect. The power to remit or refund is a part of the power to lay and collect. From the express power to lay and collect the power to refund and remit is necessarily implied. The power to remit or refund a tax is but an incident to the power to lay and collect it.

From whence comes the power to suspend the collection of a tax if not from the same clause of the Constitution which authorizes it to be laid and collected? Twice did Congress suspend the collection of this direct tax, and its power so to do no one has questioned. If Congress may suspend the collection of a tax, why may it not refund a collection or remit what is not collected? The direct-tax law of 1861 is still upon the statute-book, and therefore its force at this time is the same that it was on the day it was enacted. Unquestionably Congress has power to repeal the law, and if this were done what would be the effect of the repeal upon the uncollected portions of this direct tax? In my judgment the repeal of the law would remit every dollar and every cent.

Then, upon the question of remitting the unpaid part of this tax it is plain that Congress has power so to do, either by a law remitting the tax or by repealing the law levying the tax. What would be the effect upon the collected portions of this direct tax if the law imposing the tax was repealed, presents a question more difficult to determine. While it may be that the repeal of the law would not place the Government under a legal obligation to refund what it received while the law was in force, yet, having repealed the law and thereby remitted what is unpaid, in good conscience and just judgment it could not retain what had been paid.

But we are told by those opposing this bill that in the courts of the country a tax legally levied and voluntarily paid can not be recovered back, and therefore they argue that a tax thus levied and paid can not be refunded by Congress. That the judicial power of the Government can give no relief in such a case is no reason why the relief is not to be had elsewhere. The courts may relieve against an illegal tax, but against a legal tax relief must come from the power imposing it. In the one case the power is in the courts, and in the other case the power is in Congress. The Congress, as well as the courts, may relieve against an illegal tax before or after it is paid. In refunding a tax because it was illegally assessed, or for other cause, or for no cause at all, Congress exercises taxing power, and in so doing neither the executive nor judicial power can, of right, interfere.

But the more active opponents of this measure give us reason to believe that they are not sincere when they say Congress has no constitutional power to make it a law. Their two amendments to the bill show their purpose to get out of the Treasury what is known as the proceeds of property captured from the enemy during the war, amounting to $10,000,000, and what is known as the cotton tax, amounting to $68,000,000. In effect these gentlemen say to the friends of this bill, "Vote for our amendments and we will change our views and believe as you believe, that there is power in the Congress to remit and refund a legal tax, and we will so vote." The time at my command does not permit a discussion of the validity or the invalidity of the cotton tax, or the propriety of voting the amount of the tax out of the Treasury. At some other time, if the opportunity offers, my views upon this subject may be presented to the House.

Another objection made to this bill is that if this tax be refunded now it will not reach the hands of those who paid it twenty-seven years ago. So far as twenty-seven States are concerned the money will go back to the same place it was paid out in 1861. The sum of $15,022,773 which these States paid as their direct tax was in 1861 in their State treasuries for State purposes, and for the same purposes it is proposed by this bill to put back an equal amount in 1888.

The people of 1861 made the public debt, yet the people of 1888 are obligated for its payment. We appropriate money for purposes which had no existence at the time the money was paid into the Treasury. The surplus revenue distributed to the States in 1836 was money which had been collected from the people in former years. Duties on imports are now and then refunded and in some instances years after their payment. The duty is paid by the importer, but he gets the duty back when he sells the import, so that he is not out a penny, but in case the duty or a part of it is refunded the importer gets it and puts it low down in his pocket, for it is his clear gain.

Less than five years ago duties were levied upon a heavy importation of silk goods. The importer thought the duty excessive and unauthorized, but he paid it under protest. He, however, was not out a cent, for he got back the duty he paid when he sold the goods to the jobber. The importer sued for the excess, recovered it, and with the money he is importing more silk. This case was heard of frequently in the late political campaign. Of this case the opponents of the bill, if consistent, must say that the excessive part of the duty ought not to be refunded, because the importer, instead of those who in the end wear out his goods, gets the money.

Mr. Chairman, no wrong will be done if we remit and refund this direct tax. The Constitution will not be violated, nor will any statute law be broken. This measure carries benefits for the whole people, and it is their interests that our legislation ought to promote. It is to be hoped, sir, hoped confidently, that neither the jealousies of sections nor the memories of the past will be in the way of this House being generous to the erring and just to those who did not go astray.

The gentleman from Missouri [Mr. HEARD] said on April 3 last:

* * * * * * *

This bill rests upon no issue or question of party politics. It is not in the interest of any section or class. It is an effort to equalize, as far as may be done, the inequalities, the hardships, and the injustice of the enforcement of the collection of the direct tax levied under the exigency which rested upon the General Government in 1861. The purposes of this bill have the indorsement and commendation of the present as well as of past administrations. No one favored it more earnestly than the lamented Secretary of the Treasury, the late Judge Folger, and the then First Comptroller. Of their published letters I shall again speak, but I desire now to invite your attention to the reasons for the legislation proposed by this bill.

Section 14 of the act to protect the revenue, etc., of July 28, 1866 (14 Stats., 331), suspended the further enforcement of the direct tax until January 1, 1868. And on July 23, 1868 (15 Stats., 260), this suspension was extended until January 1, 1869. In a special communication to the Secretary of the Treasury, dated May 3, 1880, the Commissioner of Internal Revenue forcibly pointed to the various inequalities which had arisen in the collection of the direct tax, and that large balances remained uncollected, and strenuously recommended that the collection of such balances be enforced, as such enforcement had been suspended merely until January 1, 1869, and that the period of legal suspension had expired.

The Commissioner of Internal Revenue was in the position of an officer commanded to do a certain thing, and the act of suspension which saved him from dereliction for the non-enforcement of the act according to its express terms had expired. He rested, then, under the responsibility of enforcing the law, and as to the proper methods of enforcement he properly called upon Congress for direction.

Similar recommendations were made in the regular annual reports. The justice and fairness of collecting these balances was apparent, as is conceded by my friend from Alabama; for he makes no point on that. Yet, Mr. Chairman, the inadvisibility of enforcing the collection when the money was really no longer needed was manifest.

* * * * * * *

But, Mr. Chairman, the money is not needed, and the enforcement of its collection would be attended with such hardship as necessarily to create great friction; but the question remains whether it is just and right, when the other States have paid seven-eighths of these taxes, that these States in default shall continue to withhold the balance of their quotas.

Ought not they to come and tender to the Government the amount of the original quotas assessed against their States, or else not contend against the equity of an enactment which would adjust the matter so as to give them a complete acquittance and return to us simply the dollars and cents that we paid into the Treasury?

Every dictate of reason and suggestion of fairness demands that either these balances should be collected or that the sums already paid shall be refunded.

Equality is equity, and one or the other of these alternative propositions will come nearer working equity than any which can be suggested; and nothing can be more unequal or unjust than the present situation of affairs relating to this business.

It is on account of the great injustice done by these inequalities that so many public officers of high position, who have been called on in the discharge of their public duties to deal with these questions, have recommended that something be done to equalize this tax, either by collecting the balances or else to remit the balances and return the sums collected to the States who have paid it. This bill provides for this, and provides that if the sums have been paid out of the common treasury of the State, then it should be returned to the States for public use. If it was paid by individuals or collected by the sale of the lands of individual citizens, then in that case it is paid to the States respectively in trust for the citizens who paid it. This is equitable, and the States can be trusted to deal honestly with their citizens, and I submit that sound statesmanship demands the passage of this bill as both a wise and a just measure.

APPENDIX.

The final vote on the passage of the bill in the House, is as follows:

YEAS—178.

Adams,	*Dibble*,	Kerr,	Rowell,
Allen, Mich.	Dingley,	Ketcham,	*Rowland*,
Anderson, Kans.	Dorsey,	La Follette,	Russell, Conn.
Arnold,	Dunham,	Laidlaw,	*Rusk*,
Atkinson,	*Elliott*,	*Latham*,	Ryan,
Baker, N. Y.	Farquhar,	*Lee*,	Sawyer,
Baker, Ill.	Fenton,	Lehlbach,	Scull.
Bayne,	Finley,	Lind,	*Seney*,
Belden,	*Fitch*,	Lodge,	*Seymour*,
Biggs,	Flood,	Long,	*Shaw*,
Bingham,	*Ford*,	Lyman,	Sherman,
Boothman,	Funston,	*Macdonald*,	*Simmons*,
Bound,	Gaines,	*Mahoney*,	*Snyder*,
Boutelle,	Gallinger,	*Mansur*,	*Sowden*,
Bowden,	Gear,	Mason,	Spooner,
Bowen,	Gest,	*Matson*,	Steele,
Brewer,	*Gibson*,	*McClammy*,	Stephenson,
Brower,	Grosvenor,	McComas,	Stewart, Vt.
Browne, T. H. B., Va.	Grout,	McCullogh,	Struble,
Browne, Ind.	Guenther,	McKenna,	Symes,
Brown, Ohio	Harmer,	McKinley,	Taylor, E. B., Ohio
Brown, J. R., Va.	Haugen,	*Merriman*,	Taylor, J. D., Ohio
Buchanan,	*Heard*,	Moffitt,	Thomas, Ill.
Bunnell,	*Hemphill*,	Morrill,	Thomas, Wis.
Burrows,	Henderson, Iowa	Morrow,	Thompson, Ohio
Butler,	*Henderson, N. C.*	Nelson,	*Thompson, Cal.*
Butterworth,	Henderson, Ill.	Nichols,	*Tillman*,
Campbell, F., N. Y.	Hermann,	Nutting,	*Townshend*,
Campbell, Ohio	Hiestand,	O'Donnell,	Turner, Kans.
Campbell, T. J., N. Y.	Hires,	*O'Ferrall*,	Vandever,
Cannon,	Hitt,	*O'Neall, Ind.*	Wade,
Caswell,	*Holman*,	O'Neill, Pa.	Warner,
Cheadle,	Holmes,	Osborne,	Weber,
Clark,	Hopkins, Ill.	*Outhwaite*,	West,
Cogswell,	*Hopkins, Va.*	Patton,	White, N. Y.
Compton,	Hopkins, N. Y.	Payson,	Whiting, Mass.
Cooper,	Houk,	Perkins,	Wickham,
Cothran,	Hovey,	*Perry*,	Wilber,
Crouse,	*Hydd*,	Peters,	*Wilkins*,
Cutcheon,	Hunter,	Phelps,	*Wilkinson*,
Dalzell,	Jackson,	Plumb,	Williams,
Darlington,	Johnston, Ind.	Post,	Yardley,
Davenport,	Kean,	Pugsley,	Yoder.
Davis,	Kelley,	Rockwell,	
De Lano,	Kennedy,	Romeis,	

NAYS—96.

Abbott,	*Bankhead*,	*Bland*,	*Bryce*,
Allen, Miss.	*Barnes*,	*Blount*,	*Buckalew*,
Anderson, Miss.	*Barry*,	*Breckinridge, Ark.*	*Burnett*,
Bacon,	*Blanchard*,	*Breckinridge, Ky.*	*Bynum*,

Candler,	Glass,	McKinney,	Smith,
Carlton,	Grimes,	McMillin,	Spinola,
Caruth,	Hatch,	McRae,	Springer,
Catchings,	Hayes,	McShane,	Stewart, Tex.
Chipman,	Herbert,	Mills,	Stewart, Ga.
Clardy,	Hooker,	Montgomery,	Stockdale,
Clements,	Howard,	Morse,	Stone, Ky.
Cobb,	Hutton,	Neal,	Tarsney,
Collins,	Johnston, N. C.	Norwood,	Tracey,
Coules,	Jones,	Oates,	Turner, Ga.
Cox,	Kilgore,	Peel,	Vance,
Crain,	Lagan,	Penington,	Walker,
Crisp,	Landes,	Phelan,	Washington,
Cummings,	Lane,	Randall,	Weaver,
Davidson, Fla.	Lanham,	Richardson,	Wheeler,
Dockery,	Lawler,	Robertson,	Whiting, Mich.
Dunn,	Maish,	Rogers,	Wilson, Minn.
Enloe,	Martin,	Russell, Mass.	Wilson, W. Va.
Foran,	McAdoo,	Sayers,	Wise,
French,	McCreary,	Shively,	Carlisle, Speaker.

NOT VOTING—50.

Allen, Mass.	Fisher,	Laird,	Reed,
Anderson, Iowa	Forney,	Lynch,	Rice,
Anderson, Ill.	Fuller,	Maffett,	Scott,
Bliss,	Gay,	McCormick,	Stahlnecker,
Brumm,	Glover,	Milliken,	Stone, Mo.
Burnes,	Goff,	Moore,	Taulbee,
Cockran,	Granger,	Morgan,	Thomas, Ky.
Conger,	Greenman,	Newton,	White, Ind.
Culberson,	Hall,	O'Neill, Mo.	Whitthorne,
Dargan,	Hare,	Owen,	Woodburn,
Davidson, Ala.	Hayden,	Parker,	Yost.
Dougherty,	Hogg,	Pidcock,	
Ermentrout,	Laffoon,	Rayner,	

Amendment of the Rules.

SPEECH

OF

HON. THOMAS M. BAYNE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, January 14, 1889,

On the resolution to rescind the order made the 11th day of May, 1888, providing the session of the House shall close each day at 5 o'clock.

Mr. BAYNE said:

Mr. SPEAKER: The rules of the House as construed by the present Speaker make dilatory motions and consequent filibustering easily practicable. The language of the rules seems to justify the Speaker's interpretation. In the usual and ordinary proceedings of the House a motion to fix the day to which the House shall adjourn, a motion to adjourn, and to take a recess are always in order. Thus preferred and privileged by the language of the rules, it is difficult to understand how the Speaker could do otherwise than he has done, if the rules are to be interpreted by him according to their plain language.

It would have been a simple and an easy matter when the rules were being framed to have deprived the motion to adjourn to a certain day, or to take a recess, of its privileged character. The motion to adjourn should have the right of way, but the rules could easily have been so constructed as to permit but one such motion to be made until certain progress had been made in the consideration of the pending measure, or until a certain hour in the day had arrived. There are various ways by which all motions used for the purpose of delay could be excluded in express language in the rules. I hope the next Congress will see to it that such rules shall be adopted, so that a majority of the House may proceed with the transaction of the proper business of the House.

While our present rules are according to their language only susceptible of the construction which the Speaker puts on them, it would be unfair to impute to the present House the intention that they should be used by one or two members to defeat entirely the progress of legislation. Unless such an intention be justly imputable to the present House, it seems to me the Speaker attaches too much importance to the mere language of the rules, and not enough to those obligations of duty which are put upon us by the Constitution. It is our duty to enact necessary and proper laws. If, without such intention, we have adopted rules which preclude the performance of that duty, should the rules nevertheless be enforced?

To insist upon such a proposition is at variance with the precedents in all directions. Even the Constitution itself has been construed by the Supreme Court of the United States in opposition to such a theory of construction as the Speaker puts upon these rules of ours.

In that instrument there is not one line with reference to the removal of any officer of the Government except the provision relating to impeachment. Yet the Supreme Court has held that an officer could be removed for inability to perform the duties of his office, and the court justified such removal on the ground of necessity. Are the rules of the House more sacred than the Constitution? And if the Supreme Court can sustain its decision on the ground of the necessity of having the duties of an office discharged, could not the Speaker justify himself in declining to recognize purely dilatory motions on the ground of the necessity of the House of Representatives doing its duties? This law of necessity is ample enough for all emergencies, and even constitutions are at times subordinated by it.

It is said, however, that it would be dangerous to recognize the right of the Speaker to determine where and when the law of necessity should supervene. Not at all. The majority of the House would thus always get an opportunity of deciding. As the rules are now interpreted the majority is powerless.

I voted against the proposition to rescind the order fixing 5 o'clock as the hour of adjournment, because it is a mere makeshift, and a poor one at that, for the difficulties in our way. Instead of remedying matters, it interposes a test of physical endurance or a trial by battle, as it were, for practice. I have heard ourselves compared with a lot of school children. It is possible, the way things are drifting, we may some day surprise and delight the onlookers by becoming a lot of acrobats, athletes, or gladiators.

I think it high time an unbridled minority should be brought to a realizing sense of the fact that the majority should have its way. Since there is little or no prospect of a change of the rules which will give genuine relief, I hope the Speaker, whose good intentions no one will dispute, will see his way clear to so interpret the rules from this on as to enable the majority to control the proceedings of the House.

Amendment of the Rules.

SPEECH

OF

HON. GEORGE E. ADAMS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Monday, January 14, 1889,

On the resolution to rescind the order made on the 11th day of May, 1888, providing that the session of the House shall close each day at 5 o'clock.

Mr. ADAMS said:

Mr. SPEAKER: It is claimed that this proposed amendment to the rules would tend to enlarge the powers of the majority of the House. To me it is simply an enlargement of the scope of the proceedings on suspension Mondays. That is a very different thing. I believe the rules of this House ought to give control of the business of the House to the majority of the House, and not to any one member or any five members, even if they constitute the Committee on Rules. It is the fault of the Committee on Rules that this House has not at least tried to frame such a code of rules.

At the beginning of this Congress, on a partial report from the Committee on Rules, this House adopted most of the rules of the Forty-ninth Congress, without deliberation, on the general understanding that the Committee on Rules would make a further report and give this House an opportunity to decide with deliberation under what rules it would transact its business. That opportunity never came. The Committee on Rules did not choose to permit it. From that day to this the Committee on Rules has been in the habit of bringing forward propositions, frequently relating to a particular day or a particular bill, and having these propositions treated, not as suspensions of the rules, which they usually are, but as amendments to the rules.

When such a resolution is brought forward, the usual course has been to move the previous question upon it at once, in order to cut off amendments, lest the House should be guilty of the indiscretion of taking control of the subject, and actually presuming to make its own rules for the transaction of its own business. That course has been followed in the present instance. The decision of the Chair this morning that a proposed amendment of one rule can not be amended by a proposition to amend another rule has a similar effect. It enlarges the already too large power of the Committee on Rules.

What is the effect of passing this resolution at this particular time? Its main effect is generally believed to be to facilitate an anomalous proceeding, by which on the first and third Mondays of each month we attempt to suspend the rules and pass bills, sometimes without printing or reference to a committee, without the power of offering amendments and almost without debate. Further, it is not in the power of two-thirds, or three-quarters, or seven-eighths of the members present to determine that a particular bill shall be voted on in this way.

The power to decide without appeal whether a particular bill shall or shall not be voted on in this way rests with a single member of the House, the chairman of the Committee on Rules. However fairly it

may have been exercised by the present Speaker, it must be admitted that it is a one-man power as vast, as potential to defeat the wishes of a majority of the House, as is the one-man power exercised by any other member who makes dilatory motions, or sits here on suspension Mondays and introduces long printed bills and has them read by the Clerk.

Now, why has this extraordinary proceeding been tolerated so long? Simply because the rules of this House are so cumbrous and their pressure is so galling that it is deemed necessary to suspend them regularly on two Mondays in each month in order to relieve what would otherwise be an intolerable pressure. It is a makeshift remedy at best. In the long run it may be better to let the galling pressure of the rules bear equally on the first and third Mondays as on other days until the House is forced to free itself from its thralldom to a bad system of rules by changing the system itself.

If the proceedings on suspension Mondays shall be nullified for the remainder of the session, and if it shall follow that in the next Congress a code of rules shall be framed which do not need to be suspended regularly two days out of every twenty-four; if, in short, in the next Congress the control of the business of the House shall rest with the majority of the House and not with any one or five members thereof, Congress and the country are likely to gain more in the long run than can possibly be lost by the failure to pass a few favored bills under suspension of the rules during the present session.

Admission of New States.

SPEECH

OF

HON. WILLIAM M. SPRINGER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, January 15, 1889.

The House having under consideration the bill (S. 185) to provide for the admission of the State of South Dakota into the Union, and for the organization of the Territory of North Dakota—

Mr. SPRINGER said:

Mr. SPEAKER: I hope I may have the attention of the House during the discussion of this question, which is one of great importance. In view of the crowded condition of our Calendars I desire to move the previous question upon the pending amendments as soon as possible. I can not state now the exact time that I shall take the floor for that purpose, for I do not know how much time will be required by gentlemen in the debate. I hope, however, that the whole subject can be disposed of to-day, and I will ask gentlemen who are now present to remain in their seats that this important question may be considered here in the hearing of all, and that we can come to an understanding and vote upon all the disputed or controverted questions in reference to the proposed new States without unnecessary delay.

Mr. Speaker, in the course of the discussion of this bill I shall confine myself exclusively to the provisions of the measure now pending before the House and the substitute which I will offer hereafter; and I desire to give notice now to the House that at the proper time I shall move as a substitute for this bill the substance of House bill No. 8466, which is known as the "omnibus bill," together with provisions contained in section 3 of the substitute, which provide a mode for the division of Dakota into two States and their admission into the Union as the States of North and South Dakota if the provisions of that section shall be agreed to by the people of both North and South Dakota.

Mr. MACDONALD. Before the gentleman proceeds I would like to ask what time has been fixed for the general debate.

Mr. REED. There is no time fixed.

Mr. SPRINGER. None has yet been agreed upon.

Mr. BAKER, of New York. If the gentleman from Illinois will allow me, I understand that the gentleman from Minnesota has some amendments which he proposes to offer to the substitute if it be adopted.

Mr. MACDONALD. Yes, or to the bill itself if the substitute is not adopted.

Mr. SPRINGER. There will be plenty of time for the gentleman to offer the amendments and have a vote upon them.

Mr. MACDONALD. I simply want that right reserved.

Mr. REED. It is reserved; it belongs to you.

THE SIOUX FALLS CONSTITUTION.

Mr. SPRINGER. At the election of a Delegate to this Congress held in the Territory of Dakota in 1884, Mr. GIFFORD, the present Delegate, received in round numbers 71,000 votes and, Mr. Wilson, his Democratic competitor, 15,000 votes, making a total number of votes cast in the Territory at that time of 86,000. The Legislature at that time elected consisted of twenty-four members of the council, all of whom were Republicans, and forty-six members of the house of representatives who were Republicans, and two Democrats, so that it was almost unanimously Republican in both branches.

Mr. REED. Is that the reason you did not admit her as a State at that time?

Mr. SPRINGER. That had nothing to do with it, and has nothing to do with it; and I hope my friend from Maine will not anticipate the partisan features of this question, for I shall endeavor to keep entirely aloof from them.

Mr. REED. I see you will.

Mr. SPRINGER. The Legislature met at Bismarck in January, 1885, and passed an act for the constitutional convention for South Dakota, or, in other words, an act to authorize the convention for the formation of a new State to be known as the State of Dakota, to be composed of that portion of the Territory south of the forty-sixth parallel. Twenty thousand dollars were appropriated to pay the expenses of the convention, to be taken out of the treasury of the Territory of Dakota.

A LIGHT VOTE.

At the election for delegates to the convention in South Dakota there was comparatively a small vote, only about 16,000 voters participating in the election of the delegates to that convention. The constitutional convention met on the 8th day of September, 1885, at the city of Sioux Falls, and proceeded to formulate a constitution for the State of South Dakota, or rather for a State to be called Dakota, to be carved out of the southern half of the Territory. This convention remained in session but eighteen days, and submitted to a vote of the people a constitution to be ratified or rejected on November 3, 1885. That constitution was ratified by a vote of 25,000 in the affirmative and 6,500 in the negative, showing a total vote at that time of only 31,500. There was also submitted at the same time a separate proposition known as the prohibitory amendment, an amendment which prohibited the manufacture and sale of spirituous and intoxicating liquors as a beverage in the State of Dakota. That amendment received 15,570 votes, and there were 15,337 votes cast against it, having been adopted by a slender majority of 233. At that time—that is, at the time this vote was taken—there were embraced within the limits of the proposed new State of South Dakota as now named at least 65,000 voters, and of that number only 31,000 participated on the day of election in voting for or against the constitution, and only 25,000 of the 65,000 voted in favor of the adoption of the constitution. There were more than 40,000 voters in the Territory that is embraced within the limits of the proposed State who either voted in opposition to the constitution when the question was taken or who were so indifferent as to remain away from the polls and not vote at all.

DEMOCRATS TOOK NO PART.

I desire to call further attention to the fact that the Democratic party in South Dakota did not participate, as a rule, in this election for delegates or for ratification of the constitution. It appears that an address was promulgated and published to the Democratic voters by the Democratic Territorial committee, dated October 15, 1885, in which it is stated that the committee declined to call a Democratic convention for the nomination of officers for the proposed State of South Dakota, or Dakota, as it was then called, and recommended "that the Democrats of Dakota and all law-abiding citizens within the Territory should decline to take any part whatever in the proposed election and the proceedings looking to the formation of a State government for the southern half of the Territory."

It is evident, therefore, that the great mass of Democratic voters in that Territory declined to participate in the election of November 3, 1885, when the constitution was submitted to the vote of the people, and when State officers, the Territorial Legislature, two representatives in Congress, and county officers to compose the new State were voted for. Now, I have called attention to this fact, Mr. Speaker, not for the purpose of showing that this is a partisan constitution, because in its provisions it is not, but for the purpose of showing that a small portion of the voters of that Territory participated in the formation of it, which I shall call hereafter the Sioux Falls constitution of 1885. A very small portion of the electors voted for delegates to the convention, only about 16,600 participated, and only 31,500 voted at the election for the ratification or rejection of this constitution. There were at that time over 65,000 voters in that part of the Territory. So small a portion, therefore, having participated in forming this constitution, I insist, after four years have elapsed and admission under that constitution has not been secured, that justice to the people of North Dakota and to the people of that part of Dakota desiring to be embraced in the new State requires that proceedings should be instituted by Congress allowing them to begin anew, and that all these proceedings should be set aside and a new convention be had for South Dakota as well as for North Dakota. I will refer to that feature of the case further on.

APPROPRIATES THE NAME OF "DAKOTA."

I now desire to call the attention of the House to the provisions of the constitution which was adopted by that convention. I hold a copy of the constitution in my hand. It begins with this declaration: "That the people of Dakota," etc., while only the southern half of that Territory was represented, and that, too, by less than one-fourth of the voters in that part of the Territory; and after the convention ap-

propriated the name of "Dakota" and gave it to the southern half of the Territory, it then proceeded to form it into a State and to fix the boundary upon the north as the forty-sixth parallel. That boundary and this name are now not satisfactory to any of the friends of this movement. In fact South Dakota has been compelled to abandon that claim in deference to the unanimous protest of North Dakota, and all desire, as proposed in the Senate bill now before us, to change this name and also to change this boundary so as to make the name "South Dakota" and the boundary the seventh standard parallel, which is about 6 miles south of the other, and is the surveyor's boundary which divides the townships and counties of the Territory, and therefore more convenient.

THE CONSTITUTION HASTILY FORMED.

I desire to call attention to the fact that this constitution was formed very hastily, the convention having been in session only eighteen days. Many of its provisions are worthy of the highest commendation, but there are several inaccuracies and errors that have crept into it, owing perhaps to the haste manifested at the time, which ought to be corrected before it becomes the law of the State. One of these errors is on page 45 of Senate Report 75, and shows that in the constitution the word "excluding" is printed in this text as "including the Indians," so that the Legislature is required to apportion the Senators and Representatives according to number of inhabitants, "including Indians" not taxed, and the soldiers and officers of the United States Army and Navy. This is an error that has crept into this copy, and it ought not to be passed in this shape.

Mr. ADAMS. Is it a fact that that was an error in the constitution?

Mr. SPRINGER. It is an error, because the Constitution of the United States uses the phrase "excluding Indians not taxed," etc.

Mr. ADAMS. Are you able to state as a matter of fact that it is in the constitution?

Mr. SPRINGER. The engrossed copy is in Dakota and I have not seen it. I presume it is a mere typographical error.

Mr. GIFFORD. It is a typographical error. There is an engrossed copy of the constitution on the files of the House.

Mr. SPRINGER. It may be all right; I only spoke of the copy before us.

The constitution provides that the sessions of the Legislature of Dakota shall be limited to sixty days, and it further provides that bills shall be read at length at least twice, on different days—the first and third reading. This will make legislation very slow. We have similar provision in the constitution of Illinois. Our Legislature begins on the first Wednesday in January and generally remains in session until the middle or latter part of June by reason of that provision, which is copied into this constitution, requiring the bills to be read at length twice; and before a final vote is taken the bill shall be printed, and no bill passed except upon a vote of the yeas and nays, and must receive a majority of all the members elected.

Mr. ADAMS. That is a part of our constitution.

Mr. SPRINGER. That is a part of our constitution, but I want to call attention of the gentleman to the fact that when that provision was put in our constitution there was no limitation as to the time that the Legislature should remain in session. If this provision is retained it necessarily lengthens the time the Legislature must remain in session, and you must make provision for longer sessions if you would obtain any good out of it.

Mr. WARNER. Will my colleague permit a question?

Mr. SPRINGEB. Certainly.

Mr. WARNER. I understand my colleague to point to this as one of the reasons why the Senate bill should not be adopted. Has the gentleman any assurance or any information from the inhabitants of Dakota that they would not re-enact that provision in any constitution which they might adopt?

Mr. SPRINGER. Oh, no. I am simply calling attention to some of the provisions of this constitution to show the great haste with which it was adopted, and am giving this as one of the reasons, not sufficient in itself, but one of the reasons why the people should have an opportunity to form another constitution.

Mr. REED. Well, they seem to have had plenty of time, owing to the repressive measures which have been adopted.

WOMEN ELIGIBLE TO OFFICE.

Mr. SPRINGER. I will call attention to another provision of this constitution which I think was the result of the hasty action of the body which framed it. On page 54 of this report, in which the Sioux Falls constitution is printed, it will be seen that women are made eligible to all the offices in the Territory except governor, lieutenant-governor, and member of the Legislature. They may be elected to the supreme court; the chief-justice may be a woman; the justices and the county officers and the judges may be women; the auditor of public accounts, the secretary of state, and the attorney-general—all these officers may be women; and as the framers of this constitution have gone so far in that direction, I do not see why they have made an exception in the case of governor, lieutenant-governor, and member of the Legislature. I call the attention of my friend from Dakota [Mr. GIFFORD] to that feature, so that it may be amended if that is thought desirable.

Mr. GIFFORD. I do not wish to interrupt the gentleman, but I want to say that the provision he refers to was taken from some twenty constitutions and is identically the same provision as the provision found in those constitutions.

Mr. SPRINGER. The gentleman is mistaken about that, and I will point out the mistake.

This provision refers in the first place to the qualifications for voters, and the qualifications for voters in the new State of South Dakota allow an alien to be a voter after he has lived in the United States one year and has resided in the State six months. I refer now to pages 53 and 54 of this document.

Mr. ROGERS. Does that mean after the declaration on the part of the alien of his intention to become a citizen?

Mr. SPRINGER. I was coming to that. After the alien has declared his intention to become a citizen of the United States he may immediately qualify as a voter, if he has resided in the proposed new State six months and has been one year in the United States.

Mr. ADAMS. It is so in Wisconsin and in several States.

Mr. SPRINGER. Yes. I am simply calling attention to this fact that it is in the constitution, and also to the fact that an alien woman may even be elected chief-justice of South Dakota after she has been one year in the United States and six months in the State.

Mr. REED. But she would not be elected unless the people wanted her.

Mr. SPRINGER. Oh, no. But I think this provision was put in hastily or inadvertently, and therefore I call attention to it.

CORPORATIONS.

Now, as to the provisions with reference to corporations. On page 60 it will be found that the Legislature is prohibited from chartering railroads or other corporations except those of a charitable, educational, penal, or reformatory character; but there is a provision in section 3 of this article that the Legislature shall not remit the forfeiture of the charter of any corporation now existing, nor alter or amend the same, nor pass any special or general law for the benefit of such corporation, except on the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution. So that, if a corporation is willing to accept that limitation, the Legislature may pass any law it pleases with regard to the corporation.

Again, section 9 of this article seems to me to be an error. It ought to have related solely to municipal corporations, but in fact it relates to all corporations. So that provisions here with reference to corporations, which would be otherwise very wholesome, are virtually nullified by other provisions.

Mr. ROGERS. Either I am unusually obtuse this morning or else my friend does not exhibit his usual lucidity in his explanation of the provisions in relation to corporations. I would like to understand that subject a little more clearly.

Mr. SPRINGER. I will explain. I am passing rapidly over these points in order to save time. The first section of this constitution in reference to corporations (page 60) provides as follows:

SECTION 1. No corporation shall be created or have its charter extended, changed, or amended by special laws, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State; but the Legislature shall provide by general laws for the organization of all corporations hereafter to be created.

This section is clear and not subject to criticism. But section 3 of the same article in reference to corporations permits the Legislature to alter or amend any charter which may exist or be created by general law, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of the constitution. That there may be no mistake as to this provision I will read it. It is as follows:

SEC. 3. The Legislature shall not remit the forfeiture of the charter of any corporation now existing, nor alter nor amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

Under this provision if any railroad company should be formed under a special law before the adoption of the constitution, or under a general law thereafter, its charter could be altered or amended by the Legislature if accepted under the provisions of the constitution. That would follow, of course. All laws are made subject to the constitution. The power to alter and amend, therefore, opens up the whole field of special legislation.

I call attention also to section 9, which provides that the Legislature shall have power to revise, alter, or annul any charter of any corporation existing at the time of the adoption of this constitution, or any that may be hereafter created, whenever in their opinion it may be injurious to the "cities of the State," in such manner, however, that no injustice shall be done to the corporators. So that while the provisions of this section, section 9, are evidently intended to be confined to municipal corporations, they in fact relate to any corporation whatever. What I desire to call attention to is the fact that, whether by design or by accident, this constitution contains conflicting provisions on this subject.

Mr. ROWELL. Is not that like the constitution of our State?

Mr. SPRINGER. No, sir; not in that respect. I have carefully compared the article on corporations in the constitution of Illinois with the Sioux Falls constitution of 1885, and I find that section 1, which I have already quoted, is the same precisely in both constitutions; but sections 3 and 9 of the Sioux Falls constitution is not found in the Illinois constitution, nor any similar provisions whatever.

THE LEGISLATIVE APPORTIONMENT.

Now I desire to call attention to another provision of this Sioux Falls constitution. It is found on pages 62 and 63 of this report. It relates to the apportionment which was made in this proposed new State of Dakota for the election of members of the first Legislature. This apportionment, you will remember, was made four years ago on the basis of the population then existing. Since that time there has been a great change in the population of various parts of South Dakota, so great a change that it would be manifestly unjust to have this apportionment go into effect at this time and to have the first Legislature of the new State elected under it.

I will call attention to some of the features of this apportionment so that members may see how glaringly inaccurate and unjust it would be to adopt that as the present basis for an election of members of the Legislature. Take for instance the county of Yankton, which, under the Sioux Falls constitution, is entitled to four members of the Legislature. That county at the last election for a Delegate to Congress, in November, 1888, cast only 2,084 votes. The county of Lawrence—the county in which the city of Deadwood is located—cast at the election last fall for Delegate in Congress 4,490 votes, there being at that time a full vote. Yet that county which cast 400 more than twice as many votes as the county of Yankton is entitled only to the same representation in the Legislature—namely, to four members. In other words, Yankton County, with 2,084 votes, would be entitled to four members of the Legislature, while Lawrence County, with 4,490 votes, would be given only the same number of members.

Mr. BAKER, of New York. My friend will admit that the very first Legislature to be elected can correct that.

Mr. SPRINGER. Oh, yes. I am showing what would be the effect of this apportionment with reference to the first Legislature to be convened under this constitution—the Legislature which is to set the new State in motion and to elect the Senators who are first to represent that State in the Congress of the United States. For the election of this Legislature there ought to be an apportionment at least reasonably just.

I call attention also to the county of Beadle, in which is located the town of Huron. At the election for Delegate last fall this county cast but 2,200 votes; yet by this constitution it is allowed five members of the Legislature, while the county of Minnehaha, which cast nearly 4,000 votes, is allowed only four members of the Legislature—in other words, one member less although having twice as many voters.

I have prepared a table showing a number of instances of this kind—showing that either this apportionment was unjustly arranged at the time or else that this proposed commonwealth has rapidly grown out of the narrow limits in which some of its counties were placed by the Sioux Falls constitution, and such counties are now entitled to be habilitated in garments equal to their proportions.

INDIAN LANDS.

I desire to call attention further to page 66 of this constitution. It will be seen that in the ordinance which this convention adopted and which is to be irrevocable without the consent of the United States, as it relates to the disposition of the public lands in that new State, it is provided that—

> The people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands of the United States lying within said State; and the same shall be and remain at the sole and entire disposition of the United States, etc.

Now, that is all right so far as it goes; but if gentlemen will observe the recent provisions on this subject, and especially those which are contained in the substitute I shall offer for this bill at the proper time, they will find that this provision is entirely inadequate to our present condition. In other words, instead of limiting this reservation to the sale of undisposed of lands, it should be further provided, as is provided in the substitute I shall offer, that the United States reserve jurisdiction over Indian lands in that new State. It will be remembered that in South Dakota is the greater portion of the great Sioux reservation—a reservation as large in area as the great State of Ohio. By the terms of the substitute which I have prepared Congress retains complete jurisdiction over those Indian lands, as was done in the case of Colorado in reference to the Ute reservation, and in the case of other States with regard to the Indian reservations therein.

The allotment law heretofore passed by Congress provides that the lands allotted to the Indians shall be held by the United States in trust for the Indians taking them, and they will thus be exempt from taxation until such time as Congress may deem it safe to allow the States in which those lands may be located to tax them. In the substitute I shall offer there is a reservation that Congress may exempt these lands from taxation after they have been allotted to the Indians for such time as Congress may deem just to the Indian, in order that he may not, by reason of failing to pay his taxes, be despoiled of his heritage.

Mr. ADAMS. From what part of the constitution is the gentleman reading?

Mr. SPRINGER. From the top of page 66 of this report, article 22.

THE EXECUTIVE COMMITTEE.

I desire to call attention to another provision in this bill. It will be seen, Mr. Speaker, that the Sioux Falls convention distrusted the Territorial officers then in existence in the Territory, and for the purpose of counting the votes and making the returns upon this constitution an executive committee was provided, consisting of a number of gentlemen whose names are placed in this schedule, the chairman of this committee being Hugh J. Campbell. The chairman and the executive committee were clothed with extraordinary power. All the returns were to be made to them and they were to issue the certificates of election. This committee was also empowered to provide the funds for defraying the necessary expenses connected with the performance of their duties and to issue certificates therefor. This executive committee has issued certificates for such expenses, I presume, and in section 5, I believe, of this Senate bill now pending you will find a provision for the payment of those certificates out of the Treasury of the United States.

Section 5 of the Senate bill for defraying the expenses of the constitutional convention held by the people of said State, and of elections held therefor and thereunder, appropriates the sum of $25,000, or so much thereof as may be necessary, out of any funds in the Treasury not otherwise appropriated, to be paid to the treasurer of said State upon the requisition of the Legislature thereof, setting forth the items and particulars of such expenses so incurred. Therefore this extraordinary committee, which was created by the Sioux Falls convention of 1885, clothed with the powers to examine all the returns of elections and to issue certificates to members of the Legislature and all the State officers, and issue also certificates of indebtedness, is now to be relieved by this Senate bill, which makes an appropriation of $25,000 to pay their expenses.

Section 26 of the schedule of the Sioux Falls constitution is as follows:

> The governor, Representatives to Congress, and Senators of the United States, whose election is provided for in this schedule and ordinance, shall, together with two other persons to be selected by the State executive committee, constitute a committee whose duty it shall be, in case of the ratification of this constitution by the people, to present this constitution to the President and the Congress of the United States and request admission of the State thereunder into the Union of States. And they shall have power to do and perform all things necessary and proper to carry into effect the purposes for which they are thus appointed.

The $25,000 appropriated by the Senate bill will doubtless be used, if the bill should pass, or a part of it, to pay the expenses of this high official commission to visit Washington and present the Sioux Falls constitution to the President and Congress. It could have been sent by mail or express just as well.

If gentlemen will read pages 68, 69, and 70 of this constitution they will find most extraordinary powers were confided to the executive committee.

TEMPORARY SEAT OF GOVERNMENT.

But I desire to call your attention to another matter. One of the articles submitted was in reference to locating the temporary seat of government for the new State. The electors voted their preference for any town in the State, and the town having the greatest number of votes was to be the temporary seat of government until otherwise provided in the constitution. The town of Huron received the greatest number of votes under that provision.

Now, it is remarkable by the terms of the Senate bill, and under the amendments submitted by the Delegate from Dakota [Mr. GIFFORD], every provision of this constitution is resubmitted to the vote of the people, including the prohibitory amendment or the provision which prohibits the sale of intoxicating liquors as well as their manufacture in the State, every single provision of that constitution of the new State——

Mr. STRUBLE. What objection can the gentleman from Illinois have to the people of Dakota deciding on that question for themselves?

Mr. SPRINGER. I am not objecting to their doing so, as the gentleman will know if he will hear me through. It will appear every provision of that constitution is resubmitted to the people of South Dakota for ratification or rejection, including the prohibitory amendment and the provision in reference to minority representation, every one of them, everything except the provision in reference to the temporary seat of government. Out of all this Sioux Falls constitution nothing is preserved or nothing is made sacred beyond the touch of the voters of South Dakota except that part of the proceedings which located the seat of government temporarily at the town of Huron.

Mr. STEWART, of Vermont. I must beg leave to correct the gentleman from Illinois. The gentleman from Dakota sent to the Clerk's desk an amendment providing for the resubmission to the vote of the people of that question of the temporary seat of government.

Mr. SPRINGER. I beg the gentleman's pardon. It was not printed with the other amendments.

Mr. GIFFORD. No, it was not; but it was sent up and is now in the Clerk's hands. It simply changes the phraseology and provides for the resubmission of that question to the vote of the people.

Mr. SPRINGER. In that amendment you propose to submit that question again to the vote of the people?

Mr. GIFFORD. Yes, sir; to resubmit that question.

Mr. SPRINGER. I am glad to know the conclusion in reference to this point which was reached by me several days ago has commended itself to the good judgment of the Delegate from Dakota. He has surrendered on that point even before we reached it, and I am glad all this work, therefore, is to go back to the people for ratification or rejection.

Mr. GIFFORD. I feel highly complimented. [Laughter.]

Mr. SPRINGER. It only shows what I am now suggesting in regard to this constitution ought also to be agreed to by the gentlemen on the other side, and I believe it will be agreed to as soon as they understand what it is I propose by the substitute which I will offer at the proper time.

THE ARCHIVES, RECORDS, AND BOOKS.

Now, Mr. Speaker, I want to call the attention of the House to a further provision embraced in the Sioux Falls constitution, which it is proposed to resubmit to the people of South Dakota and not to the people of North Dakota. Section 28 of the schedule provides:

All existing archives, records, and books belonging to the Territory of Dakota shall belong to and be a part of the public record of the State of Dakota—

Or of the State of South Dakota, as it is now called—

and be deposited at the seat of government in the said State with the secretary of state.

So that if this constitution is resubmitted to the people in the manner provided and is voted on and adopted, and so declared by the President to be adopted, and the State is admitted into the Union, as this bill provides, immediately thereafter this provision becomes operative, and in consequence thereof the secretary of state of South Dakota will be authorized to go to Bismarck and denude the capital of the Territory of Dakota of every scrap of paper relating to its previous history—all existing archives, all the records, all the books, the library, the law library, the court records, everything. All the public archives are to be gathered together, boxed up, and shipped to Huron, in South Dakota. Everything that relates to the public business belonging to the Territory will be taken from the people of the Territory by this provision and transferred to the new State.

I may say, however, in this connection, that there is a provision somewhere that, at the convenience of the new State, they will make copies of such records as North Dakota may desire or require, and let them have the copies.

But here is a most remarkable instance of the overreaching desire of the delegates in that convention in reference to this new State. They not only appropriate at that time the name of Dakota, South, but all of the original records and archives of the Territory.

Mr. STEWART, of Vermont. The gentleman from Illinois would not divide them, would he?

Mr. SPRINGER. No, sir; I would not divide them, but I would leave them where they are and allow the State formed out of this Territory to come to the capital, have access to these records, and take such copies as are necessary or may be desired for their new State. But the Territory of Dakota is continued in existence under the provisions of the bill under the name of North Dakota, but is to be denuded of all its records and archives and everything touching its previous history.

Mr. HENDERSON, of Illinois. Will my colleague permit me to ask whether the first State admitted should not be entitled to these records?

Mr. SPRINGER. No, sir; the first State admitted does not embrace the whole Territory. It leaves the Territory in existence to be known as the Territory of North Dakota, organized with a Territorial form of government, all the machinery of government provided, its boundaries defined, its officers named, its capital located, but all of its archives are to be taken away from it and deposited with the new State.

I hold, sir, that they should be left just where they are now, and the new State, which has its existence from the time of its admission into the Union, should be permitted to go and take copies of the records at its own expense.

Mr. SYMES. Will the gentleman allow a question?

Mr. SPRINGER. Yes; I will yield for a short question.

Mr. SYMES. Does not the Senate bill provide for having copies made and furnished to the Territory of North Dakota?

Mr. SPRINGER. Oh, yes; the constitution, as I stated, contains a provision which will permit North Dakota to go there and get them at the expense of South Dakota. But where are the books? Where is your law library—the Supreme Court reports—what about them? South Dakota will not be expected to make copies of them. South Dakota will have taken them away, and North Dakota will have to buy other books if it wants them.

Mr. ADAMS. And we will appropriate for that.

Mr. SPRINGER. My colleague says Congress will appropriate money for that. But Congress is not obliged to pay South Dakota or North Dakota for making copies of records or for books and libraries.

These, Mr. Speaker, are some of the objections I have discovered to the Sioux Falls constitution, and the people of South Dakota ought not to be required to adopt this constitution in its present form or be kept out of the Union as a State. Under the provisions of this Senate bill the people of South Dakota must take this constitution as it is. I have pointed out only a few of the objectionable features.

FIVE PER CENT. OF SALES OF PUBLIC LANDS.

But, sir, in this connection I wish to call attention to another provision of the bill. The Senate bill now before us, No. 185, in section 11, provides—

That 5 per cent. of the net proceeds of sales of all public lands made by the United States within the limits of the said State, prior or subsequent to the passage of this act, after deducting all expenses incident to the same, be, and the same is hereby, granted to the said State of South Dakota for the support of public schools.

This provision relates back to the time at which the first lands—public lands—were sold in the Territory, and gives to the new State 5 per cent. of the net proceeds. I addressed a letter to the Commissioner of the General Land Office and requested him to furnish me a statement, and I will print it as a part of my remarks, of the receipts of the sales of the public lands in the Territory of Dakota from its foundation to the present time, and the statement that he furnishes me shows the enormous sum of $16,000,000 and over. Of that the proportion which would be paid, after deducting certain expenses, to Dakota would be $790,000.

It will of course occur to gentlemen that the whole of this $790,000 would not go to South Dakota under the bill, for a portion of it would belong to North Dakota. But when we come to the admission of North Dakota we would be compelled to treat her in the same manner, and hence this bill means, if it be adopted, the appropriation from the public Treasury of 5 per cent. of the sales of all the public lands in the Territories from the time of their organization until their admission into the Union as States. It not only relates to the Territory of Dakota and the proposed new State, but it would also embrace Montana, Washington Territory, New Mexico, and all of the others that come into the Union, for of course it would form a precedent upon which they are all to be admitted, and hence instead of three-quarters of a million dollars, as here proposed, we will find the total sum running up to four or five millions in the near future. The letter of Commissioner Stockslager is as follows:

WASHINGTON, D. C., *January* 14, 1889.

SIR: I am in receipt of your letter of to-day, and in reply thereto you are informed that the amount received by the United States on account of sales of public lands in the Territory of Dakota from the date of the first sales to June 30, 1888, is $16,330,856.76.

The net receipts from such sales are estimated to be about $15,800,000, and 5 per cent. thereon would be $790,000.

S. M. STOCKSLAGER, *Commissioner.*

Hon. W. M. SPRINGER,
House of Representatives.

The substitute which I have proposed allows the Territories or the new States 5 per cent. on the sales made after the admission of the States into the Union, and not prior to the admission. That is the difference.

PRICE OF SCHOOL LANDS.

Another provision to which I desire to call attention is that in Senate bill 185 the State is allowed to sell the school lands at the price of $5 per acre; but in the substitute that I have offered, and I think in this respect it is much better, the State can not sell them for less than $10 an acre; and in both bills these proceeds are to be a permanent fund for free schools. And it will occur to every gentleman that we ought to look well to these provisions from the fact that they are not made for this generation only, but for posterity also. The principal is not to be used, but only the interest, and the principal is to remain as a permanent investment for school purposes.

Mr. SYMES. Are you criticising the South Dakota bill or the omnibus bill—which are you talking about?

Mr. SPRINGER. I am talking about both of them. I am speaking of the Senate bill and this bill which I propose to offer as a substitute.

Mr. SYMES. Are not these mere matters of detail which can be acted upon by amendment, and do they furnish any serious objection to one bill or the other?

Mr. SPRINGER. I am simply presenting gentlemen with all the facts in this case, if I can do so, and then they can act as they see fit.

Mr. SYMES. Are you opposing the South Dakota bill?

Mr. SPRINGER. I am doing so.

TERRITORIAL INDEBTEDNESS.

Another provision in the Senate bill is that Congress may hereafter, or must hereafter, apportion the indebtedness of the Territory of Dakota between the new State of South Dakota and the present Territory of Dakota, or the new Territory to be created by this bill. That is to say, that Congress is to take charge of a matter purely local and determine how much of this indebtedness shall be paid by these several States here. But Congress has no power to compel such payment. South Dakota should agree to pay her share before admission. Congress can not compel her to pay after admission.

The substitute which I will submit provides that the two conventions, while in session, shall appoint a joint commission of not less than three members of each body who shall assemble at the present seat of

government of the Territory and determine upon the proper disposition to be made of the public records, archives, and property of the Territory—because it has a great deal of property, many State institutions, charitable and otherwise; and also to agree upon the disposition to be made of the debt and liabilities of the Territory, and that the agreement shall be placed in the respective constitutions so that the new States shall assume this indebtedness agreed to and thus avoid any difficulties in the future on this subject.

This is very important, Mr. Speaker, for we have a precedent in history where it was neglected. West Virginia was set off as a new State, and there were no provisions made in regard to the indebtedness of the old Commonwealth. The State of Virginia apportioned off the indebtedness which it assumed to be properly payable by the new State of West Virginia, and informed that State that the State of Virginia would expect West Virginia to assume that proportion of the indebtedness. The State of West Virginia declined to do it, and there was no power in Congress to compel her. She never did assume it. The consequence was that old Virginia, the old Commonwealth, repudiated that part of her indebtedness. The recurrence of such an event is provided against in the substitute which I shall offer.

DATE OF ADMISSION.

It is provided in section 28 of the Senate bill that the result of the election at which the Sioux Falls constitution is resubmitted shall be declared by the chief-justice and the governor, and, after it has been declared by them, that it shall be sent to the President of the United States, and if the majority shall be in favor of the constitution, then the President of the United States shall issue his proclamation declaring that the State of South Dakota is admitted into the Union on an equal footing with other States. Now, if you will look at section 29 and tell me what would be the date of the admission of South Dakota into the Union under its provisions, you will do more than I can do; and this is a very important question. The date of the admission into the Union will be the time when South Dakota as a State comes into existence, and all offenses and crimes that may be committed within her territory would be punishable by the State. The Territory of Dakota would cease to exist from that time in the southern part of the Territory. It is very important, therefore, that there should be no doubt about that subject.

A NEW CONVENTION.

Now, Mr. Speaker, I have very briefly called attention to the present state of the bills pending in this House in regard to this question of the admission of Dakota. From the fact that so few persons participated in the election of delegates to the Sioux Falls constitutional convention, from the fact that so few participated in its ratification, from the fact that the boundaries and the name must be changed, and the whole subject resubmitted to the people again, and as no delay can be caused thereby, I have believed, and the Committee on Territories have believed, that the whole matter should be remitted to the people of South Dakota as well as to the people of North Dakota in order that they may pass upon the question anew.

Mr. JOSEPH D. TAYLOR. How much time is required for the admission of South Dakota under the substitute?

Mr. SPRINGER. Just the same time that is required for the admission of North Dakota.

Mr. STRUBLE. Oh, no; the substitute does not propose that South Dakota shall be admitted at all. It proposes only that "Dakota" shall be admitted. Your omnibus bill does not provide at all for the division of Dakota.

Mr. SPRINGER. I beg the gentleman's pardon. The omnibus bill, as reported from the Committee on Territories, provided for only one Dakota, but in section 3——

Mr. BAKER, of New York. The gentleman from Illinois [Mr. SPRINGER] has experienced a change of heart on that subject.

Mr. STRUBLE. I had forgotten about the last proposition; the gentleman has made so many.

DAKOTA MAY BE DIVIDED.

Mr. SPRINGER. In section 3 of my substitute it is provided that at the election for delegates in May next electors in the Territory of Dakota on both sides of the line may have written or printed upon their ballots the words "For division" or the words "Against division;" and if a majority of those in both North Dakota and South Dakota shall be in favor of the division of the Territory into two States, as will be indicated by that vote, then, instead of one constitutional convention assembling, two conventions will assemble, and the delegates elected north of the seventh standard parallel will meet in convention at Bismarck and form a constitution for the State of North Dakota, and the delegates elected south of that line will meet at Sioux Falls and form a constitution for South Dakota. The bill also provides that those two conventions shall assemble at the same time, at the different places indicated, and proceed to formulate constitutions for their respective State governments, to be submitted to a vote of the people of both proposed States for ratification or rejection at the election to be held in November next, the general election in the Territory.

Mr. ADAMS. Supposing that two constitutions are formed, one for North Dakota and the other for South Dakota, and the people ratify them next November, what would the next step be?

Mr. SPRINGER. The next step would be, as provided in this bill, that the constitutions would be certified by the governor to the President and Congress, and that on the reassembling of Congress in December next the propositions would be laid before it, and the States would then be admitted into the Union by act of Congress.

Mr. SYMES. Will the gentleman from Illinois yield for a question?

Mr. SPRINGER. I desire to dispose of this part of the subject first.

Mr. ADAMS. The point is, that Congress would still have to raise the question whether these new constitutions, hereafter to be framed, were republican in form, and therefore the State could not be admitted except by a legislative act of the Fifty-first Congress.

Mr. SPRINGER. That is right. I want to speak about that very point. The Constitution of the United States provides that new States may be admitted by Congress and not by proclamation of the President. Congress may admit new States into the Union and their constitutions must be republican in form. Congress is the judge of the constitutions after they are made. There is no constitution existing for North Dakota for Congress to pass upon. There is no constitution for Washington, there is none for New Mexico, there is none except one formed several years ago for Montana, and this one for South Dakota. Congress might pass now upon the constitutions of Montana and South Dakota, and admit them upon conditions to be imposed by Congress. But we can not tell what provisions may be put into the constitutions not yet made. For instance, in regard to the public lands which we are donating in this bill—and it is a princely heritage which Congress proposes to give them in the form of public lands—we ought to have the privilege of seeing hereafter, when these propositions for permanent government are formulated, that they are republican in form and that they comply with this act of Congress, or with the act of Congress which we may pass, in order that Congress may exercise, in the very last instance, its supervising power over the admission of States into the Union, and may determine whether the constitutions which they present are such as ought to be received and such as ought to entitle them to be included in the family of States.

Mr. SYMES. Will the gentleman yield now for a question on this subject?

Mr. SPRINGER. Yes, sir.

Mr. SYMES. Is it not a fact that Colorado was admitted into the Union by proclamation of the President without coming here and presenting her constitution, and that no act of Congress was required to accept her constitution?

Mr. SPRINGER. That is true.

Mr. SYMES. And are there not other States that have been admitted in the same way?

Mr. SPRINGER. There are. The gentleman can name them; I have not looked up that matter.

Mr. SYMES. There are several others, you admit?

Mr. SPRINGER. Yes, sir.

Mr. SYMES. Just another suggestion. Now, then, the difference between the Senate bill and the "omnibus bill" as it affects South Dakota is simply this: that we now have before us the constitution adopted by the people of South Dakota, and we are called upon by the Senate bill to pass upon that constitution. We know what it is.

Mr. SPRINGER. I concede all that. I trust the gentleman will not take up my time with a speech.

Mr. SYMES. That constitution has been conceded by the Senate and by many others to be a most perfect constitution. Why should we send this constitution back and take the chances on something else—we know not what it may be?

Mr. SPRINGER. You do send it back, at any rate. The Senate bill sends it back. Every word has to be resubmitted to the people.

Mr. SYMES. We send it back only for the purpose of allowing the people to vote on that constitution.

Mr. SPRINGER. Certainly.

Mr. BAKER, of New York. But gentlemen will remember——

Mr. SYMES. Wait a moment. The change of name does not affect the question of the constitution being "republican in form." Now, is it not the fact that this bill provides for a vote by the people of South Dakota on this constitution, which the Senate has said is a good constitution and republican in form, and which is so in fact, and no gentleman in this House will presume to deny it? Then why not admit South Dakota on that constitution if the people will adopt it instead of sending the question back on the chance of getting something new?

Mr. SPRINGER. I hope my friend will not exhaust my time by making a speech.

Mr. SYMES. I want the House to understand the difference.

Mr. SPRINGER. The House will understand it.

Mr. SYMES. It can not possibly from your statement understand much about it.

Mr. SPRINGER. I know how much more lucid my friend from Colorado is in his statement than I am.

Mr. SYMES. You pass from one bill to the other so as to confuse them.

Mr. SPRINGER. The gentleman is always lucid in his statements, and I have great regard for his opinion. When he takes the floor he

can no doubt explain this matter more clearly than I can. But I desire in the brief time I have remaining to state this question so that it can be understood. As to the constitution of South Dakota, which I distinctly state that we know what it provides, yet delegates to the convention which framed that constitution were elected by only 16,000 voters, the question being voted upon by only 30,000, while there are now in South Dakota, according to the last vote, over 70,000 voters.

[Here the hammer fell.]

The SPEAKER *pro tempore* (Mr. TURNER, of Georgia). The time of the gentleman from Illionois has expired.

Mr. COX obtained the floor.

Mr. SPRINGER. I hope my friend from New York will yield me a moment or two.

Mr. COX. With pleasure.

Mr. SPRINGER. In conclusion, I desire simply to say that the reason for requiring this question to go back to the people is that there is no necessity in the present condition of things for organizing the Territory of North Dakota to continue for three or four months only; and in justice to North Dakota, as well as to all the people of South Dakota, we ought to start anew in this matter, bringing both these new States into the Union at the same time, as would be done under the proposition I advocate, at the meeting of the next session of Congress. Thus all the difficulties would be harmonized, all liabilities met; Congress would treat both of them precisely alike. The substitute which I shall propose at the proper time disposes not only of South Dakota but would bring North Dakota into the Union as a State at the opening of the next session, if division is desired by the people of both proposed States. It would also bring Montana, Washington, and New Mexico into the Union.

Thus under the substitute which I shall offer at the proper time we may have five new States instead of merely the State of South Dakota and the Territory of North Dakota, as provided by the Senate bill.

Mr. Speaker, I do not deem it necessary to refer separately to the Territories embraced in the proposition which I shall submit. The Delegates from those Territories will each set forth the claims, respectively, of their Territories. I will ask the House to give careful attention to the remarks which may be made by them. They will show conclusively that Dakota, Montana, Washington, and New Mexico have the requisite population, resources, and other conditions for statehood. These four Territories were embraced in the House bill for the reason that they were all the Territories which had a population equal to the ratio for a member of this House, except Utah, which, for reasons well known, should be disposed of in a separate bill.

Admission of Territories.

SPEECH

OF

HON. ISAAC S. STRUBLE,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, January 16, 1889.

The House having under consideration the bill (S. 185) to provide for the admission of the State of South Dakota into the Union, and for the organization of the Territory of North Dakota—

Mr. STRUBLE said:

Mr. SPEAKER: I regret to say, sir, that I have not had time to place in writing such remarks as I wish to offer upon the pending bill and substitute. Indeed, I feel like apologizing for appearing in this body unaccompanied by manuscript; for after the very elaborate remarks of gentlemen who have preceded me, it is due the House that those who follow should, as far as possible, present their remarks as concisely, orderly, and as forcibly as possible. In my case the onerous clerical duties of the past few weeks have made it impossible for me to pursue the course I had planned, namely, to write out my remarks at length. Therefore, if my observations shall be broken and desultory, I beg the indulgence of the House upon the ground and for the reason stated.

Mr. Speaker, for six years past I have had the honor to be a member of the House Committee on the Territories, and to my certain knowledge this is the first time in all that period that the lower branch of Congress has been afforded an opportunity to speak or vote upon the great question of Territorial interests as represented in a bill for admission of new States into the Union. It may be much like analyzing a last year's bird's nest to say anything about the utterances of our Democratic friends at the late St. Louis convention, and it may be regarded by some as bringing into this discussion a partisan element; but I can not forbear reminding the House—in view of the fact that for six years neither side of this Chamber has had an opportunity to discuss or vote upon such bills as those now before us—of the inconsistency of the Democratic party in convention assembled at St. Louis last June, when by solemn resolution that convention declared the Republican party to be guilty of a denial of the rights of self-government to the four Territories whose names appear in the pending substitute. Here is the resolution to which I refer:

Resolved, That a just and liberal policy should be pursued in reference to the Territories; that right of self-government is inherent in the people and guarantied under the Constitution; that the Territories of Washington, Dakota, Montana, and New Mexico are, by virtue of population and development, entitled to admission into the Union as States, and we unqualifiedly condemn the course of the Republican party in refusing statehood and self-government to their people.

Here is the plain charge against the Republican party of denial of right of self-government to the people of these Territories named. But what is the fact about it? For six years the Democratic party has controlled this House and has had ample power over questions relating to the admission of Territories into the Union. At any of its five previous sessions to this it could have placed on the Calendar and brought forward such measures as would have shown the friendliness of the party toward the Territories and compelled a Republican Senate to disclose its disposition on the same subject.

Instead of reporting suitable bills in the Forty-eighth and Forty-ninth Congresses illustrative of the patriotic spirit of the resolution I have quoted, no measure like the pending bills or of similar purpose was reported, and although the bill (S. 185) was placed on the Calendar on March 13, 1888, no attempt to bring it up for consideration was ever seriously made, but, on the contrary, the combined energies of the chairman of the Committee on Territories and others friendly to the measure have been exercised to secure the passage of a bill marking out and establishing new Territorial lines in a section of the country in the greater part of which there are no lawful civilized inhabitants, except those pertaining to the operation of railroads, and to the military and Indian service of the country. Such is Democratic consistency.

Now, sir, I am in favor of the Oklahoma bill. I believe that something should be done, and speedily, to change the anomalous and disgraceful condition existing in the Indian Territory, but at this time, and confronted as we are by the facts in relation to the greater questions concerning over a million of people, I do think that the inconsistency of our friends on the other side in denouncing the Republican party as responsible for the denial of the rights of these people deserves at least passing comment and criticism.

Mr. Speaker, when the Springer substitute was originally reported from the Committee on Territories, the difference between the members of the committee, Republican and Democratic, briefly stated, was this: The Republicans concurred with the Democrats in respect of Montana and Washington Territories, but differed with them upon the proposition to deny the people of Dakota the right of division and the early admission of the south half as a State and the organization of the north half as a Territory.

In other words, the position of the Republican members of the Committee on Territories since the question was first presented to that committee has been that Dakota should be divided as proposed by the people in the convention held at Huron, in the south half of the Territory, in 1885, and that the south half should be speedily admitted under the constitution framed in convention assembled and called for that purpose.

Our Democratic friends on the committee originally took the position that Dakota should not be divided; that the south half of the Territory should not be admitted; but they were willing—and the chairman of the committee [Mr. SPRINGER] introduced a bill for that purpose, which was afterwards considered by the committee—to admit the Territory as a whole, or rather to pass an enabling act which might lead to the admission of the whole Territory as now constituted into the Union after further proceedings by the people and further legislation by Congress.

Another point of difference, Mr. Speaker, between the Republican and the Democratic members of the Committee on Territories was this, that the Republican members did not, and do not now, as I understand it, regard the condition of New Mexico, in respect of most material and important considerations, such as to entitle that Territory to be admitted at this time into the Union. Therefore, the Republicans united in a report presenting their views in opposition to the ground taken by the majority of the committee and to the views expressed by the Delegate from that Territory [Mr. JOSEPH]. I am happy to remind the House that since the report of the committee to which I have alluded was filed, the Democratic members of this House in sufficient numbers (if we may judge from what has been said and what has been done here by way of proposing amendments within the past few days) have concluded that they will yield to the very proper claim and desire of the people of Dakota, and accord to them the privilege of having their Territory divided into two States instead of one, provided the people thereof in both North and South Dakota shall vote for division.

I am glad to note the changed position of our Democratic friends upon this question, for it seems to me that it is turning back from a technical, and my friend, the chairman of the committee, will pardon me if I say narrow, view to that other and broader one which many Democrats entertained in years past concerning the right of the people of our great Territories to govern themselves. And I am glad, Mr. Speaker, that we have exhibited here in this House and on the Democratic side

a disposition on the part of so many of our Democratic friends, after looking out over that great and wonderful Territory called Dakota, taking into view its wonderful advancement, its rapidly growing population, its farms, its railroads, its cities, its schools, its colleges—I am glad, I say, that, looking out and seeing these things, a goodly number of them have concluded to abandon the position occupied by my friend from Illinois, the chairman of the Committee on Territories, and have made up their minds to adopt a more liberal policy than that which has been advocated by that distinguished gentleman. In view of this change of attitude on the part of the majority here, I shall not spend time in arguing in favor of the admission or the division of Dakota; but I do wish in passing to notice certain propositions which the chairman of the committee has advocated in relation to the proceedings to be had under the substitute which he proposes.

It will be seen that on the most vital point of interest to the people of the south half of Dakota it is not proposed to divide this Territory unless on a vote taken in each part, north and south; it is found that a majority of the people in each section shall vote for division. Under the theory of this bill South Dakota may cast a majority of ten to twenty thousand in favor of division, and yet if the north part should cast one majority against division it shall remain one Territory, as now. That such a proposition is illiberal and manifestly unfair, and contradictory of the past dealing of Congress with the Territories, I shall not waste time to prove. I am not one who believes in doing outrage to a reasonable sentiment among the people of a Territory who may be opposed to having their Territory divided, but on taking an expression of their views on this or any other question, I would not cast reproach on the good old democratic principle of the will of majorities by dividing a given Territory into districts and requiring all districts to show majorities before conceding anything to them.

This to my mind is a serious objection to this bill, and should prevent its passage. Let the old principle be applied to the present unit of Territorial organization as is usual. Another objection to this; it is proposed to force upon the people of all the Territories concerned—the recognition and adoption temporarily, at least, of the minority principle—the principle of minority representation now and for some years past obtaining in the State of Illinois, which in part is represented by the author of this substitute, Mr. SPRINGER. It is not pretended either of these Territories has signified a desire for, or a willingness to try this principle.

Mr. Speaker, I, for one, do not feel that minority representation ought to be forced upon the people of these Territories against their will, but rather that they should be left, in such proceedings as they may be compelled to take to secure admission into the Union, to the usual and ordinary principles obtaining under our democratic form of government, and that until they wish and so signify, they should not be compelled to adopt the principle of minority representation or any other not in general use. There are other objections to this bill, but I will not stop to notice all of them now, but conclude my remarks in this line by a declaration of hostility to the omnibus character of the substitute as a scheme adopted to make certain the admission of an unfit Territory in arbitrary and unnatural association with others, each of which is amply meritorious.

I am opposed to any such wholesale grouping of two distinct classes—the unqualifiedly meritorious with the unworthy; and I maintain that in such important action as this each Territory should stand or fall on its own merits, and particularly unless it be generally conceded that all alike possess equal claims for admission; and certainly no gentleman will hazard his reputation by asserting that New Mexico presents an equally clear and strong case as a candidate for State honors as does each of the other Territories named in the substitute bill.

Mr. Speaker, I had hoped to find in the RECORD this morning the remarks of the gentleman from Illinois [Mr. SPRINGER] made yesterday, but I notice they are withheld for revision. Nevertheless I shall occupy a moment in making a brief and somewhat general reference to his observations upon the constitution of South Dakota framed by the people in convention assembled in 1885.

The gentleman assumed to make numerous criticisms upon various propositions embodied in that constitution; and I see, by reference to a second substitute which I understand he is not now pressing—one of his two substitutes—he would undertake to direct the people of these Territories as to certain declarations, namely, upon the religious question, upon the adoption of the Federal Constitution, and upon references to the Declaration of Independence, if I am not mistaken.

Mr. SPRINGER. Those are in every enactment we have heretofore made in bringing new States into the Union.

Mr. STRUBLE. I do not wish to question the claim that those things ought to be in some form embodied or suitably recognized in State constitutions, but rather to show to the House that this constitution framed by the people of South Dakota was so carefully considered and framed as that all these points are fully covered already. Take, if you please, an important enunciation adopted from the Declaration of Independence upon the subject of the equality of all men and the inalienable rights of person and property which is found in their bill of rights. There is no lack on this point. On the contrary—if I am not mistaken—Jefferson's language defining the equality of men and the purpose of government is copied almost *verbatim*. They also guard the religious question carefully. They recognize as the supreme law of the land the Constitution of the United States. I challenge any gentleman who may listen to me to examine the bill of rights embodied in that constitution and say whether it is not most full and ample in respect of the great principles which are now embraced in the various State constitutions of the country as they are in our Federal Constitution.

And now I wish to argue briefly in favor of the qualification and competency of the people of this Territory, acting under the influence of our national and various State constitutions, in their deliberations pertaining to the framing of a constitution to pass upon those questions without the dictation of Congress in respect of them, because the whole trend of the public thought in that Territory, and for that matter without doubt in all the Territories, is in favor of the truest allegiance to the national Constitution and to all the great principles to which as Americans we are so much devoted and of which we are so justly proud.

But, Mr. Speaker, I do not wish to talk much more of Dakota. I live near her border; and hence, as a near and friendly neighbor, feel inclined to enlarge my remarks with reference to her. I know personally many of her citizens who went from the good State of Iowa, citizens who filled distinguished places in the Legislature of our State, as my colleague [Mr. GEAR] knows very well; men, some of whom sat in our senate and house of representatives, or occupied other important places. Others of less prominence in political affairs, as well as thousands from our farms, professions, business, and labor avocations, have cast their lot with the good people on those prairies in the faith and understanding that the policy of the National Government would be in favor of early consideration of the claims of the people to statehood, and that at a time when they should in point of material and educational development, and in other respects bearing on just claims to statehood, show themselves ready for that relation, the Congress of the United States, following in the well-established line of precedents, would then grant them the same common rights which we enjoy as citizens of the various States from which we come.

I hope that no question which may be brought in here in connection with Dakota, or for that matter, Montana and Washington, will make it impossible to admit the southern half of Dakota at an early day and the northern half at a period following soon after. What I say for South Dakota I would say for Montana and Washington, because I believe there is no condition existing within those two Territories amounting to a serious objection to their admission; on the contrary, both are clearly prepared now for statehood. But after examining into the condition of New Mexico; after resorting to the best sources of information available to us; after giving the fullest consideration to the evidences illustrative of her present suitability and qualification for admission, it was, as I have before remarked, the voice of the Republican members of the Committee on Territories that the time had not yet come when it would be proper and right to admit it as a State.

Mr. Speaker, I beg to say, in all seriousness, that the minority of that committee were not, and are not to-day, actuated by any sentiment or feeling of hostility with reference to any religion or class of people in New Mexico; and when the attempt is made, as it has been by at least one gentleman on this floor to-day and heretofore, to make it appear that the opposition to the admission of this Territory is founded upon objection and unfriendliness to a religion and to a people believing and practicing a given religion, I wish to say to the gentleman and to the House, knowing as I do the sentiments of my colleagues on this committee as I certainly do my own, that such an idea is altogether foreign to the truth. I could not find words to express my abhorrence of a purpose on the part of a member of this body to question the religion of any people in any State or Territory within our great national limits unless it be that of the Mormons, and as to this the case is altogether exceptional. I would be ashamed of myself if it could be truly said of me that I objected to the admission of New Mexico because many of her people are believers in a church and a religion to which I do not and can not subscribe.

I deem it proper at the beginning of a discussion of the claims of New Mexico to notice the stipulation found in the treaty of Guadalupe Hidalgo, of date February 2, 1848, being the treaty of peace and cession under which the United States became possessed of this and other territory. It has been maintained by the gentleman from New Mexico that upon a fair construction of this stipulation to which I have referred the Territory is now entitled to admission.

The following is the language, being article 9 of the treaty:

> Mexicans who, in the territory aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) according to the principles of the Constitution; and in the mean time shall be maintained and protected in the enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

No one will for a moment controvert that it was agreed by and between the high contracting parties that such of the people and their descendants as remained in the territory of which New Mexico is now a part and did not preserve the character of citizens of the Mexican Republic should be citizens of the United States, and, at a time to be judged of by the Congress thereof, be admitted into the Union.

Since then, without objection on the part of the inhabitants of the original Territory, in so far as I know, it has been divided, and that now remaining is but a fraction of the former area known later as New Mexico. Arizona was carved out of New Mexico and organized into a Territory February 24, 1863.

The last official census taken was in 1885, when the population was 134,141, and while the present governor of the Territory estimates that the population was in the fall of 1887 nearly 160,000, it is evident to my mind the number of present population is not by any means such as, on that account, to entitle it to serious consideration, for the fact is that of this population nearly or quite 10,000 are Pueblo Indians, who live apart by themselves and take little if any interest in political affairs.

Now, the rule of population alone has never been admitted to be the sole criterion governing the admission of States, but a far weightier consideration than this has been and is that of the condition of the people, the state of development, the capacity of the Territory to maintain permanently a large population, and the qualifications of the people for self-government.

What, then, was meant by the reservation to the United States of the time when this Territory should be admitted? Not alone population, but that and every other element material to State government.

In all these years New Mexico has been unable to increase her population to a point of excessive number above the ratio of representation, and certainly in point of advancement, in intelligence, and material development in all its practical phases she lags greatly in the onward march of progress.

On this point I conclude by maintaining that the reservation in the treaty was intended to signify a purpose on the part of this Government to retain the substantial right to pass on all questions relating to the adaptation and qualifications of the people of New Mexico, and that Congress, without being held to severity of policy or judgment, should first be convinced that the requisite qualifications for statehood are now possessed by the people who seek its benefits.

Mr. Speaker, the House has already been advised very forcibly of one reason which our friends on the other side deem to be conclusive and all-powerful as estopping the Republican side of this Chamber from objecting to the admission of New Mexico at this time. The learned and eloquent gentleman from New York [Mr. COX], so familiar with all our history in regard to Territorial legislation, as it seems to me he is with almost every question in the wide range of legislative subjects, took the position that we on this side of the Chamber are estopped and can not now question the right of these people to immediate admission into the Union. The reason stated was the support given fourteen years ago in this House by such Republicans as Mr. Kasson of Iowa, Mr. McKee of Mississippi, and other members of the House, and by distinguished members of the Senate of the United States to a bill then proposing to admit this Territory into fellowship with the other States.

I have the greatest respect for the judgment of such men as these, and I desire always to be governed by that liberal and manly spirit which recognizes the right of a man at any proper time and place, whether in official station or otherwise, to form and express freely his opinions on any subject; but the opinions of those gentlemen, eminent though they were and as many of them still are, should not, it seems to me, be the arbitrary guide of those of us who are here to-day charged with the responsibility of passing on important interests arising in course of our duties as members of this body. Therefore at this time, while declaring my respect for the opinions and official course of others, I decline to assent to the claim that I should be, and that we on this side of the Chamber should be, governed by the opinions of members of our party sitting fourteen years ago in this body or at the other end of the Capitol.

Mr. Speaker, I wish to remark, before discussing the questions in relation to New Mexico, that I hope I may not say a word, and I aim not to say a word, that can be properly construed into an unfriendly or personal reflection in an offensive sense on any man, woman, or child living within the borders of that Territory. But while I shall have this aim in view, still I propose to talk plainly and frankly about the conditions existing to-day in that Territory, and urge these conditions upon the attention of the House.

You have heard, Mr. Speaker, the eloquent portrayal of the agricultural development of New Mexico by the gentleman [Mr. JOSEPH] who has the honor to sit upon this floor as the Delegate from that Territory. You have seen the picture he has drawn, not only of the genial and beneficent climate of that region, but you have also heard in forcible and eloquent language his description of the agricultural development of the Territory. He has told you in enthusiastic terms of the splendid condition existing there to-day, and of course he speaks as one knowing well whereof he affirms. Now, if he has not allowed his imagination to lead him too far we ought all to pack up as soon as Congress adjourns and go down to that Territory and live there. [Laughter.]

If the picture the gentlemen has sketched is not exaggerated, there are about sixty millions of people in this country who are comparatively unfortunately situated. They should have sought homes in New Mexico or its adjacent and similar territory. From what he has said one might suppose that nearly all the land within the limits of New Mexico is not only rich in soil, but well adapted to easy and successful cultivation, and that all kinds of cereals and fruits are produced in richest abundance; in short, that in addition to the most congenial climate, the fairest skies, and the most healthful natural influences, suggestive of extremest longevity, in point of profligate display of creative power the Almighty had never spread out a more charming landscape than the actual arid plains of New Mexico. For allegiance to one's people no Member or Delegate can justly be criticised, nor for making an earnest defense of his country and constituents. Indeed, as we all know, large latitude of imagination and portrayal of the many and desirable features of a section from which a speaker hails, as well as the character and virtues of his constituents, is here tolerated, but one should not, as it seems to me, ascend into the region of the stars nor scale loftiest peaks in flights of fancy when practical questions of statesmanship are involved. That the gentleman from New Mexico has not come far from doing both I will attempt to show before concluding my remarks.

I wish to say to this House to-day, at the very outset of my discussion of this Territory, that in my opinion what New Mexico needs most is the fostering and friendly hand of this Government to aid it in the development of its agricultural possibilities, and in the settlement of the vexed question now pending in reference to its complicated system of land grants. I do not believe—and I think I will be able to show to the satisfaction of gentlemen who will do me the honor to listen to me—that in the present condition of the Territory of New Mexico (and the facts I will produce will show it) it can be reasonably expected that if left to themselves and clothed with statehood the people of that Territory would be found equal to their change of condition and the duties and responsibilities it would involve.

It has not been fifty minutes, or at least not more than one hour and a quarter, since my friend from New Mexico who sits opposite to me, in his very smooth and able address to the House on behalf of his people, charged upon the minority of the committee, not in terms but by very plain inference, that those who attempted to maintain a contrary existence of things opposed to those described by him in relation to New Mexico exhibited their ignorance of the facts. Mr. Speaker, as I was intrusted with the preparation of the minority views on the "omnibus" bill, so called, now under consideration, I sought certain sources of information in reference to the conditions existing in the Territory of New Mexico, and the very first question which addressed itself to my mind was this: What is the agricultural condition of that Territory and what is the possibility in reference to the development of her agricultural capabilities?

In my investigation I did not have to go far to find information of a reliable character. I came early in contact with my esteemed friend, the Delegate from that Territory. He is a member of the Committee on Territories and a very efficient one. He understands, as he plainly said in his speech to-day, that the greatest of all needs of his Territory is a suitable and a proper system of irrigation. He knows very well that instead of agriculture smiling from all the hill-tops and in all the valleys of New Mexico, while they have the native elements of a fertile and highly productive soil, still they require the helpful agency of water before it will respond with abundant yields of fruits and grains. They have not that agency now in anything approximating sufficiency, as I will show by the admission of the gentleman himself as well as by the testimony of the governor of the Territory.

During the first session of this Congress there was introduced by the Delegate from New Mexico a bill proposing an appropriation by Congress of $50,000 to be used in sinking artesian wells in the Territories of Arizona and New Mexico, in aid of their efforts to make more successful cultivation of their soil, and demonstrate, as I suppose, whether such means of supplying water are practicable. As a very proper thing, the chairman of the Committee on the Territories referred the bill to Mr. JOSEPH to make examination and report upon it. Let me say first that every man on the committee, as I remember, voted in favor of the proposition.

Let me say further that the committee is unanimously in favor of granting liberal aid to the Territories of New Mexico and Arizona in the settlement of disputed land questions, and in aid of the development against the serious condition of nature existing there and occasioned by insufficient water-supply, by which these Territories are most seriously hampered. No illiberal spirit on the part of any member of that committee in dealing with the many and important measures before it calculated to promote the prosperity of the people of the Territories can be justly charged, unless it be in the matter of advancing them to statehood, and on this point I have already made admissions and endeavored to place the blame where it rightly belongs; and so, when it came to appropriating money for artesian wells, all were found willing to make the experiment.

Well, we had, as I have said, this question before us, and the gentleman from New Mexico made a report in harmony with the unanimous vote of the committee. He commenced with a statement of facts in relation to Arizona; and now please listen to what he said as to that Territory, and later of his own:

From the census of 1880 it appears that the Territory of Arizona embraced an area of 112,920 square miles, or 72,268,800 acres of land, of which vast area less

than 2,000,000 acres are susceptible of cultivation for want of water, and even this small area is entirely deprived of irrigation, thus leaving utterly without water supply and without any means of irrigation the enormous body of over 70,000,000 acres of land which under the present land laws must forever remain unfit for the habitation of man, unless a supply of water can be obtained by artificial means.

Now, listen to what the gentleman said in regard to his own beloved Territory of New Mexico:

The same conditions exist in the Territory of New Mexico, which embraces an area of 122,460 square miles, or 78,374,400 acres of land, of which, as appears by said census, only 5½ per cent. is susceptible of cultivation, for the reasons already stated, leaving 94½ per cent., or 74,063,808 acres forever unfit for human habitation unless water can be obtained to irrigate the same.

Mr. JOSEPH. Will the gentleman permit an explanation of that?

Mr. STRUBLE. Gladly, if it does not come out of my time, and with the indulgence of the House. But if my time is to be consumed at any length——

Mr. JOSEPH. I will consume but a moment.

Mr. STRUBLE. Very well.

Mr. JOSEPH. That was the condition in 1880, before the advent of railroads to any extent in the Territory and before the advent, of course, of the large influx of immigration now scattered all over the Territory. Since that period many corporations have constructed canals or ditches and water reservoirs, and thereby reclaimed a great deal of these arid lands.

Mr. STRUBLE. That is, since the railroads entered the Territory there has been a great agricultural development by reason of improved irrigation?

Mr. JOSEPH. Yes, sir.

Mr. STRUBLE. But I will remind the gentleman that the report was made but a few months ago.

Mr. JOSEPH. But it referred to that time.

Mr. STRUBLE. Does the gentleman claim that this wonderful change, to which he has now alluded, has taken place since he made that report to Congress?

Mr. JOSEPH. No, sir; but since the year 1880, to which the report the gentleman has read refers.

Mr. STRUBLE. Well, does the gentleman claim now—and I advance to this for the purpose of another point in the argument—that since the introduction of railroads the system of irrigation obtaining there before their introduction has been largely and efficiently extended?

Mr. JOSEPH. Yes, sir.

Mr. STRUBLE. The gentleman does so claim?

Mr. JOSEPH. Yes, sir.

Mr. STRUBLE. How does it come, then, that no allusion was made to these things in the gentleman's report to the committee, but that the gentleman in that report should plant himself squarely and fairly upon the statement to the House and to the country that 94½ per cent. of the total lands in that country are without sufficient irrigation for purposes of cultivation, or that they are in such a condition as to be, to quote the language of his own report, "unfit for human habitation?" That was pretty strong language at the time the report was written.

But to go still further, and as effectually refuting the gentleman's theory, let us see what he said in that report of the number of farms in his Territory, as compared with those in 1860; and gentlemen will not, I think, have much trouble in appreciating the embarrassment in which the gentleman from New Mexico is now placed. Continuing in his report, he said:

The Territory of New Mexico was organized in 1850, and in thirty years thereafter it had a population of only 119,565 souls, or less than one person to the square mile, and its population during the two decades preceding 1880 only increased 26,000, all of which increase occurred after 1870, and consisted largely of persons connected directly or indirectly with the construction, maintenance, and operation of railroads leading through said Territory to the Pacific Ocean. While population increased as above stated, and also by reason of large mining enterprises, yet, as shown by said census, there has been an actual decrease of the agricultural element, the number of farms in 1880 being actually less than in 1860. This can be accounted for only on the fact of scarcity of water for agricultural purposes.

The same conditions exist in Arizona, except that its population is about one person to 2 square miles of area. The waters of that Territory have been almost entirely appropriated to agricultural purposes, yet millions of acres of most fertile land is uninhabited, because the poverty of the people will not permit experiments in water development, and does actually prevent any effort towards reclamation of these vast deserts.

This certainly does not show that irrigation and cultivation have been greatly extended within recent years.

And later on I will present from the last annual report of Governor Ross evidence showing that in the opinion of that official the present system of irrigation in New Mexico is a failure and will have to be abandoned; in fact, he says so in plain terms.

Now, Mr. Speaker, this is one source of information to which I went to obtain my facts. I regarded it then, and still regard it, as a matter beyond dispute that improved and enlarged irrigation is necessary. But right here let me emphasize as I go on that my purpose is not to depreciate New Mexico, but to make plain and unmistakable the position I have taken, that more than anything else New Mexico needs liberal appropriations from the Government of the United States to develop her soil by means of an ample and liberal system of water distribution, so that this wonderful soil may blossom with all the grains, fruits, and flowers for which it is undoubtedly adapted when it is properly provided with an abundance of water.

Mr. MACDONALD. Will the gentleman permit a question just here?

Mr. STRUBLE. Well, my time is very brief. I will yield for a question, but not for a speech.

Mr. MACDONALD. I am not going to make a speech. What I want to know is if the gentleman wishes to give us to understand that he opposes the admission of New Mexico notwithstanding that its people are willing to assume its burden of the obligation for this purpose?

Mr. STRUBLE. Not for this reason alone. The question of irrigation, however, without which the agricultural resources of the Territory to which the gentleman from the Territory has alluded this morning can not be successfully advanced, amounts, in my opinion, to something worthy of our consideration. And the question of material resources is, in my judgment, a proper element to be considered in discussing such a question. I may be mistaken, and if I am mistaken then I desire to be set right.

Mr. MACDONALD. I hope the gentleman will answer my question before leaving this point.

Mr. STRUBLE. I will answer the question now and frankly. It is one thing to be willing to assume heavy burdens and responsibilities and quite another to be able to properly and successfully bear and discharge them. If the gentleman from Minnesota will carefully read the report of Governor Ross, of New Mexico, for 1888, he will find, if the governor is correct, as no doubt he is, that the agricultural future of that country is wholly dependent on the establishment and maintenance of an extensive system of water-storage and irrigation. To provide such a system as the governor regards necessary will require the expenditure of large sums of money, and while no doubt can exist that New Mexico will, before many years, be capable of dealing successfully with such a vast project of legislation, I am forced to the conclusion from documentary evidence available to all of us, some of which I will submit before concluding my remarks, that the time has not yet come when this great scheme of improvement and others for which provision would undoubtedly be deemed desirable to be made at an early period should be undertaken. To be plain, I say to the gentleman that I will have more confidence in the ability of the people of New Mexico to properly and wisely deal with these important subjects when the number of her English-speaking citizens has greatly increased. I mean American as distinguished from Mexican.

Returning to the line of my remarks, what I maintain is, that we have the right and it is our duty to inquire into the agricultural, mineral, educational—every condition, in fact, bearing upon the question of fitness at this time for admission of a Territory into the Union. The distinguished member from New York [Mr. COX] said upon the pending proposition that population should be the criterion.

Mr. COX. I did not say so.

Mr. STRUBLE. I so understood the gentleman.

Mr. COX. I said the resources and character.

Mr. STRUBLE. I beg the pardon of my friend from New York. He did touch upon the question of population, unless I have entirely forgotten his remarks, and indicated a favorable view of that criterion when he spoke of the question of the admission of New Mexico and his attitude toward her application for admission in 1874. He certainly planted himself on population equal to the ratio of a member as a rule or criterion for admission.

A MEMBER. He objected to Utah absolutely.

Mr. STRUBLE. He made Utah an exception to all rules to be applied, and I am glad that he did so. We all make that exception, unless it be a very few, who would admit Utah without any question concerning its social, religious, or other institutions.

But I am not, as I said a moment ago, endeavoring to cast reflection upon this Territory, but rather to make manifest that the Government should be considerate and helpful to it and all Territories needing assistance that may be now and for many years unable of themselves to provide means to sink artesian wells and to establish such systems of irrigation as will bring from the mountains the surface water and place it within reach of these seventy-four millions of acres of untillable land in New Mexico and seventy millions in Arizona, and thus enable their people to move forward in the development of their country and thereby contribute to their early preparation for admission into the Union.

Mr. MACDONALD. Would the gentleman make admission dependent upon the water supply?

Mr. STRUBLE. Oh, no, not solely, if in all other respects there are found sufficient qualifications. But if the gentleman has given any serious consideration of the situation in New Mexico, he will not endeavor to depreciate the importance of the water supply there. I am urging this as one of the considerations in this case. And it being admitted by both the governor and the Delegate that without an improved and vastly enlarged water system nothing by way of cultivation and habitation of 74,000,000 acres can ever be had, is this not a proper subject of discussion when it is proposed to admit the Territory as a State?

But in order that the House may see that I am speaking not alone of what the gentleman from New Mexico [Mr. JOSEPH] said in his report on this point, I desire to call attention to what the governor of that Ter-

ritory has recently said in his report to the honorable Secretary of the Interior of the necessity for aid to provide water—aid towards a very laudable purpose—to enable these people to be what they ought to be, and what they will at no distant day become, if properly helped.

I call attention to this report, which I hold in my hand. There are two things to which the governor calls special attention. He presents at the outset two questions which he deems of supremest importance to the condition and welfare of the people of New Mexico. What are these? The disputed land titles is one; and he goes on and presents forcibly and ably the necessity for some legislation by Congress which will bring about a settlement of these questions. On this point let me say that every Republican member of the Committee on Territories united with the Democratic members in support of a measure that came before us in the Forty-ninth Congress, and again in this, to aid in the settlement of these land titles; and we believe that Congress ought to complete legislation in that direction and without delay. There ought to be something done to bring these people out of that unfortunate condition of dispute which arises in a country where title to property is not settled; for it is a matter of undisputed fact that there exist in New Mexico now, and have for years, numerous and serious conflicts respecting titles to Spanish and Mexican land grants.

But it will the better subserve my purpose to present in full what the governor says in his last annual report to the honorable Secretary of the Interior on this subject:

You will pardon me for departing in a measure from the order of topics to be discussed, suggested in your letter of instruction, in the introduction, at the opening of this report, of two subjects of paramount importance to New Mexico—the settlement of our land-grant titles and water storage and irrigation—as those precede, in their importance to the development and future welfare of the Territory, every other topic of an economic character that could be suggested, and to them particularly, as matters of transcendent moment to every interest and industry of this people, I ask the earnest attention of the Department and of Congress. First, in the order of its consequence and as the basis of subsequent development, is the need of Congressional legislation for the settlement of our

LAND-GRANT TITLES.

Compared to the aggregate acreage of the Territory, the area of the lands in dispute is not large, but comprises several thousand holdings, and, confined mainly to the valleys where water is accessible for cultivation and located in the vicinity of towns and railways, is the most valuable in the Territory. The greater proportion of these claimed grants are but illy defined as to exterior boundaries, in no way conforming to the public-land surveys, and in the increasing pressure of settlement and demand for land the unoccupied portions of these grants are liable to be settled upon by the incoming tide of migration in the absence of title papers on the part of the holders, under the impression that they are public lands, in many instances having been surveyed as such, and endless and serious frictions ensue, to become more serious from year to year, so long as legislation for settlement is delayed.

It is almost impossible to say, as to lands in the vicinity of known grants, who are or who are not on grants, while as to disputed grants the confusion is correspondingly greater. It is, to a degree, unsafe to go upon the public lands even, in some sections, for location of homestead and pre-emption, as it has not infrequently occurred that after such location and attending improvements have been made, and thus specific value given to the land, real or manufactured grants of such lands have been developed and a condition of chronic litigation established, which, under existing legislation, only a judicial tribunal especially provided for the settlement of this class of titles can finally adjudicate.

It is true that there are many millions of acres of good agricultural public lands in the Territory, but as a rule they are isolated from water and railways, and from settlements and the advantages of schools, and points of supply, and often not susceptible of successful cultivation without irrigation, while the lands in the vicinity of the grants usually possess all these advantages, and thus are naturally more generally sought and in active demand, though comparatively valueless for the lack of governmental recognition of title, or by reason of disputed title, and a consequent condition of litigation becoming constantly more intricate and threatening.

This condition has reached a point where it has become impossible for the Territorial courts, in the crowded state of their calendars, even were they to be given jurisdiction, to ever determine; so that the prospect of settlement is rendered hopeless in the absence of special provision by act of Congress.

It was in view of this state of the case that an organization of prominent citizens of the Territory, composed of both races and all political creeds, representing all the interests and industries of the Territory and all shades of opinion on the grant question, was effected in the autumn of 1887 for the purpose of formulating a bill for presentation to Congress for its action, and a delegation appointed by the executive to personally make that presentation and urge that action, to the end that we might secure the speediest possible relief from this depressing condition.

The two bills now pending in the Senate of the United States, one of them having passed the House of Representatives, embody in the main the features of the measure prepared and presented by that delegation. These two bills combined, as they can readily be, retaining the most valuable provisions of each, would speedily settle all controversy on this subject, and as satisfactorily to all interests as it would be possible for any measure of legislation to do—far more so than any that has been heretofore proposed.

This measure has been pending in Congress since last January, now nearly a year, and it is noticeable that no suggestion but of indorsement and commendation of the plan of settlement proposed therein has ever been made by any party or interest permanently or actively identified with or interested in the development of New Mexico.

This fact, it would seem obvious, ought to be sufficient to silence opposition and secure the prompt adoption of this or some similar measure.

This continuance of doubtful titles to many of the best and most available lands in the Territory has become a serious bar to the successful development of an empire in extent and in fertility of resources rarely equaled anywhere and excelled nowhere, and that condition has been aggravated solely by the delay of Congressional action, and is becoming more so by continued delay, till the case as it now stands constitutes a chronic denial of justice by the Government to a large community of its people who have staked their lives in behalf of American institutions and the spread and establishment of American civilization, and have expended largely and liberally of their means and their energies in the founding here of American homes.

As I have already remarked, in the Forty-ninth and again in the present Congress the Committee on Territories reported favorably a bill authorizing the establishment of a special tribunal in the form of a court to hear and determine all disputes concerning these unsettled titles, and one of the strong arguments in favor of deferring admission of the Territory, in my mind, is this, that in the condition of things existing in the Territory it seems to me far better and more conducive to a speedy adjudication of all controversies respecting these grants that the differences shall be passed upon by a tribunal of learned jurists, chosen by the President from citizens not residents of either of the Territories—Arizona and New Mexico—that they may be entirely removed from all local prepossession or prejudice, and hence in position to give in the first instance decisions which it may be hoped, from the confidence felt in the court rendering them, will be, as a rule, accepted as just, and thereby many appeals prevented, which, were the court of less learning and more exposed to local influences, could not reasonably be expected.

If New Mexico is admitted now, all these vexed and important questions must go into the State courts and be there determined by tribunals which in many cases, while possibly possessing considerable knowledge of the history and law of the land grants, may be too much influenced one way or the other by considerations irrelevant to a fair hearing of the causes.

Passing from the point made by the governor as to land titles, the next question presented was that of headwater storage and irrigation, and the manifest importance of adequate water supply for these millions of acres of lands, the character and value of which were so splendidly pictured by my friend, Mr. JOSEPH, that the full development of which they are capable may be obtained, but which at this time certainly lies in the future. In dealing with the subject of water supply, etc., the governor says:

WATER STORAGE AND IRRIGATION.

Next to the settlement of our land-grant titles, the question of greatest importance to New Mexico is that of water storage and distribution for irrigation. While in some portions of the Territory, notably in the timbered mountains of the north and the southeast, successful agriculture without irrigation is not uncommon, it is not possible in very large areas, especially in the central and southern portions, though even in these there are occasional seasons when fair crops are realized in localities by the natural rainfall.

Yet, in view of the fact that a failure of crop is not possible with a reasonably complete system of water storage and distribution, whereby the farmer can compute his crop practically to the pound, in advance, year by year, with a given extent and thoroughness of cultivation, it follows that that system of cultivation will pay all, or more, the additional cost of irrigation, as the liability of failure of crop is thereby reduced to the minimum.

New Mexico differs materially from all the Western Territories in that, lying in the southern foot-hills of the Rocky Mountains, it has few of the continuous, rugged ranges that characterize much of the north. The country here is broken into alternate valleys, mesas, mountain peaks, and short ranges. Excellent facilities are thus afforded for the gathering and storage of water, and at elevations that permit its distribution, by the force of gravitation, to practically every tillable acre of land in the Territory.

The area of New Mexico is 79,000,000 acres. Of this it is estimated that not less than 60,000,000 acres may be classed as tillable with sufficient appliances for placing water thereon. This can be done only by a general system of storage in the higher altitudes, so disposed as to gather and hold the surplus that comes down from the mountains and runs the streams bankfull at certain periods of every year, and thus reserve it for distribution during the dry periods of the later spring and earlier summer months.

The general flow of most of the water-courses of the Territory is southward—generally rising in the mountains of the north, gathering volume from lateral tributaries as they flow, usually at a descent of from 10 to 20 feet per mile. This fall, in connection with the general prevalence of natural basins and arroyas in proximity to the streams suitable for storage, affords excellent facilities for the establishment of reservoirs and the conveyance of water by high line canals therefrom, which, by necessary deflection to maintain water level and elevation, would afford irrigation for very large areas of land on the dry mesas lying below, otherwise impossible of cultivation.

The practice of taking water directly from the streams into irrigating canals, while practicable in the limited cultivation of the past, is inadequate even for the present, and utterly impossible for the future, as the lands that can be reached by such canals come into demand. Much confusion and friction is now caused every year, in river neighborhoods, by that practice, and the embarrassments are becoming more serious from year to year, as the demand for water increases with increasing settlement and cultivation, as very few of the streams afford sufficient water to supply the demand at periods when irrigation is most necessary.

It is thus becoming more and more apparent that the present system of independent ditching must be abandoned, and that in its stead the State must assume jurisdiction of the water supply and its distribution by a carefully devised and adjusted system that shall economize the water supply and guaranty to all equal rights in that supply.

It is estimated, and the estimate is deemed reasonable, that during the high-water periods of every year enough water runs down the Rio Grande alone to afford an entire summer's irrigation to every tillable quarter-section of land lying in the water-shed of that stream and its tributaries. Instead of that water being utilized by storage, the devastating sweep of the flood destroys every year property values sufficient to pay the cost of a system of storage for the entire water-shed, embracing probably 20,000,000 acres.

How best to store that valuable and much-needed, but now destructive, surplus of water, and save it for distribution at the seasons when its value is greatest, is a problem that demands the earliest possible solution.

The practice of damming the streams for the diversion of the water into canals is quite as mischievous as that of miscellaneous, independent ditching, as both methods at times deprive those below of their rightful share of water.

Of the various devices that have been suggested for storage without the incurrence of these objections, one particularly seems to promise all the advantages desired, free from the objections named, and to be at once practicable and economical.

That plan is the construction of wing-dams, or piers, constructed from the bank for a short distance up the center of the stream, to turn the surplus water through lateral ditches running therefrom by easy grades and curves to mitigate the force of the flow and to secure elevation into depressions, or natural basins, that abound at convenient distances in the vicinity of all the streams. Constructed in this way these wing-dams will be sufficient to resist the force of the flood without great cost, and located at intervals along the stream and built from both sides alternately, as the demand for or supply of water may require or warrant, would catch and gather practically all the surplus flow with-

out diminishing the regular supply, at any season of the year, to the local acequias below. The surplus water from the melting snows of winter and the heavy rainfalls of the rainy season could thus be stored away and saved for the supply of the upland or mesa districts, while the summer flow of the stream would not be estopped to the valley farms at the low or dry season stages of water.

The governor proceeds to discuss the advantage of the reservoir plan of storage and the obstacles in the way of putting the plan into execution. He does not propose that Congress shall be invited to appropriate money for this purpose, but that the Territory be granted 250,000 or more acres of lands to be devoted to the establishment of these contemplated reservoirs. So we have it that, with the incapacity of the native Mexican population for successful self-government—as I maintain to be the fact—the governor, and it is presumed the people of the Territory as well, are willing to have these great questions assumed by the new State now and their determination entered upon, when, if the testimony of the governor can be accepted as literally true, the last Legislature was so incompetent for their duties as to be found lacking in capacity to frame simple revenue laws by which to meet the limited fiscal requirements of the Territory.

If she were admitted in her present condition it would throw upon that State the great outlay of establishing, maintaining, and developing such a system of water supply as the governor contemplates, and this, too, in advance of sufficient settlement of the country and also of sufficient intelligence and capacity for wise legislation to justify reasonable expectation of success. In my opinion Congress should aid these people, and, prior to admission, place these great schemes for water supply in such state that there will be less danger of ultimate failure. They should be devised in wisdom and all plans relating thereto be most carefully matured, and if not fully executed be placed on such safe foundation as would afford ground for considerable assurance of successful completion by the people of the new State within reasonable time after admission.

Now, Mr. Speaker, I must pass to the educational feature, but before I do that it may not be uninteresting to have the opinions of some of the former governors of this Territory upon points referred to by my friend the Delegate [Mr. JOSEPH]. I suppose if I go back to the authority of a certain Democratic official thirty years ago, I may be criticised as being somewhat antiquated in my sources of information. Nevertheless I shall read first from a former Democratic United States official of that Territory, and then supplement that testimony with more recent opinions as to the condition and progress of agriculture among that people, and I hold, Mr. Speaker, that before they are admitted into the Union there ought to be established agencies sufficiently helpful to bring them forward out of the old antiquated status of three hundred years ago into those more modern, and, as I believe, more helpful and profitable, and conforming more nearly to those found in other Territories as well as Western States outside of New Mexico and Arizona. A former Democratic official of New Mexico, Hon. W. W. H. Davis, for two and a half years prior to 1856 United States district attorney in the Territory, and now, as I am credibly informed, sufficiently in the confidence of the Democratic party to hold the important position of pension agent at Philadelphia, in a volume written by him entitled "El Gringo," and found in one of the public libraries here in the Capitol, treating of the primitive and ancient condition of the Mexican people as to methods of and development in agriculture and their situation as to manufactures, said:

The manner of cultivation is exceedingly rude and primitive. Until within a very few years all their agricultural implements were wooden, and the use of iron for this purpose was hardly known. At the present day many of the peasantry cultivate with the hoe only, and plows are alone seen among the larger proprietors. The native plow is a unique affair, and appears to be identical with the homely implement used in the time of Moses to turn up the soil of Palestine. The following description of one of them is a true picture to the very life:

"The Mexican plow is an implement of a very primitive pattern, such as perhaps was used by Cincinnatus or Cato; in fact, it is probably a ruder instrument than the plow used by these ancients. It is not seldom the swell, crotch, or knee timber of a tree, one branch of which serves as the body of the plow, and the other as the handle; or, still more frequently, it is made out of two sticks of timber. The body is beveled at the point, which is shod with a piece of sharp iron, which answers for a share. It has also, mortised into its upper surface about midway of its length, an upright shaft, called a *tranca*, which plays vertically through the plow-beam. This beam, which is a ponderous piece of timber not unlike a wagon-tongue, is fastened to the plow at the junction of the handle with the body, and, being raised or lowered at pleasure upon the *tranca*, serves to regulate the dip of the share-point. To this beam is attached a yoke of oxen, no other plow-beasts being known here."

The above implement is in general use where the hoe has been laid aside, except with the wealthy proprietors, who have purchased more modern plows from the United States, but not of the latest pattern. In some instances as many as twelve or fifteen of these homely affairs, drawn by as many yoke of oxen, will be in use at the same time in a single field. Two men are required to each plow, one to hold up the handle and guide the machine, while the other is employed in goading up the oxen with a long pole shod with a piece of sharp iron. Such is plowing in New Mexico.

There are a few carpenters, blacksmiths, and jewelers among the natives, but, if ever so well skilled, it would be impossible for them to accomplish much with the rough tools they use. The gold and silver smiths excel all the other workmen, and some of their specimens, in point of ingenuity and skill, would do credit to the craft in any part of the world. Nearly all the lumber used for cabinet-making and building is sawed by hand, and carried to market on burros, two or three sticks or boards at a time, and sold by the piece. The heavier scantling is dressed with an ax, and sold in the same manner. Before the Americans occupied the Territory saw-mills were unknown, and their place was entirely supplied by hand labor; but since that time two or three mills have been erected, which do a good business. A few flour-mills have also been built, and the grain is better ground than formerly. In building they have no idea of architectural taste, but they construct their houses in the same style as their ancestors—rather comfortable, but very homely affairs.

All the implements used in husbandry are of the rudest description, and until within a few years the hoes and spades were made of wood. I do not recollect to have ever seen a wagon of Mexican manufacture. The vehicles in common use for farm purposes, and for hauling produce to market when burros and pack mules are dispensed with, are called *carretas*, a rude cart, made in the style of two centuries ago, among the first settlers. If exhibited in the States they would attract as much attention as the hairy horse or the sea-serpent. They are generally made without iron, being fastened together with strips of raw hide or wooden pegs. The wheels are frequently solid pieces of wood, being a section of a large cottonwood tree, with a hole through the center for the axle. Sometimes they consist of three parts; the middle one with a hole through it, and the two sides, segments of a circle, pegged onto the first. An undressed pole of the proper length is fastened to the axle for a tongue. The body of the *carreta* consists of a frame-work of poles, much like a crockery-ware crate, which is made fast by being tied to the tongue and axle. The machine has no bottom, and, when necessary to prevent the load falling out, a bull-hide is spread down.

These carts are universally drawn by oxen, and sometimes three or four yoke are hitched to one at the same time. The ox-yoke is in keeping with the vehicle, and consists of a straight piece of wood laid across the head of the oxen behind the horns, lashed fast with raw-hide, and is secured to the tongue in the same manner. For the peasantry of the country these primitive carts answer every purpose, and on feast and holy days you will often see the whole family pleasuring in them, or driving to the nearest town to attend mass. The wheels are never greased, and as they are driven along they make an unearthly sound, which echoes through the mountains far and near, being a respectable tenor for a double-bass horse-fiddle. Some of the wealthiest proprietors have purchased American-made wagons of late years, and only use the clumsy cart for ordinary purposes around the farms. Among the *ricos* there are a few old-fashioned Spanish carriages, cumbrous and uncouth vehicles, which are drawn by four or six mules, with outriders and postilions.

When a Mexican travels he carries with him both bed and board, and encamps on mountain or plain where night overtakes him. He and all his attendants go armed, which is a precaution highly necessary in whatever part of the country you travel. In New Mexico there are no public houses by the wayside in which the traveler can find rest and food for the night, and, unless he is able to reach some village where there are friends, he is obliged to encamp out. In some of the towns Americans have opened places of "entertainment for man and beast," where a few can find tolerable accommodations at New York prices. Before the public house in Albuquerque hangs a sign-board, on which is painted, in large letters, "Pacific and Atlantic Hotel," being considered the half-way house between the two oceans.

There is no capital invested in domestic manufactures, which do not exist as a separate branch of industry. The few articles that are made are of a coarse texture, and are manufactured in families. The leading fabric is a coarse woolen blanket, called *serape*, which is made to some extent for domestic use and sale. At times a considerable trade is carried on in it with the neighboring Mexican States and the Indian tribes. It forms an important article of clothing among the peasantry, and many of the better classes use it instead of cloaks and overcoats. A few of a finer texture, in imitation of the *serape saltillero*, are also manufactured, some of which sell for $40 and $50 each. They are woven in bright and handsome colors and are quite beautiful. The *serape* is a leading article of domestic manufacture in Southern Mexico, and the costume of a *caballero* is hardly considered complete without one. Mier, on the Rio del Norte, in the State of Tamaulipas, is famous for this article, whence they are sold into all parts of the country.

The New Mexicans also make an article of wool, called *gerga*, a stout and coarse twilled stuff; it is woven in checkers and stripes, and is much used for carpeting, and also for clothing among the common people. This has become quite an article of traffic between the merchants and peasantry, and as it is made with little expense the latter derive considerable profit from the trade. It is retailed in the stores at from 25 to 40 cents per *vara*, and is manufactured for less than half that sum. The few articles of domestic manufacture are made wholly of wool, or nearly so, very little cotton being used, and neither flax nor hemp having yet been introduced into the country. Their spinning and weaving apparatus is exceeding rude, and illy suited to the purpose. A machine, if it can be so called, known as a *huso* or *malacate*, is in common use; the spindle is kept whirling in a bowl with great dexterity, while the operator draws the thread and weaves the fabric.

But, lest it be concluded this authority is too aged to form a reliable basis for present estimate, I submit another of more recent date.

In a volume entitled "New Mexico," by Professor Charles R. Bliss, at one time, and possibly now, a professor in one of the Colorado colleges, and written in 1879, he says:

NEW MEXICO—THE PEOPLE.

These are of several races—the Americans, the Indians, and the Mexicans. Of Americans there are about 10,000, engaged in grazing and mining and in conducting the general business of the Territory.

The Indians number about 20,000; half of them are nomadic. A few years ago they were restless and fierce, but of late they have become satisfied with their reservations and occasion no trouble. The most advanced of these nomadic Indians are the Navajoes, numbering about 8,000, who possess the art of dyeing wool and weaving fine blankets. They have large flocks, and are pursuing the business of grazing with much skill and success.

The Pueblo Indians are considerably higher in the scale of civilization than the nomadic tribes. They are descendants of the old Aztecs, though some of them are supposed to be descended from the Toltecs, a still older race. They retain many of the characteristics of the people whom Cortez conquered. They live in large structures, four or five stories high, made of sun-dried bricks, and capable, sometimes, of sheltering more than two hundred people. Acoma, a cut of which is given on the cover of this pamphlet, is one of the most interesting of their towns. It is built on a plain 60 acres in extent, upon the top of a sandstone rock 200 feet high, and is approached by a winding stairway cut in the rock. It was founded before the Spanish occupation, and, if captured, was left to itself, and is to-day inhabited by the race that have possessed it at least three hundred years. The Taos pueblo is of almost equal interest. A building, not wanting in symmetry, five stories high and perhaps two centuries old, serves as their principal dwelling.

The Pueblo Indians cultivate the soil, sustain themselves without the aid of Government, and have been declared by judicial authority to be citizens. They speak the Spanish language, and also an Indian tongue which they are not willing to impart to others. They are, apparently, fervent Catholics; but beneath their Catholic faith they retain their old beliefs of sun worshipers. When they yielded to the invader they took the religion that was imposed upon them, but retained their own. Humboldt says: "I have seen them, masked and adorned with tinkling bells, perform savage dances around the altar, while a monk of St. Francis elevated the host." The emblems of heathen idolatry are seen in the homes of these fellow-countrymen of ours to-day, and utter as loud a call for missionary aid as reaches our churches from any other quarter.

The Mexicans are by far the most numerous portion of the population, reaching 100,000. Varying in blood from nearly pure Castilian to nearly pure Indian, they possess qualities of great diversity. Some have all the alertness and acuteness of the Spaniard; others all the stolidity and grossness of the Indian.

A few are well educated, shrewd, and successful in business, and intelligent upon current affairs; while the great mass are ignorant, superstitious, and, so far as fitness to discharge the duties of American citizenship is concerned, probably lower in the scale than any other class upon whom such duties have been imposed. They speak a foreign tongue and are actuated by a foreign spirit. Their arts of life belong to the sixteenth rather than the nineteenth century, and to mediæval Europe rather than modern America. Their methods and implements of agriculture, the structure of their dwellings, and their means of intercommunication are of a very rude and primitive type.

Their beliefs are like those generally entertained in Christendom three centuries ago. Fables that the rest of the world has outgrown are current among them; and monkish practices, which ceased among civilized men long ago, are in full vigor there. The Penitentes, an order widely diffused among them, believe that the sins of the soul may be atoned for by lacerating the body; and at a fixed time in the spring they assemble at a church or in some desolate cañon, and, armed each with a scourge, made of cactus or thorns, or whatever else is fitted to tear the flesh, they inflict the severest cruelties upon themselves. They then form a procession, headed by a man bearing a heavy cross, and, arriving at an appointed spot, they halt, bind the bearer of the cross upon it, and raise him from the ground, in imitation of the closing act in the life of Christ. The crucifixion not unfrequently ends in death. In 1877 four young men are reported to have ended life in this way in Southern Colorado.

But let us come now to official sources, that we may have the most reliable information. In 1879 Governor Wallace, in his official report to the Secretary of the Interior, in describing the condition of New Mexico as to agriculture, used the following language:

Agriculture in New Mexico is yet in its primitive condition. The wooden plow of the Mexican fathers holds preference with the majority of farmers. Development is barely sufficient to serve anticipation. Corn, wheat, oats, barley, and the table vegetables generally are raised with a view to the home market, which is quite limited. Corn is produced best in the valleys along the banks of streams. I have seen wheat and oat fields six and seven thousand feet above the sea-level as rich as any in Illinois and Minnesota. It is not possible to state even approximately the area of such productions. All irrigable lands, wherever they may be in the Territory, belong to the productive or farming class. The depth of the soil is something wonderful. With rains as in the Mississippi Valley the results of intelligent labor would astonish the world; as it is, no one thinks of land for cultivation except it be irrigable. In this sense water is king.

Not more than one-tenth of the soil is actually occupied. A considerable portion of it is unfortunately covered by grants claimed or confirmed.

And in 1881 Governor Sheldon, in reporting to the Interior Department, stated:

Agriculture is chiefly confined to the valleys, where irrigation can be made available. Some of the mountain parks produce the more hardy and short crops without irrigation.

There is sufficent agricultural land, if cultivated, to supply the home market.

The present methods of cultivation are primeval and do not properly indicate the productiveness of the soil.

The same official, in his report for 1884, on the subject of agriculture said:

The people of the Territory have not for several years in the past been producing enough to supply the necessaries of life, so far as food articles are concerned, but have been purchasing breadstuffs abroad, which has depleted the country of cash. For several years the construction of railroads in the Territory was extensive, which gave employment to a large number of people, and reliance was placed on this source of revenue to supply their wants. During the last eighteen months there has been little railroad building, and the cultivation of the soil having been neglected, the people find themselves without much money. Hence trade is light and times are dull.

This year there has been a considerable increase in agricultural and fruit productions. From the best information at command I am of the opinion that the production of cereals, vegetables, and fruits is nearly, if not quite, sufficient to supply the consumption of the people. There seems to be a general appreciation of the importance of these interests, and it may be expected that in future no money will be sent out of the country for articles of food that can be raised at home.

In 1886 Governor Ross reported progress in this important line of industry, and in his last official communication to the Secretary of the Interior made this reference to the subject:

AGRICULTURAL DEVELOPMENT.

Marked progress has been made in the agricultural industries during the last year. Not only have many thousands of acres of land been brought under cultivation, and the industry systematized by the introduction of the improved methods peculiar to American immigration, but with a large part of the native farmers there has been manifest a spirit of improvement in the abandonment of the primitive ways that have so long prevailed among them.

The wooden plow, the sickle, the thrashing stockade, and the winnowing-fork are being discarded, and in their places is coming the improved machinery that has made a successful science of American agriculture. Once ventured, these people are quick to see the disadvantages of their old ways and the advantages of the new to enable them to successfully compete with the newcomers.

Our agricultural-implement establishments are thoroughly equipped with the latest improvements in that class of machinery, and it is a most welcome fact that they find ready and extensive sale.

So that it appears, if in 1856, as Davis said, their manner of cultivation was exceedingly rude and primitive, and their implements of a pattern suggestive of those in use among the ancients; in 1879, according to Professor Bliss, "their arts of life belonged to the sixteenth rather than the nineteenth century, and to mediæval Europe rather than modern America," in the same year (1879), according to the official report of Governor Sheldon, agriculture was yet primitive, and the wooden plow of the Mexican fathers held preference with the majority of farmers; and their primeval methods of cultivation continued in 1881 according to the same governor, yet in 1886, it would appear from the report of Governor Ross, "the wooden plow, the sickle, the thrashing stockade, and the winnowing-fork" were being discarded and improved machinery coming in their stead.

So, Mr. Speaker, it appears that from 1850 down to this time, now nearly forty years, the people of New Mexico have adhered to these old, antiquated methods of cultivation, and the governor now says that "the wooden plow, the sickle, the thrashing stockade, and the winnowing-fork are being discarded and in their places is coming the improved machinery that has made a successful science of American agriculture." Just coming in 1886, these improved methods of agriculture, and I confess to me it is made a matter of congratulation that they are coming even now, though at so late a day.

Mr. Speaker, much stress was laid by the gentleman from New Mexico upon a point which I now desire to touch. I know it is a delicate one, but I shall treat it respectfully and with an entire absence of feeling toward any person within the borders of that Territory. We will not keep New Mexico out of the Union because she is composed largely of a people foreign to our own. In the best sense they are not foreign to us, because they are of us and we propose to afford them every encouragement for becoming more like us, and when they shall have become so to an extent to justify such action, we will welcome them into the Union. But what is the fact about the language of this people? I do not question or criticise the desire or the disposition of any people of any race to use any language other than the English, to retain their language, to continue to write it, and to speak it; but I do maintain that this is a Republic of English-speaking people; that we are Americans in the sense of having as our permanent language the English, and that the prevailing language in all the States and Territories should be the English.

And while 75 to 80 per cent. of the native people of New Mexico, as is shown by the governor's report for one year, speak a foreign tongue and speak it only—and can not understand the English language—I do feel that it is asking considerable of the American Congress to demand the admission of this people into the Union while this condition of things exists.

Why, Mr. Speaker, it is well known that the laws of that Territory are printed in both languages, the English and the Spanish. Their legislation is carried on in the Spanish tongue. In most of the schools the instruction is in the Spanish language. At all public meetings, if addressed by Americans, the agency of an interpreter must be had. This is the condition of things there. I do not speak of it as implying any disgrace, but to emphasize the proposition which seems to me to be one worthy of consideration that until in respect to education, and in respect of all those things which are essentially and fundamentally of our Americanism, those people shall have become further developed in the line of the American language and American civilization, they are not entitled to claim admission into the Union.

Mr. JOSEPH. I would like the gentleman to state what percentage of English-speaking people he would think sufficient to entitle the Territory to admission? I would be glad to have him draw the line, so that we may prepare ourselves to comply with the requirement.

Mr. STRUBLE. I am not going to attempt to lay down any exact line or rule on this question. It is stated here in a report from the governor made a few years ago that three-fourths of the people of this Territory speak only that language which is peculiar to them.

Mr. JOSEPH. And that they do not understand a word of English?

Mr. STRUBLE. And that very largely they do not understand the English language.

Mr. JOSEPH. Well, I claim that 75 per cent. of those who are known as native Mexicans in that Territory not only understand the English language, but speak it.

Mr. STRUBLE. And I, in reply to that, quote from the official report of Governor Sheldon dated October 31, 1881, in which is found this sentence:

Only a few of the natives can understand or speak the English language, and the same is true as to the bulk of those who have emigrated since the acquisition of the country in regard to the Spanish language.

And from the report of the same official of date September 6, 1883, the following:

Probably three-fourths of the population are natives of the country and speak the Spanish language.

Now, these people—I mean the masses—are not to be censured for this whatever may be the merited censure due their leaders. No blame should be put upon them or anything which implies disgrace. They were in that country when we acquired the territory; they can not avoid their nationality or their language. I want to be understood rightly on this point. I know I am liable to misconstruction by some; but it does seem to me that when a people have only adopted the public-school system since 1871, which school system while making some progress—perhaps gratifying progress—is yet inadequate and insufficient, being largely carried on in the Spanish tongue—it does seem to me that on this important point we may question whether in this state of things—unavoidable as it may be and implying no blame on the part of these people—they are entitled now to admission, or to an enabling act, contemplating early admission.

I am happy to say that the latest reports indicate good progress in the extension of common schools; but in 1856 that Territory rejected our common-school sytem by popular vote; they would not have anything to do with it; and not until 1871, when a sort of compulsory school law was passed, was there the least progress made in the establishment of a free-school system for the education of youth either in the English language or in their own common tongue.

I have here statistics showing the number of schools, the number of teachers, and the amount of money expended, which will be of interest in this discussion; but before going to those let me remark here in all friendliness that such is the apparent lack of interest in reference to the public-school system there that our Commissioner of Education is hardly able to get from any officer in New Mexico reports on the condition of the schools. This morning I went to the Bureau of Education and asked for the latest report on schools in New Mexico. The gentleman to whom I applied—one of the subordinates—informed me that the bureau had not been able to get a report from that Territory, to be incorporated in the next educational report to be issued by the Commissioner. Now, I suggest whether it would not be well for my friend from New Mexico, who is so much interested in the admission of the Territory, to help, by his influence with the appropriate officer, whoever he may be, in having a report made to the Educational Bureau this winter, so that the actual facts may be known, and that we may determine whether anything more should be done by Congress toward facilitating or helping along the cause of education in that Territory. In my judgment this ought to be done.

Mr. JOSEPH. If the gentleman will permit, I will inform the House that such a report was made last December. Whether it was to the bureau to which the gentleman refers, I know not.

Mr. STRUBLE. Does not my friend refer to the report which appears in this volume which I hold in my hand, being the report of the Commissioner of Education for 1886-'87? An employé in that department informed me this morning that this report from that Territory was only obtained by writing to the auditor, who sent a copy clipped from a newspaper of a published annual report made to his superior officer, the governor, showing, as it does imperfectly, the condition of things there as to schools.

Right here let me call attention to a matter of school statistics. I have not much time, but on this point a great deal of ground might be gone over. Here is what purports to be a report from the auditor of the Territory on the schools in New Mexico. What does it show? Here is what is stated in this report, embodied in that of the Commissioner of Education:

No complete statistics of education in New Mexico have been collected since the United States census of 1880. Those given in the educational report of the Territorial auditor for 1886-'87, a summary of which appears below, are not only very defective as regards the number of counties reporting, but bear internal evidence of unreliability. The school population (five to twenty years) is less than reported by the census of 1880, one county reporting a school population of only one-fourth of the enrollment. Sierra County reports an average daily attendance more than three times as large as the enrollment.

Superintendent Parker, of that county, makes some very pertinent suggestions tending to more complete and accurate reports by teachers and school officials.

Then follows a table showing school population (five to twenty); number of counties reporting—all. According to these figures the school population in 1886-'87 was 36,435. In 1880 the whole school population in the Territory, according to the census of that year, was 40,415. So that it appears that the present school population is nearly four thousand less than that reported by the last census—that of 1880.

Of course I am willing to agree that this report, when considered as showing the educational condition, is quite unreliable. I hope in this one particular it is unreliable as indicating the real condition of education and prosperity among the people whom my friend has the honor to represent upon this floor.

Mr. JOSEPH. I can explain that to the gentleman from Iowa by saying that since then the private schools, mission schools, both Catholic and Protestant, have increased, and we not only have one school in every voting precinct, but we have two mission schools, one Catholic and one Protestant. That accounts for the decrease of attendance in the public schools.

Mr. STRUBLE. That may account somewhat for the decrease, and if it does, it relieves the situation.

Mr. WARNER. The decrease is not in that respect, but the decrease is in the number of scholars attending the public schools.

Mr. STRUBLE. Yes; that is so. The point to which I refer is the decrease in school attendance. I am obliged to the gentleman from Missouri for correcting me on this point. The school attendance before was over 40,000, and we see from the reports covering 1886 and 1887 that it had decreased from over 40,000 of school attendance to some 36,000.

Mr. JOSEPH. That is evidently a mistake.

Mr. STRUBLE. There certainly is a mistake somewhere, I readily grant.

Mr. WARNER. I do not believe the school population of New Mexico is decreasing.

Mr. JOSEPH. It has been increasing all the time.

Mr. STRUBLE. I have no doubt such is the case. The only point I wish to make right here is that all the information we can get as to the actual condition of affairs in the Territory of New Mexico shows your people are not interested in common-school education as they ought to be, that is all; and yet it is due to this people to say they are progressing in school matters, and perhaps when all things surrounding and attending them are considered the progress in a comparative sense should be regarded as satisfactory, for this incomplete report to which I have referred exhibits a decided increase in attendance upon the schools, the average daily attendance in ten of the thirteen counties being 10,024 as against 3,150 in 1879. Let the good work go on. We will all greet its continued advance with a hearty God-speed.

Mr. Speaker, I shall have to pass by a number of points I desired to make, and will now come to the consideration of a delicate question, but one of vital importance in view of the proposition to bring in New Mexico at an early day, and that is the competency and qualification of the people of the Territory, as now populated, for the successful administration of State government. I have presented already some facts as to its agricultural condition and development; I have presented the opinion of the governor of that Territory that the present system of irrigation is a failure and that they must have help for the establishment of an enlarged and improved system. I have also presented some facts as to their educational affairs.

Now, as to whether the people of New Mexico are sufficiently qualified to successfully carry on a State government. I have only to allude to the fact that for three hundred years and more the people of New Mexico have had opportunity to fully demonstrate that they have that capacity for popular self-government which should be required of the people of any Territory before it should be received into fellowship with the other States of this Union, and during the last one hundred years they have had the illustrious example of the American Republic under the Constitution—as well as that of the various States—to guide them, having, on February 2 next, themselves been forty-one years one of its Territories. Nevertheless, as I feel justified in maintaining, those of the people of New Mexico who are natives taken as a body of citizens have not yet by their past and present history demonstrated their fitness to now assume the important responsibilties pertaining to the foundation-work of one of the great States of the Union.

Time will not admit of more than one illustration being presented. I instance the fact that notwithstanding this Territory was organized in 1850, and the fact that ample opportunity and example have been afforded them in so practical and essential a matter as establishing a fairly adequate revenue system, as well as the enactment of laws on other subjects closely connected with their advancement, they have utterly failed.

As relevant to the financial condition of affairs in that Territory, I wish to call attention to the Territorial Legislature to which reference is made by Governor Ross in his report for 1887, and to read an extract or two from that report to show what was done there by a Republican Legislature, because I was amazed to find, in view of the statement to which I shall presently refer, that it was a Republican Legislature, and content myself now by saying in passing that if that condition of affairs was exhibited under a Republican Legislature what would not have been the condition had the Legislature been Democratic? [Laughter.] I repeat, I was disappointed to find the last Legislature Republican, and I may say I was a little chagrined, too. But now let us see what Governor Ross said in his report of a year ago on that question, and after I have concluded with that I will not further occupy the attention of the House. He says:

This Territory presents the anomalous spectacle of a community possessing remarkable natural resources and in a generally prosperous condition, but with an empty public treasury.

Now an empty treasury, particularly in some States and municipalities, is not, as we all know, a rare thing, but if that were the condition under a Republican Legislature, my query is, what under heaven would have been the condition of things had there been a Democratic Legislature? [Laughter.]

Mr. HERMANN. Ask us an easier question.

Mr. STRUBLE. I admit the question is somewhat perplexing, but let me read further from this report:

The rains have been copious and timely, cattle are in excellent condition for market, the wool clip has been largely increased, the mines have yielded better than ever before, agriculture has been largely extended and the yield unusually abundant, there has been no public turmoil or disaster of any sort, and the general state of trade and business has been good. Yet there is no money in the public treasury, and that has been practically its condition for years. The secret of that condition is that there has been scarcely a semblance of a system of revenue, or method in the legislation regulating the administration of the public finances. The result has been for years a chronic depreciation of the paper of the Territory, a condition aggravated as the expenses of the Territory have increased with the increasing magnitude of its interests.

The attention of the last Legislative Assembly was earnestly directed, at the beginning of the session, and repeatedly during its continuance, to the urgent need of devising and establishing a coherent system of revenue and finance for the recuperation and maintenance of the public credit, and the saving of considerable sums now lost annually by reason of the necessity of paying for purchases in depreciated treasury warrants.

Large sums of money have been thrown away annually and lost to the taxpayers, for which the Territory is now in debt to a large amount over and above what would have been the cost of government, for the lack of a uniform and intelligent system of taxation and financial administration, and is daily falling deeper in debt from the same cause.

It was confidently hoped that the presentation of this state of facts would insure the preparation and adoption of measures of legislation which would obviate further embarrassment in that direction. But in that expectation the public was disappointed. Conspicuous parties inside and outside of the Legislature seemed to be inspired with the conviction that their duties were more of a partisan and personal than of an economic and public character, and those parties seemed to dominate the action of the body, though against the earnest protest and effort of the minority.

That is the way they spent their time. Instead of attending to the

public business, they were discussing partisan and personal questions, rather than those of an economic and patriotic character.

Hence the time of the session was largely consumed in the preparation and discussion of matters of little relevancy to general public affairs—of schemes for the satisfaction of partisan and personal antagonisms and of individual aggrandizement and greed. But little was done for the betterment of affairs, and that little so crude and ill-digested that it has become a serious question whether the work of the session, summed up, has not been productive of more evil than good.

That is a Democratic picture of the condition of affairs, I concede, and we must make all due allowances for the picture for that reason, because the artist is a Democrat, but they were legislating, or presumed to be legislating, in the interest of the people of the Territory. It seems that they were unable to devise any plan or adopt any scheme for raising revenue for the support of the Territory. Their disposition seemed to be to engage in personal and partisan schemes instead of devoting themselves to great public concerns.

This is the solemn declaration of a Democratic governor and his judgment upon the representatives of the people assembled under the influence of solemn oaths to do their duty to the people of the Territory. I cite it, Mr. Speaker, as an evidence of the want of capacity of that people for self-government. Our friends on the other side can make what they please of it. They may say it was a Republican Legislature. Very good, the people of New Mexico chose them from the body of the people of the Territory as their representatives and to legislate for them. They voiced, I argue and believe, the intelligence and capacity of the people for the serious question of self-government.

Notwithstanding the example of the older States and the other Territories, with which these representative men must certainly have been quite well acquainted, they were utterly unable to devise any plan or scheme for raising revenue for the Territory and enacting other wholesome laws, and hence the disgraceful condition of affairs, according to the report of the governor, who has thus deliberately pictured it. Allowance should be made, of course, for disputed and unsettled land titles, for the condition of agriculture, as it was and is in its limited development, and also for a civilization slow of advancement, yet it seems to me these people ought to have been sufficiently intelligent to legislate more successfully upon a practical question like raising the necessary money for the current requirements of the Territory and to meet the ordinary expenses of the government, and thus upon a most practical question exemplified their capacity, in connection with other lines of legislation, to lay the foundations of a State and erect its superstructure thereon. [Applause.]

[Since delivering his remarks Mr. STRUBLE has received from Albuquerque, N. Mex., by mail the following copy of a memorial, which has been forwarded to a Senator, and which it is desired may accompany his observations as printed.]

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

The undersigned, your petitioners, would respectfully represent that it is not to the business interests, nor is it the desire of the great majority of New Mexico's citizens, who are engaged in commercial pursuits, that New Mexico should at the present time be admitted into the Union as a State.

Your petitioners would further represent that New Mexico is at present totally unfitted for the responsibilities of statehood, because, first, the greater part of her population are unfamiliar with the English language, and though honest and of good intentions, are a class of people over whom the designing, dishonest, and untruthful politicians readily acquire a power that enables the latter to sway the former almost without limit; second, because, up to the present time, it has been demonstrated that political power in our Territory has been controlled and held by those whose movements and whose apparent aims are inimical to an honest, upright, and intelligent administration of public affairs, and that the average character of our Legislatures has been such as causes the gravest fears that if left to enact laws which the people could not take to your honorable bodies to have annulled, that our code of statute laws would become a disgrace to us as a State, and to our sister States, with whom we would be associated in the National Government, and would bring ridicule upon us from the entire civilized world; third, that our political leaders have been politicians for revenue only; the only limit to their rapacity has been the amount of money raised by taxation and the amount of indebtedness they could heap upon the Territory at a profit to themselves, and the only check to their unconscionable schemes has been a realization of the fact that our governors and judges have been appointed by the different Presidents and were not subject to the whims and caprices of these political vampires.

Your petitioners would further respectfully represent that they are not office-holders, but are, and for a long time have been, residents of the city of Albuquerque, and are all personally engaged in business pursuits in Albuquerque, which is now the commercial center of New Mexico; and that it is your petitioners' earnest belief that before our Territory should be admitted to statehood your honorable bodies should provide some convenient, speedy, inexpensive, and certain method to settle the present anomalous condition of title to the vast area of our most valuable lands, which are now claimed largely by unscrupulous and designing persons, as grants from the Mexican and Spanish Governments; and that your honorable bodies should enact such laws as would compel our Territorial officers to transact all public business, and keep all public records, in the English language, and require the English language to be taught in our public schools, and make it a qualification of teachers, jurymen, and officials of all kinds that they should be able to speak and write the English language. When you have done this, when the masses of citizens come to thoroughly understand the true responsibilities and privileges that are theirs as voters and citizens of the United States, and would be theirs as citizens of a State, when our wonderful agricultural, timber, and mineral lands have the present clouds, in the shape of land grants, removed from their title, so that an intelligent immigration will come among us, to take advantage of our productive soil, unsurpassed resources, and salubrious climate, and when we can be assured that the spoilsman and the political mountebank no longer has the masses fettered, bound, and under his control, and we know that honesty, economy, and virtue will prevail in the administration of public affairs, then will your petitioners be most urgent in the claim that New Mexico should be admitted to statehood, and to assume the duties and responsibilities of State government, but until then we will ever most earnestly protest against our Territory being admitted into the Union as a State.

During the delivery of Mr. STRUBLE's remarks the following proceedings were had:

The SPEAKER *pro tempore* (Mr. DUNN in the chair). The gentleman's time has expired.

Mr. STRUBLE. I ask consent of the House to extend my remarks in the RECORD.

Mr. WARNER. I ask by unanimous consent that the gentleman from Iowa [Mr. STRUBLE] be permitted to finish his remarks.

Mr. STRUBLE. I wish to make one point more, which will take perhaps ten minutes.

Mr. SPRINGER. I move that the gentleman be permitted to go on ten minutes longer.

Mr. BAKER, of New York. I ask that the gentleman be permitted to proceed until he has finished his remarks.

Mr. DINGLEY. The same courtesy was allowed to other gentlemen.

The SPEAKER *pro tempore*. Is there objection to allowing the gentleman to proceed for ten minutes longer?

Mr. BAKER, of New York. I move that he be allowed to proceed until he has concluded his remarks.

Mr. STRUBLE. I am a member of the Committee on the Territories and have not intruded myself upon the House but very little heretofore.

Mr. SPRINGER. I ask the gentleman have all the time he may desire.

The SPEAKER *pro tempore*. How much?

Mr. SPRINGER. He says ten minutes.

Mr. BAKER, of New York. Let him go on until he has finished his remarks.

Mr. BURROWS. I understand the gentleman from Iowa only asks for fifteen minutes.

Mr. STRUBLE. I will try to conclude in fifteen minutes.

Mr. SPRINGER. I understood the gentleman to ask for only ten minutes.

Mr. TOWNSHEND. Let me ask a parliamentary question.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. TOWNSHEND. When is the final vote to be taken on this proposition?

The SPEAKER *pro tempore*. That is not a parliamentary question. Is there objection to allowing the gentleman from Iowa to continue his remarks fifteen minutes longer?

Mr. TOWNSHEND. I wish to know from the Chair whether any resolution has been adopted by the House fixing the time the final vote is to be taken on this subject.

The SPEAKER *pro tempore*. There has not.

There was no objection, and Mr. STRUBLE was allowed to proceed for fifteen minutes longer.

The Sugar Bounty.

SPEECH

OF

HON. JOHN C. SPOONER,

OF WISCONSIN,

IN THE SENATE OF THE UNITED STATES,

Friday, January 18, 1889.

The Senate having under consideration the bill (H. R. 9051) to reduce taxation and simplify the laws in relation to the collection of the revenue—

Mr. SPOONER said:

Mr. PRESIDENT: I desire to give, as briefly as I may, the reasons which induce me to vote for the pending amendment. Before proceeding, however, to a discussion of the specific question before the Senate I venture to remark that this subject, in general and in detail, is one upon which men may well honestly differ. We upon this side of the Chamber represent one school of political economy; our friends on the other side, with one or two exceptions, represent another, and we are wide apart in our views. The Senator from Missouri [Mr. VEST] alluded yesterday, in discussing this amendment, to the fact, and so far as I am concerned I have no disposition to conceal that it is within certain limits a fact, that there are, in a sense, dissensions among Republican members of the Senate as to certain details of this bill.

I can not say that every item in this bill meets my unqualified approval. It would be difficult, I fancy, to frame a bill thoroughly revising the tariff upon all the items of which Republican Senators would coincide. But I am in favor of reducing the revenues of the Government upon the line which has been observed in the formation of this bill; in other words, on the line of protecting American industries, increasing the demand for American labor, building up in every way our own country to the uttermost, and winning in the completest possible sense our industrial independence. It is my firm belief that the tenets of Senators upon the other side will lead away from the accomplishment of this great purpose.

They object vehemently to being called free-traders. In a technical and absolute sense they may not be such. In a practical sense, having reference to the commercial systems of the world to-day, they are in no position to successfully impeach the justice of this designation. They are in favor, they tell us, of raising revenue by levying customs duties, but they are in favor of raising those duties for revenue only. In other words, they are—and that constitutes the free-trader of to-day—in favor of a tariff for revenue only. Aside from the general denunciation of the protective system, in which, with few exceptions, they have indulged, I do not recall in all this great debate in either House a word said in its favor, except by two or three in the Senate.

The best definition I have recently heard of such a tariff is that given by the Senator from Texas [Mr. REAGAN] at the last session. He said, as I remember his speech, that whenever the duty reached a point where it became protective—in other words, whenever it reached a point where it discouraged the importation of foreign products—he was opposed to it, his theory being that the duty should be levied to encourage the importation of products from abroad in competition with those of our own country. That is not the theory of this side of the Chamber, nor is it the theory of the people, at least of the Northern people. For myself, I am in favor of putting on the free-list whatever we want in this country which we do not here produce, and of reducing the revenues of the Government by requisite duties upon the importation of those foreign products which come into unfair competition with our own because of the differences in condition between labor abroad and in this country.

I have been somewhat surprised at the bitterness which has many times been manifested on the other side of the Chamber in the discussion of this question. We have been charged with being in favor of monopoly, but certainly our friends have had a monopoly in this debate of vituperative words. Almost every Senator who has spoken in opposition to this bill has denounced the protective system as one of robbery, and the word "steal" has not been of infrequent use nor of limited application. It must seem strange to the country that in this great legislative body discussion of an economic policy is so fruitful of acrimony. It is a fair concession to those of us who do not believe in tariff for revenue only that we are sincere, and it is of course an equally fair and just concession for us to make, and I cheerfully make it, that those on the other side of this Chamber who advocate a different policy are sincere.

It is a mistake, Mr. President, for our friends to assume that the American people in the last election did not consider this question and did not decide between these two policies. Whatever else of principle was involved in that great contest, and there was much, the difference between the two great parties upon the question of an adequate protective tariff and free trade, or a tariff for revenue only, was a governing factor. There never was a campaign in which there was so complete and earnest debate from every rostrum upon this subject as that from which we have just emerged. Every speech that was made in the House of Representatives and in the Senate upon this question was sent broadcast throughout the country.

The press, great and small, metropolitan and rural, of both political parties, for months before the election laid before the people elaborate and analytical articles upon the tariff. There was hardly a schoolhouse in the North in which again and again the question was not discussed and the differences between the two parties pointed out. Distinguished orators from Texas, including the chairman of the Ways and Means Committee of the House of Representatives, and his Democratic confrères upon that committee from the South, were heard in many Northern States and accorded a respectful hearing.

The intensity of the interest manifested by every grade of our people in the subject, in its varied aspects, might well excite wonder among any other people; and between the two systems, that represented by the President's message and the Mills bill, and that represented by the Senate bill and the report of our Finance Committee upon it, the people solemnly and deliberately chose at the ballot-box in November. So that we may fairly take it as settled from that election that even though the people might not be satisfied with all the details of this bill, or of any tariff bill which may be formulated, they are not willing to let go the protective system, under which this country has so grown, despite unfavorable conditions, that to-day its equal in wealth and prosperity and strength and in the happiness of its people is not found upon the earth.

I say to the Senator from Texas and to his associates that the people of the North will not take kindly to the assertion made by him the other day and repeated by others in this debate that they have been educated wrong, and that in a single canvass of a few months there has not been time to correct the errors into which they have been led. Senators are mistaken. The great reading, thinking people of the North understand this subject, and they know in what direction their interests lie, and their decision at the last election can not be impeached or overthrown by any such suggestion.

So that, Mr. President, I feel certain that I shall be representing fairly the greatly preponderating judgment of my constituency in voting for this bill, though there may be in it, as there are, items which do not meet with my approval.

Mr. President, our friends seem to think that whenever they are able to show that a duty levied to encourage an industry in this country constitutes, for the time being, a tax upon the people, however slight, it is the end of all argument, and that the American people when they shall once understand that the price to the consumer is thus increased by the levy of a duty will repudiate it as a betrayal of their interest. I think they misunderstand in this the temper of the people, and that they underestimate the patriotism of the people. It is a fundamental error to assume that the destiny of the Anglo-Saxon race on this continent is to be able to buy for a time this or that article a little cheaper.

It is wiser statesmanship, and more in harmony with the patriotism and judgment of our citizens, to take a broader view of such a subject. If we can by the levy of a duty encourage a new industry; if we can plant factories where they do not exist; if we can draw capital into new fields of investment; if we can increase the demand for labor, and thus add to the rewards of labor, and elevate the standard of living among those who labor; if we can diminish the dependence of our country upon any other country for that which we want, I believe the American people are quite willing, not only willing but anxious, to endure the temporary tax which that may involve. They look beyond to-day to the future, and are not disposed to reduce everything on this earth to the standard of the penny.

Now, as to the proposed bounty:

First. Is it constitutional? It is not to be expected that we will agree on this side of the Chamber with the principles of constitutional construction maintained by the Senator from Texas, and many of those associated with him. He belongs to the old school of strict constructionists. We on this side of the Chamber do not. He belongs to the school of constructionists whose object from the beginning was to so construe the Constitution as to enlarge the powers of the States, and to shrink the powers of the United States. He belongs to the school of constructionists who could find in the Constitution power in the State to overturn the Government, to destroy the Union under the Constitution, but could never find in that instrument any power in the National Government to enforce the laws or to maintain its integrity.

If that school of constructionists had been successful we would have had no united country and little need of a Constitution. But that school is fast going to pieces. Every now and then some distinguished member breaks away from it. There is not a Senator on that side of the Chamber who has voted for what is called the "Blair bill" who has not openly abandoned and deserted that school of strict constitutional construction. Since the war at least it ought to be taken as forever settled in this country that the broader construction of the Constitution, under which the Congress of the United States may preserve the Union, and build up its industries, and subserve the purposes of good government, is no longer to be hampered by such views as those announced by the Senator from Texas.

There can no longer be any doubt of the constitutional power of Congress to enact a protective tariff, and so far as the mere question of constitutional power is concerned, the distinction is not easy to discover between a prohibitory duty, or a duty levied with especial reference to building up an industry or to maintaining it against unfair foreign competition, and the granting of a bounty for the same purpose. It is too late for the Senator from Texas, or any other Senator, to successfully establish the proposition that Congress has not the power to do the former. I do not intend to spend any time upon it. It is enough to say that the first Congress which sat after the adoption of the Constitution, and which numbered among its members many of the most distinguished statesmen who took part in framing that instrument, adopted a protective-tariff law, and that from that day to this it has been in practice the legislative policy of this Government.

The preamble declares the purpose of the act, and affords conclusive evidence that the Congress had, by it, in contemplation the encouragement and protection of manufactures. It can not be too often quoted. It is as follows:

Whereas it is necessary for the support of the Government for the discharge of the debts of the United States and the *encouragement and protection of manufactures*, that duties be laid on goods, wares, and merchandise imported.

Not much "tariff for revenue only" in this famous preamble!

Certainly those men knew as well as the Senator from Texas the purpose and scope and true construction of the Constitution and were as unfaltering in their fealty to it.

Such a long-continued, practical exposition of the Constitution certainly ought to be sufficient to put an end to all question upon the subject.

But, Mr. President, the Senator from Texas argued, and I think he read from Mr. Clement C. Clay, of Alabama, and from Judge Cooley's work on Constitutional Limitation, to show that this proposed bounty is a violation of the fundamental principles of Government. As the Senator states the proposition for which he contends, and if reference is had only to the quotation from Judge Cooley, without regard to the context, and to the cases to which he refers, the Senator would not be far wrong. He argues that Congress has no power to raise money by taxation for a purely private purpose, and that the grant of this bounty is a purely private purpose, and that therefore it is unconstitutional.

If one were to grant the premises of the Senator he could hardly escape his conclusion. He quotes from Judge Cooley the following:

We think it clear, in the words of the supreme court of Wisconsin, that the Legislature can not, * * * in the form of a tax, take the money of a citizen and give it to an individual, the public interest and welfare being in no way connected with the transaction. The objects for which money is raised by taxation must be public, and such as to subserve the common interest and well-being of the community required to contribute, or, as stated by the supreme court of Pennsylvania, the Legislature has no constitutional power to * * * levy a tax, or authorize a municipal corporation to do it, in order to raise funds for a mere private purpose.

No such authority passed to the Assembly by the general grant of legislative power. This would not be legislation. Taxation is a mode of raising revenue for public purposes. When it is prostituted to objects in no way connected with the public interest or welfare it ceases to be taxation and becomes plunder from the owners of it into the possession of those who have no title to it. Though it be done under the name and form of tax, it is unconstitutional for all the reasons which forbid the Legislature to usurp any other power not granted to them.

No one questions the correctness of the proposition here laid down. The Wisconsin case to which Judge Cooley refers was one in which the city of Milwaukee undertook, by an ordinance, to exempt from taxation the hotel property of a citizen in that community. The statement of the case vindicates the conclusion and language of the court. The Pennsylvania case was one of the same kind.

The Senator also quotes from a decision of Mr. Justice Miller, in the case of Loan Association against Topeka (20 Wallace, 664), the following, which is a favorite quotation of the modern tariff reformer:

To lay with one hand the power of the Government upon the property of the citizen, and with the other to bestow it upon favored individuals, to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law, and is called taxation. This is not legislation. It is a decree under legislative form.

The case in which this decision was rendered was one in which the common council of the city of Topeka issued $100,000 of bonds, as a donation to a particular company located in that city, to encourage that company in establishing a manufactory of iron bridges there, the bonds to be paid by taxation. Judge Miller says, as a result of his examination of the authorities to which he referred, and of the reasoning of his opinion:

We have established we think beyond cavil that there can be no lawful tax which is not laid for a public purpose. It may not be easy to draw the line in all cases so as to decide what is a public purpose in this sense and what is not.

It is obviously dangerous and misleading to cite isolated sentences from an opinion of a court as maintaining a general proposition of law without any regard to the case in hand or to the reasoning of the opinion as a whole. It is singular that the Senator will not distinguish between a case in which an attempt was made to levy taxes for a purpose concededly private and one like that which underlies this proposition for a bounty, which invites the whole people of the United States into a new industry—to engage in the culture of the sugar-beet, of sorghum-cane and of the sugar-cane, and the establishment all over the land of sugar manufactories, which, if successful, shall make us entirely independent of all the peoples of the earth in the production of this necessary of life, besides vastly increasing the wealth of our whole people and widening the field for labor. Is this not a public purpose? Is it in any sense a narrow and private one, like that to which the Senator adverted?

I ventured to call the attention of the Senator, as bearing upon his proposition that the bounty was a violation of the fundamental principles of government and a tax for purely private purpose, which the State can not any more do than the National Government, to a decision of the Supreme Court of the United States (Salt Company *vs.* East Saginaw, 13th Wallace, 373), which seemed to me to meet and overthrow his proposition. It grew out of this state of facts: Some years ago it occurred to the Legislature of Michigan that it was important to the people of that State to encourage and build up the salt industry. Thereupon, and for that purpose, they enacted a law declaring that all companies or corporations formed, or that might be formed, "for the purpose of boring for and manufacturing salt in that State, and any and all individuals engaged, or to be engaged, in such manufacture, should be entitled to the benefits of the act, and that all property, real and personal, used for said purpose should be exempt from taxation, and that there should be paid from the treasury of the State, as a bounty, to any individual or company or corporation the sum of 10 cents for each and every bushel of salt manufactured by such individual, company, or corporation from water obtained by boring in the State."

Mr. REAGAN rose.

Mr. SPOONER. Does the Senator desire to ask a question?

Mr. REAGAN. I desire to ask a question. I wish to know if the Senator does not recognize that there is a difference between the limited and delegated power of the Federal Government and the general grant of legislative power to a State?

Mr. SPOONER. I will get to that in a moment, when I shall have concluded the statement of facts. The law had the effect intended. It induced a large number of firms, and of individuals, to procure the necessary plant, and to engage in the manufacture of salt. After the industry had been largely developed (and the development was brought about confessedly by this bounty law), the Legislature of Michigan repealed the law, and the property thus purchased was subjected to taxation. The question was raised whether that law, as to the individuals and companies which had acted under it prior to its repeal, was not a contract of exemption and bounty, and therefore whether this act of Michigan repealing it was not violative of the Constitution of the United States as impairing the obligation of a contract. The supreme court of Michigan held that it was a bounty law, pure and simple. The supreme court say (19 Mich., 274):

The act of 1859 is clearly, in its nature and purpose, a bounty law, and nothing else. For the encouragement of the manufacture of salt it promises an exemption from taxation and for the payment of a sum of money for each bushel of salt produced after the quantity shall have reached a certain prescribed limit. When a bounty is earned it becomes a vested right, and we fully agree with the former decision of this court in People against Board of State Auditors (9 Mich., 327), that the party earning it can not then be deprived of the right.

It did not occur to the court that this law, which was a "bounty law, and nothing else," for the encouragement of the manufacture of salt, was unconstitutional, or a violation of the fundamental principles of the Government, or that it took the property of the people and transferred it to individuals for a merely "private purpose," which even a State can not do. The opinion is one of much learning, and was delivered by Chief-Justice Cooley, the distinguished author of the work on Constitutional Limitations, from which the Senator from Texas read. The court held that the law, though a valid law, was not in the nature of a contract, and therefore might be repealed as to those who had not yet earned the bounty. The Supreme Court of the United States took the same view, not intimating at all any doubt as to the validity of the law. They say, in short:

The law does not, in our judgment, belong to that class of laws which can be denominated contracts, except so far as they have been actually executed and complied with. There is no stipulation, express or implied, that it shall not be repealed. General encouragements held out to all persons indiscriminately to engage in a particular trade or manufacture, whether such encouragement be in the shape of bounties or drawbacks or other advantage, are always under the legislative control, and may be discontinued at any time.

Mr. REAGAN and Mr. GRAY addressed the Chair.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. SPOONER. Certainly.

Mr. REAGAN. I desire to ask the Senator if he does not make the distinction, even under that decision, between the limited and delegated power of Congress to do only what it is authorized to do, and the general power of the State to do what is not prohibited?

Mr. SPOONER. The Senator and myself never will agree so long as we live upon the limitations upon the powers of the General Government in respect of tariff taxation. In other words, he clings to a construction of the general-welfare clause of the Constitution which I utterly repudiate. We can not expect to agree upon that subject. I was attempting to controvert his proposition that it was a violation of fundamental principles of government to give a bounty to encourage or stimulate any industry and his assumption that the purpose of this bounty was a private instead of a public one.

Mr. GRAY. Will the Senator yield to me?

Mr. SPOONER. Certainly.

Mr. GRAY. The Senator from Texas asked the question I was about to ask the Senator from Wisconsin myself. I would be very glad if the Senator from Wisconsin would answer the question of the Senator from Texas as to whether he believes that it is a correct canon of construction of the Constitution of the United States, as distinguished from the rules that govern the construction of a State constitution, that in the latter case all powers inhere in the State government that are not expressly denied it by its constitutional framework of government, while as to the Constitution of the United States no powers are to be considered as granted or implied unless specifically granted. I ask the Senator whether he denies that proposition?

Mr. SPOONER. The Senator merely puts to me in perhaps a little finer and more elaborate phrase the question put by the Senator from Texas, and I must say in reply to the Senator from Delaware what I said in reply to the Senator from Texas, that I think, unlike the Senator from Delaware, that a true and correct interpretation of the general-welfare clause of the Constitution warrants the appropriation by the Congress of the United States of money for education in the States, and for other purposes national in character. In other words, I have never entertained any doubt, as the Senator from Delaware has, of the constitutional power of Congress to pass the Blair bill. I think, under the Constitution of the United States, Congress has the power to give this bounty or any other bounty to all the people, and which will, in the judgment of Congress, encourage and build up a great industry. So, as far as the construction of the Constitution of the United States is concerned, in this respect the Senator and I differ, as he knows.

The Supreme Court of the United States do not sustain the act of Michigan upon such a distinction as the Senator suggests between the power of a State and the power of the Federal Government. They treat it as a bounty law, and, being a bounty law, as valid. If it were what the Senator from Texas argues, no State could pass it. On my construction of the Constitution the Congress of the United States is not prohibited by the Constitution from passing a bounty law, and it seemed to me that this decision might be fairly used in support of the proposition that it violated no fundamental principle of government.

The Senator from Texas seems to think that a bounty necessarily operates to take money from the pockets of the people and put it without consideration into the pockets of a few for a purely private purpose; that it can not be for a public purpose, and therefore within the province of Congressional legislation.

Mr. GRAY rose.

Mr. SPOONER. Does the Senator from Delaware desire to interrupt me?

Mr. GRAY. I do not wish to interrupt the line of the Senator's argument if it is disagreeable to him, and if he so intimates I shall desist. It seems to me that the question put by the Senator from Texas is a pertinent one. From what the Senator from Wisconsin has just said I rather infer that he does not disagree with me as to the fundamental proposition that in the rules of construction which have been applied by courts and by authorized expounders of the Constitution who have treated of the subject, there is a difference between the construction of a State constitution and the construction of the Federal Constitution in this regard, that whereas in the one case the State government has all those powers of legislation which are not denied to it by its constitutional framework of government, in the case of the Federal Government it has no powers except those specifically granted to it, or those which are necessarily implied from the powers that are specifically granted.

Mr. SPOONER. I am familiar with the distinction between State sovereignty and the power of the National Government.

Mr. GRAY. I supposed the Senator was, of course; it is so fundamental and elementary.

Mr. SPOONER. But so far as this amendment is concerned, that seems to me to be a mere abstraction.

Mr. GRAY. If the Senator will yield to me for one moment, I shall not interrupt him again. I thought it necessary to call the attention of the Senator from Wisconsin to the question again because I think he said a while ago, after the Senator from Texas had asked the question, with a great deal of emphasis, that the Constitution of the United States did not deny to Congress the right to grant a bounty, which would seem to indicate that he entertained an opinion in regard to the proper rule of construction which I have just adverted to at variance with what I think he really entertains.

Mr. SPOONER. I said, and I repeat, that under a proper construction of the general-welfare clause of the Constitution of the United States, I think Congress has the constitutional power to grant this bounty.

Mr. BUTLER. May I interrupt the Senator simply for the purpose of making an inquiry?

Mr. SPOONER. Certainly.

Mr. BUTLER. In his opinion is there any limitation whatever upon the power of Congress under the general-welfare clause?

Mr. SPOONER. The limitation upon the power of Congress under the general-welfare clause is not easily defined, in my judgment.

Mr. BUTLER. In other words, then, I understand the position of the Senator to be that whatever a majority of Congress thinks wise and proper and for the general welfare may be done.

Mr. SPOONER. They must be national objects affecting the general welfare.

There has been since the war a popular construction, in a sense, of the general-welfare clause of the Constitution of some significance. I suppose it is fair to assume that the States would not adopt an amendment to the Constitution prohibiting Congress from exercising a particular power, except upon the theory that that power exists and might lawfully be exercised unless prohibited. After the war the States found it necessary, or thought it wise, to adopt an amendment to the Constitution prohibiting Congress from paying for slaves or assuming the Confederate debt, implying that without this prohibition it might be done.

Mr. BUTLER. The Senator and I differ in one respect. I had always supposed that the Constitution and laws of this country were construed by the judicial department of the Government and not by popular opinion. It seems, however, that he is trying to put on a different construction. He says, as I understand him, that the popular opinion of this country has settled several questions of construction of the Constitution since the war; that, among other things, Congress has been prohibited from paying for slaves, and has been prohibited from assuming the Confederate debt, and that, therefore, upon all questions, as I understand him, it is only necessary to get the popular judgment in order to obtain a correct construction of the powers of Congress under the Constitution.

Mr. SPOONER. I have not said that. The Senator, however, ought to be, and I presume is, familiar with the proposition of law that a long-continued and uninterrupted practical exposition of a statute by a legislature or by executive officers is often taken by the courts as equivalent to a judicial construction. I referred, as I have good right to refer, as bearing upon the proposition that it is difficult to define the precise limit of power under the general-welfare clause, to the fact of the popular interpretation of that clause as to be inferred from the action upon the constitutional amendment to which I alluded, and my friend must not forget that this construction by the States is by the Constitution-making power of this country.

Mr. HOAR. Will my friend from Wisconsin allow me to make a suggestion?

Mr. SPOONER. Certainly.

Mr. HOAR. I desire to suggest to my friend from Wisconsin, and to call to the recollection of the Senate (in order to show that this is not a partisan or even a local or sectional view of this matter), that when the present Attorney-General of the United States was a highly honored and distinguished member of this body he advocated in the strongest terms the constitutional view which my friend from Wisconsin has stated, to wit, that in the expenditure of money under the general-welfare clause Congress has the constitutional power to expend money from the Treasury without limit for national objects which are in its judgment for the general welfare.

Mr. MITCHELL. That it is not prohibited?

Mr. HOAR. It is not prohibited.

Mr. SPOONER. Of course it is not.

Mr. GEORGE. Will the Senator allow me to ask him a question so that I may understand his exact position; that is all? I do not want to interrupt him, except to get a clearer idea in my own mind of his position. Will the Senator allow me?

Mr. SPOONER. Certainly.

Mr. GEORGE. There are two general-welfare clauses in the Constitution. One is found in the preamble. Under that I have not understood that any jurists of late years have claimed that any specific power or any substantive power was granted. There is another, contained in section 8 of the first article of the Constitution:

> The Congress shall have power:
> 1. To lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defense and general welfare of the United States.

Under that clause, since the time of Mr. Monroe, a great many persons who belong to the school of what are called strict constructionists of the Constitution have believed that pure expenditure of money and nothing else might be made outside of the specific powers granted by the Constitution to Congress merely upon the ground that such expenditure was for the general welfare of the people of the United States.

The question I desired to ask the Senator was, whether in deducing a power of Congress under what he calls the general-welfare clause he alluded to the general-welfare clause as stated in the preamble, which would give a general power of legislation over all subjects, whether relating to an expenditure of money which Congress might deem for the general welfare or otherwise, or whether he confined himself to the clause which I have read in the eighth section of the first article, confining the power of Congress under what he calls the general-welfare clause of the Constitution simply to an expenditure of money for the general welfare?

Mr. SPOONER. I am now taking no account of the preamble.

Mr. REAGAN rose.

Mr. SPOONER. I intended to be brief, and these interruptions are taking time. I would be glad to be permitted to go on.

Mr. REAGAN. Will the Senator allow me to say one word on the subject presented?

Mr. SPOONER. Certainly.

Mr. REAGAN. My understanding is that Mr. Story, in commenting upon what is called the general-welfare clause in the eighth section of the first article of the Constitution, assumes that it is not a substantive grant of power, but that it is a limitation upon the grants of power, and in arguing that question he says if the general-welfare clause of the eighth section was a grant of power, then it was useless to go on with the article and mention the various grants of power contained in that interesting article, because all else would have been surplusage.

Mr. SPOONER. I do not so read Mr. Story, but that is the view of the school of which the Senator is a disciple.

But, Mr. President, it is a waste of time to further discuss this question of constitutional power, or to refine upon it at this day. In the earlier days of the Republic bounties were frequently granted by Congress. The first law that ever was passed upon the subject of a tariff contained them.

The question ought to be considered at rest.

Second. Is it expedient to grant the bounty proposed by this amendment of the Finance Committee? As a matter of first impression it seemed to me open to the objection that being a bounty upon an agricultural product it might be deemed among agriculturists invidious, in that it offered encouragement to one product of agriculture which it denied to others, such as wheat and cotton and corn and the like, but it has seemed to me, upon reflection, that there would be no ground for dissatisfaction in that respect. The others are all well established in this country, and have been for a great number of years, and there is none certainly of more universal consumption, or more to be regarded as a necessary of life, than sugar.

I think if by any means we can stimulate the sugar industry, so as to be able in the course of time to produce in our own country, by the employment of our own capital, and by means of our own labor, all of the sugar which its vast and rapidly increasing population needs, at the same time adding what is of infinite importance, one more element in the diversification of our agriculture, no one will deny that

it is important to do so. Other countries have done so, whose soil and climate are not better adapted to the growth of products rich in sugar than portions of the United States. What has been done in Germany, and France, and Russia, and Austria, and in Denmark is worth trying in the United States. The industry is already started, and has made fair progress. The subject is not a new one in this country. Attention has been frequently called to it by very learned, elaborate, and practical reports from the Agricultural Department.

Congress has, from time to time, for some years appropriated large sums of money for making and reporting experiments, in order that the processes of other countries might be adopted here, and perhaps even improved. The people have taken great interest in it. The facts as to the manufacture of sugar from sorghum in the State of Kansas were laid before the Senate quite fully by the Senator from Kansas [Mr. PLUMB] in his able and instructive speech of yesterday. The experiment in the growth of the sorghum cane, and in the manufacture of sirup from it, has been tried with success, flattering under the circumstances, in the by no means tropical region from which I come.

In the year 1884 over 321,000 gallons of this sirup were produced in Wisconsin. What the possibilities are in that region in the culture and utilization of the sugar-beet is, of course, yet problematical, although a comparison of the rainfall and the conditions essential to the successful raising of the sugar-beet, and the manufacture of sugar therefrom, in Denmark, where it is now a profitable industry, with portions of Wisconsin and Minnesota and Illinois does not exclude those regions from flattering possibilities in that direction. The manufacture of sugar from the beet in California has made great advancement. In truth, with our infinite variety of soil and climate, with the courage, intelligence, industry, and ingenuity of our people, and the abundance of our capital, who will dare to say that the field is not fairly open to us for the successful manufacture of sugar in our own country, and that all inducement and encouragement in that direction may well cease? Certainly it would not be fair to that industry to-day, or just to the people of the United States, to withdraw from it all measure of protection.

This protection must be afforded in one of two ways: Either by maintaining an adequate duty upon it, or by lowering the duty and in lieu of it affording the needed protection by bounty. It is strenuously insisted by those representing sugar-producing States that a protection of less than 2 cents a pound will not be sufficient. As between the two plans I do not hesitate, under the circumstances, to choose the Senate proposition. I am not in favor of maintaining the duty as fixed by the present law, or even as fixed by the Mills bill, upon sugar.

This matter was much considered by the people during the last campaign. In demonstrating the sectional character of the Mills bill, and by way of impeaching the sincerity of the Democratic party in demanding a reduction of duty on the necesaries of life, we "many times and oft," and everywhere, called attention to the fact that the Mills bill had reduced the duty on sugar, which is a necessary of life, and of universal consumption, but a trifle, and we called attention to the fact, as we had a right to do, as evidencing sincerity upon the part of the Republican party in this respect, that the Senate bill reduced the duty on sugar one-half. I feel warranted in saying that so far as my participation in the campaign gave me opportunity of observation the proposition to thus reduce the duty upon sugar, as proposed by the Senate bill, was one which met universal popular approval.

The duty upon sugar is a purely revenue duty. It is a tax, and is added to the cost to the consumer of every pound of sugar, for the reason that the domestic production is, as compared with the amount of sugar imported into the country, absolutely trifling, and the home product being so slight it affords no competition with imported sugar, and therefore does not tend even to bring down the cost of sugar to the people. In this respect it differs from most protected articles.

It was stated here in debate yesterday, and I will repeat it, that our importation of dutiable sugar during the year 1887 was 2,781,159,695 pounds. The value of the imported sugar was $68,882,884. The duty or tax paid upon it by the people of the United States was $56,507,465, a little over 80 per cent. of the value. The sugar product of Louisiana for 1887 was 181,123,872 pounds. This, it will be observed, is a mere bagatelle. Manifestly it is asking too much by way of encouragement to the sugar industry of Louisiana, or of this country, that the duty on sugar shall be maintained at its present rate, or even as it is fixed by the Mills bill. To make it at the rate fixed by the latter, even, would be affording to that industry a greater measure of protection than any ever given under any tariff to any other industry in the United States. It is out of all reason and utterly indefensible.

The Mills bill reduces in the aggregate this tax upon the people about $11,000,000 per annum; the Senate bill reduces it about $28,000,000 per annum. The difference in the annual reduction, upon the basis of the importation of 1887, is in favor of the Senate proposition about $17,000,000. The bounty proposed would amount to between three and four million dollars. My friend from Iowa [Mr. ALLISON] informs me that it would amount to abont $3,500,000. Call it $4,000,000. Now, it is manifest that by giving this bounty of 1 cent per pound and reducing the duty 1 cent per pound we will make an annual saving upon this necessary of life to the people of the United States of about $24,000,000 a year over the present law, and of at least $13,000,000 a year over the Mills bill, and at the same time afford to the sugar industry of the country all of the encouragement and protection which would be afforded by the Senate bill fixing the duty at 2 cents a pound. This vast sum of money is worth saving.

Mr. REAGAN. Will the Senator allow me to ask him a question for information? I understood him to say that the imports last year were 2,781,000,000 pounds, and that the same year the domestic product was 189,000,000 pounds.

Mr. SPOONER. Oh, no; I said the same year the Louisiana product was 181,123,872 pounds. The other domestic product was 10,158,400 pounds, and the dutiable importation was 2,781,159,695.

Mr. REAGAN. It was stated by the committee that our imports of sugar for the year 1887-'88 were 3,330,000,000 pounds. The amount produced in the United States the same year was 290,000 hogsheads, equal to 580,000,000 pounds, making an aggregate of 3,880,000,000 pounds for consumption.

Mr. SPOONER. I am not talking about what the bounty would be if we raised all our own sugar; I am talking about what the bounty would be based upon the present domestic product. I was undertaking to show that we could pay this bounty, which would amount to about $4,000,000, reduce the duty on sugar one-half, and still save to the people of the United States each year about $13,000,000 over the Mills bill, and about $24,000,000 over the present law.

Mr. REAGAN. I suggest to the Senator, if he will allow me, that the production of last year would certainly amount to 580,000,000 pounds.

Mr. SPOONER. I think the Senator is mistaken. That is a mere matter of arithmetical calculation, however. I am quite sure that my figures are correct.

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

Mr. REAGAN. I said 580,000,000 pounds.

Mr. SPOONER. I was informed by the Senator from Iowa that on the domestic product the bounty would be between $3,000,000 and $4,000,000.

Mr. ALLISON. On the basis of any production hitherto in this country from sugar-cane, beets, and sorghum, three millions and a half; and three millions and a half is a high estimate.

Mr. GIBSON. If the Senator from Wisconsin will allow me——

The PRESIDENT *pro tempore*. The Senator from Louisiana appeals to the Senator from Wisconsin.

Mr. REAGAN. In one moment. I want to state that the committee have brought in a report here in which they say the production last year was 290,000 hogsheads, and that would make 580,000,000 pounds.

Mr. ALLISON. Where has the committee brought in such a statement as that?

Mr. SPOONER. That is tobacco, is it not?

Mr. REAGAN. I did not mean tobacco; I meant sugar. I have the committee's statement about the amount of sugar, and it shows the bounty must go over $5,000,000.

Mr. GIBSON. The Senator from Wisconsin predicates the amount of sugar produced in this country on the present production of sugar, but the object of the amendment is largely to increase the production of sugar. If that be the case, we may assume that the bounty, instead of being $3,000,000, as it would be, laid on the present production, will increase fivefold every succeeding year, so that in five years from now the bounty paid out of the Treasury of the Government of the United States to sugar-producers would probably exceed the amount now levied under the tariff.

Mr. SPOONER. If I did not suppose that the home production would increase, I certainly should not vote for this amendment. The object of the proposition is to secure, if it be possible to do so, such a growth and development of the sugar industry of the United States as to necessarily increase the annual bounty.

Mr. GIBSON. If the Senator will permit me, I assumed that he was proceeding in his remarks upon the assumption that the bounty method would be more economical to the people of the United States in the long run than the protective policy.

Mr. SPOONER. Possibly not in the long run. It might be necessary to reduce it or to abandon it. I was attempting to demonstrate this proposition: Conceding that the sugar industry of Louisiana and of the United States needs the measure of protection in order to its encouragement and development that is afforded by the 2 cents a pound, as a matter of economy to-day to the people who buy sugar and who pay this tax, we could save $13,000,000 a year or thereabouts over the Mills bill, by reducing the duty as it is proposed by the Senate bill and giving this bounty.

Mr. ALLISON. As compared with the Mills bill?

Mr. SPOONER. As compared with the Mills bill, and we can save, as compared with the present law, about $24,000,000 a year.

Mr. GIBSON. I fear the Senator misapprehended me. I admit that on the basis of the present production it would be an economy, but when the production increases, the amount of the bounty must also increase to correspond with it. Then the Senator leaves out from his calculation entirely the amount of tariff duty imposed by this bill on the foreign importation of sugar.

Mr. SPOONER. I do not leave that out.

Mr. GIBSON. It should be added to the bounty that is paid as against the Mills bill.

Mr. SPOONER. That 1 cent duty per pound is an element in my estimate.

I must admit that the annual amount of this bounty may increase. I hope it will increase. That is the object of the proposition, as I before stated. All I want to say is that as between protecting the Louisiana sugar industry and the sugar industry in Kansas and the beet-sugar industry in California and in other parts of this country by maintaining the 2 cents a pound tariff and reducing it one-half, as the Senate bill does, and giving this bounty, I am in favor of the reduction of one-half and the payment of the bounty, because it will accomplish two purposes: it will give the needed protection to this industry, the needed encouragement to it all over the United States wherever the conditions are such that its production is possible, and at the same time it will vastly reduce the annual tax upon the people which to-day they pay for sugar.

Mr. GIBSON. I will not interrupt the Senator, but I take issue with him. I may take occasion to make some remarks on the subject hereafter.

Mr. DANIEL. Will the Senator from Wisconsin allow me to ask him a question?

Mr. SPOONER. I have allowed almost everybody to ask me a question, and I do not like to refuse the Senator from Virginia.

Mr. DANIEL. I am much obliged to the Senator for not discriminating against me. Why is it that sugar is selected to be promoted by a bounty? The same system of bounty is not applied to cotton-ties and tin-plate and other articles of manufacture, so that the whole people can share the taxes instead of putting them on the consumer.

Mr. SPOONER. That is an industry which is already in existence and has been protected many years by the levy of duties, and the situation as to sugar is exceptional. It has not been for the last few years——

Mr. DANIEL. Why is not the manufacture of steel rails promoted by a bounty as well as the manufacture of sugar? That is an old industry.

Mr. SPOONER. The same answer I made to the Senator as to cotton-ties applies to steel rails.

Mr. DANIEL. Not only cotton-ties but tin-plate. There are no cotton-ties or tin-plate manufactured here.

Mr. SPOONER. The iron is manufactured here and the steel out of which the tie is made, and that industry has adequate protection in another form.

Mr. DANIEL. But the tie is not, neither is tin-plate. Now, why select sugar to be promoted simply by a bounty and not any other industry, which is as old as the sugar industry or any new one that you want to bring into existence by a bounty?

Mr. SPOONER. I wonder why the Mills bill, if there is anything in the argument of the Senator from Virginia, has reduced sugar so little and puts cotton-ties on the free-list. But there is a clear distinction, as I said before, between this and other items. Sugar occupies an exceptional situation. The people do not eat cotton-ties, but they eat sugar all over the United States, the poor——

Mr. BUTLER. Mr. President——

Mr. SPOONER. I hope the Senator will allow me just to finish my sentence.

Mr. BUTLER. I beg the Senator's pardon. I thought he had concluded it.

Mr. SPOONER. As well as the rich. The duty which has been levied upon sugar has not operated to increase the sugar production in Louisiana. The statistics show that before the war it was much greater than it has been since the war, and the production of sugar from the sugar-cane is confined to that State, and, as I understand it, to Texas. The disproportion between the domestic product and the importation is so great that there never was anything that was more like robbery, apart from the necessity for revenue, than to ask the people of the United States to pay year after year fifty-six or sixty millions of dollars by way of tax upon sugar in order to protect Louisiana sugar-planters in a product which in 1887 amounted to only 181,000,000 pounds or thereabouts. I want to protect that industry. I want to protect the sugar industry in the whole United States. I want it encouraged, and we can much better afford, as I have been attempting to show, to give this bounty of 1 cent a pound than we can afford this protection by maintaining the 2 cents duty on sugar.

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

Mr. SPOONER. Yes, sir.

Mr. EUSTIS. If this high tax on sugar is robbery and is a burden upon the people who consume sugar, I would ask the Senator why in 1883 the conference committee, which was composed exclusively of Republican Senators, departed from the rule and the rate which had been established by a vote of the Senate, and by their report recommended an increase of 25 per cent. on sugar?

Mr. ALDRICH. So far as that is concerned, I will say, if the Senator from Wisconsin will allow me, that the statement now made by the Senator from Louisiana is not true.

Mr. EUSTIS. I took it from the statement made by the Senator from Kentucky [Mr. BECK] in his minority report.

Mr. ALDRICH. I do not know what the inference to be drawn from it would be if it was true, but I repeat it is not true.

Mr. EUSTIS. That is the statement made by Senator BECK in his minority report.

Mr. ALDRICH. Not as now stated by the Senator from Louisiana.

Mr. EUSTIS. Perhaps you misunderstood me. As I understand it, the report of the Finance Committee fixed the rate at 2.40.

Mr. ALDRICH. The Senator is now referring to a particular kind of refined sugar, not to the duties on raw sugar.

Mr. EUSTIS. I refer to the kind of sugar the American people eat, and to no other kind.

Mr. ALDRICH. The proportion of the grade of sugar now referred to by the Senator from Louisiana which is used by the American people is very small, and is probably not more than 5 per cent. of the total consumption.

Mr. EUSTIS. That is a grade of sugar, I maintain, that the American people consume and eat.

Mr. ALDRICH. I contend, in contradiction, that they do not consume over 10 per cent. of the grade of sugar referred to, between Nos. 13 and 16 Dutch standard in color.

Mr. EUSTIS. Why, Mr. President, sixty miles from New Orleans you can go into any hotel or any boarding-house, and that is the grade of sugar that you will find upon the table.

Mr. ALDRICH. I do not know what may be true in the State of Louisiana, but in the Northern States you can not go into a hotel or house anywhere in the country where you will find that grade of sugar upon the table.

Mr. EUSTIS. Above No. 13?

Mr. ALDRICH. Between No. 13 and No. 16; that is the particular grade in question.

Mr. EUSTIS. I maintain that is the grade consumed in this country.

Mr. ALDRICH. I can not speak for Louisiana. After hearing that sugar was still made there by the open-kettle process, which was discarded years ago everywhere else, except in China and India, I do not know what may be done in Louisiana.

Mr. EUSTIS. Why was the duty raised?

Mr. ALDRICH. I will answer that later.

Mr. EUSTIS. I should like to know.

Mr. ALDRICH. As I say, the only change made by the conference committee in any grade of sugar was a change in the rate on sugar between No. 13 and No. 16 Dutch standard. The statement made by the Senator from Kentucky [Mr. BECK] was that we had raised the rates above those fixed by either House. The sugar schedule was not considered in the House of Representatives in 1883, and therefore no rate was fixed there. The Committee on Ways and Means recommended a rate of 3 cents a pound on sugars between 13 and 16 Dutch standard of color. The Senate voted originally to make the rate 2.40 cents, and afterwards 2.50 cents per pound.

This was the situation when the subject went to the conference. The House committee had recommended 3 cents, the Senate had fixed the rate at 2½ cents. The House conferees asked for 3 cents, and as a matter of compromise, and because the committee believed that this was a just and equitable rate, they fixed the rate at 2¾. This is the whole story, and the change applied only to sugars between 13 and 16. The Senator is certainly very much mistaken if he supposes that in the North or in any other part of the country, I think, outside of Louisiana sugars of that color and grade go into general consumption. The refiners of the North produce but a small quantity of this grade and usually sell it at a loss.

Mr. SPOONER. Mr. President, the Senator from Louisiana put into my mouth a sentence which I did not utter. I did not say that this duty upon sugar was a robbery of the people. I said it was more like robbery than any other item upon the tariff list, leaving out of view necessity for revenue and having reference to the protection of the domestic product. The word "robbery" I get from the other side, for they have again and again denounced the duty upon almost every item in the list as a robbery. As I understand, both of the Senators from Louisiana are in favor of the Mills bill and of maintaining the duty on sugar provided by that bill.

Mr. President, aside from the Government need of the revenue, the people of the United States any year for the last twenty years could have afforded to buy the entire Louisiana sugar product at current prices and to have sweetened the waters of the Gulf with it and we would have made millions of dollars saving each year by the operation, because their product is so trifling (and it is decreasing instead of increasing) compared with the immense importation and the immense amount of money each year which the people of the United States are compelled to pay by way of duties.

If we could spare the revenue to-day I would offer an amendment to this bill putting sugar upon the free-list and giving to the Louisiana planters and others who could produce sugar in this country a bounty equal to the 2 cents a pound. We would then afford them all the pro-

tection to which they are entitled; we would then give to the sugar industry in the United States all the encouragement which this bill would give it, and we would save annually upon the present basis to the people of the United States about $50,000,000.

The Senator from Louisiana said we were abandoning our position in proposing to reduce the duty on sugar 1 cent and giving 1 cent bounty. Is not that equivalent to protection by a duty of 2 cents a pound? Does it not leave the Louisiana planters just as fully protected and cared for as if the duty were levied at 2 cents a pound? The only difference is that we pay out of the money coming into the Treasury from the imposts upon sugar this bounty upon your production instead of paying for the sake of protecting that industry there the 1 cent per pound upon the vast importation.

Mr. ALDRICH. Will the Senator allow me to interrupt him a moment?

Mr. SPOONER. Certainly.

Mr. ALDRICH. The Senator has stated two or three times in the course of his remarks that the Senators from Louisiana support the proposition of the Mills bill upon sugar. Now, does he understand that those Senators, or either of them, admit that they shall vote for the provisions of the Mills bill in regard to sugar as a protection to the sugar industries of Louisiana? Has either of them ever admitted that the ground upon which he bases his vote is the fact that the sugar industry of Louisiana needs protection and that he votes for it as a protective duty?

Mr. SPOONER. I suppose these Senators vote for it because they say it is a purely revenue duty, but being a purely revenue duty and they having the monopoly of the domestic sugar manufacture, it amounts to the greatest measure of protection to their State that is anywhere accorded in the whole world to an industry. I do not care upon what ground they put it, whether they vote for it to protect the sugar industry or because it is a revenue duty, it is a protection to the Louisiana industry, and as between maintaining that duty to the cost of the people of the United States and giving the half duty and the bounty proposed here, I am in favor of saving these millions to the people.

For myself I think we have admitted too much about the excessive revenues of the Government, and am inclined to think the time will come when it will be seen that the revenues of to-day are not so far excessive when the wants and development of this country are considered, as our Democratic friends have asserted and as we have complacently admitted; but if the purpose is to reduce the revenues, why not begin by striking off the list the purely revenue duty on an absolute necessary of life which must go into every man's house?

Mr. President, I must say that I am surprised at the attitude of the Senators from Louisiana. They want the sugar industry protected, no matter what it costs the people of the United States, in preference to this bounty. They taunt us with abandoning our principle of protection in this proposition, and yet those Senators are willing to vote with their confrères each time, almost, to cut down the duty upon every Northern industry. They do not care for any protection on wool; they are quite willing to put that upon the free-list. They are willing to put the iron of Pennsylvania and of the rich fields in the region in which I live—and I think there are none richer in the world—upon the free-list. Talk about the selfishness of the North! Talk about the selfishness of manufacturers, their avarice, their study of their own interests, their willingness to tax the people with sole reference to their individual benefit! I know of nothing which savors more of selfishness—and I do not use the expression in an offensive sense—than the attitude of Senators coming from the State of Louisiana asking that the duty as fixed by the Mills bill on sugar shall be maintained as against this bounty proposition, and yet joining with their Democratic brethren to strike down every Northern industry that is on this list. Keep the protection on sugar, whatever it costs, but put the salt of Michigan and New York on the free-list!

I was somewhat astonished that our friends from Louisiana were not satisfied with the 1 cent duty and the 1 cent bounty, because the protection would be the same to them as if the duty were 2 cents a pound. I can account for it in but one way, and that a fear that by this bounty Kansas and other States will be encouraged in the manufacture of sugar from sorghum and the sugar-beet; that the beet-sugar industry will be so developed in California, Iowa, Illinois, Nebraska, and other States that the cane-sugar of Louisiana will be a lost industry.

Mr. President, I did not intend to occupy the attention of the Senate more than twenty minutes, and the Senate must charge up the time I have occupied to the interruptions to which I have been subjected, and have cheerfully submitted.

Mr. FRYE. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin yield to the Senator from Maine?

Mr. SPOONER. Of course.

Mr. FRYE. I desire to ask the Senator a question before he sits down. There has been a heavy duty for the protection of sugar manufacturers for a good many years. Has it succeeded in making a success of the manufacture of sugar from cane?

Mr. SPOONER. Under it, as I have repeatedly stated, the product has diminished since the war to about half of what it was before the war.

Mr. FRYE. Then it is really a failure in the purpose of protection, is it not?

Mr. SPOONER. That question would seem to answer itself as to cane-sugar, looking alone to the annual production.

Mr. FRYE. As to cane-sugar. Then I should like to ask the Senator from Wisconsin how he justifies himself in voting for a bounty to be paid for the manufacture of sugar from cane when it is acknowledged all over the country that it is utterly impossible to so encourage that industry that it shall be a success?

Mr. SPOONER. Well, Mr. President, it is an industry, and it exists in this country, and I have felt that perhaps the comparison as to sugar manufactured in Louisiana and the growth of sugar since the war compared with the period before the war was not quite fair to Louisiana. It is not absolutely certain that the diminution in the sugar product in Louisiana is not due in large part to the war and to the disastrous effects of the war.

Mr. MORRILL. And the rise in the wages of labor.

Mr. SPOONER. And also the rise in the wages of labor. Louisiana was left, like the other Southern States, more or less impoverished, with her industries broken up. Take the years during the war. In 1864 Louisiana produced but 84,500,000 pounds of sugar; in 1860 she produced 255,115,750; in 1861, 265,063,000; in 1862, 528,021,500 pounds; in 1863 there is no record at all; in 1864, 84,500,000; in 1865, 10,800,000; in 1866, 19,000,000; in 1867, 42,900,000; in 1868, 41,400,000; in 1869, 95,000,000; but it has been, taking the years as they go, increasing since the war. These statistics show that there was a time when the effect of the war upon that industry in Louisiana was exceedingly disastrous. Moreover, I have heard it said somewhere and at some time that the sugar culture in Louisiana had been interfered with and injuriously affected by the Mississippi River floods. I presume that is true.

So it is not fair to say, all things considered, perhaps, that that industry can no longer be benefited by extending to it a fair measure of protection. I hope it is not true that it is at a standstill. With the new processes that have been adopted, with the interest the Government has taken in experiments, and in view of what the Senators from Louisiana say as to the present condition of their State and the prospect of development and increase, I am not prepared to say that the time has come when I should withdraw from that industry a fair measure of protection. I am willing to try it longer. I want to give Louisiana and every other Southern State more even than a fair chance. I would not be willing to withdraw protection from any of their industries so long as they need it, and for that reason I am willing to vote for this bounty even upon cane-sugar.

Mr. President, this duty has been a revenue duty, at the same time having been a protective duty to Louisiana to an extent which few probably realize. Permit me to call attention to the statistics I hold in my hand.* A comparison of the domestic product with the imported sugar for a period commencing with 1851 and ending with 1887 reveals in a striking way the immense disproportion between the two. The total amount of sugar imported and used by the people during those years was 47,587,912,647 pounds and the Louisiana product for the same period was 7,559,053,405 pounds. The amount of money paid for duties on sugar during those years was $961,318,340.30, or nearly a thousand million dollars.

I was, I confess, at first very reluctant to support this proposition, and on general principles I am not in favor of granting such bounties out of the Treasury, but the situation as to sugar is exceptional, and I feel compelled under the circumstances to vote for this amendment.

Post-Office Buildings.

SPEECH

OF

HON. GEORGE E. SENEY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 9, 1889,

On the bill (H. R. 3319) to provide for post-office buildings.

Mr. SENEY said:

Mr. SPEAKER: The bill before the House proposes to set apart a small portion of the postal revenues each year for several years for the purpose of constructing a post-office building in each of the cities and towns of the United States at which the gross postal receipts for the two preceding years exceed $3,000 annually. The amount set apart for this year is $2,000,000. The maximum cost of a building the bill fixes at $25,000 and the minimum cost at $15 000. Subject to these limitations,

the bill provides that where the gross postal receipts at a city for each of the two preceding years exceed $25,000 the cost shall not be more than $25,000; where they are more than $20,000 and less than $25,000 the cost is limited to $20,000, and where such receipts are $3,000 and less than $20,000 the cost shall not exceed $15,000.

In addition to the cost of a building the bill authorizes an expenditure not exceeding $5,000 for the purchase of a building site. These buildings are to be fire-proof and constructed under the direction of the Postmaster-General, and according to plans to be approved by him and the Secretaries of the Treasury and the Interior. Provision is made in the bill by which donations for a site or for a building may be received by the Government.

This bill, Mr. Speaker, would be more satisfactory to me if it fixed the maximum cost of a building at $30,000 and the minimum cost at $20,000, and authorized $7,000 to be spent, if necessary, in procuring a site; and it would be still more satisfactory if it was so changed as to make it possible for all of these buildings to be up and occupied within the next three years.

When this measure was under debate at the last session it was said that $5,000 would not buy a desirable site, nor would $25,000 put up a suitable building in the larger cities for which this bill provides. This may be true, yet it is no reason why $30,000, or $25,000, or $20,000 should not be expended for post-office buildings in cities of less size. For these larger cities, if $30,000 be insufficient, an additional sum may be appropriated at any time by special bill.

The larger cities referred to, no doubt, are those at which the gross postal receipts exceed $25,000 annually. We have forty-five of these cities, and if the sum of $1,350,000 will not provide them with post-office buildings, certainly $2,000,000 will, and this would make the average cost less than $45,000 each—a sum, it is to be observed, much less than that which is ordinarily appropriated by special bill for a post-office building.

It was said, also, in the course of that debate, that while a building constructed as this bill provides might serve all present demands the subsequent growth of a town or city might require a larger and more costly structure. This objection is well met by that part of the bill which provides that the building shall be so constructed that additions or extensions may be made from time to time without injury to the harmony of the design or the usefulness of the constructed portion.

The gentleman from Arkansas [Mr. ROGERS] in his remarks objects to the bill becoming a law, because Judge Story said fifty-five years ago that the Post-Office Department of the Government is susceptible of abuse, and, in bad hands, might corrupt the people and prostrate their liberties. My honorable friend seems to fear that the discretionary power given to the Postmaster-General might be used by that high officer to control elections and corrupt the ballot-box. We have had since the organization of the Government thirty-four Postmasters-General, and I beg to inquire which one of the number used his high trust for such purposes?

Since the days of Judge Story the postal business of our country has increased many fold, and proportionably have increased the powers of the head of that Department of the Government. When the distinguished jurist referred to by my friend expressed his fears respecting the power exercised by the Postmaster-General the Post-Office Department was in its infancy. Then we had 8,450 post-offices; now they number 57,376. The revenues of that Department in 1830 were $1,850,583; at the close of the last fiscal year they were $52,695,176. Then our population was less than 13,000,000; now it exceeds 58,000,000.

In Judge Story's day the postal service employed, perhaps, 10,000 persons; in our day it employs 75,914. Where there was one pound of matter transmitted through our mails fifty years ago there are now transmitted thousands of pounds. Judge Story paid the Government from 6 to 25 cents, according to the distance, for carrying a letter; now the sum paid is 2 cents for any distance, and it is to be hoped that before long the charge will be reduced to 1 cent. Fifty years ago our mails were carried on horseback or in wagons, traveling at a gait of 7 to 8 miles an hour; now they are transported through the country by steam at a rate of speed little less than a mile a minute.

In 1830 our post-offices were places to receive and discharge mail; in 1889 they are used for the additional purpose of issuing and paying money-orders and postal-notes. In other words, the post-office of fifty years ago was a post-office and nothing more; to-day it is a post-office, a bank, and an express office combined. During the fiscal year ending June 30, 1888, the postmasters of the United States issued 6,668,006 postal-notes, amounting to $12,134,459, and during the same period they issued 9,959,207 money-orders, aggregating $119,649,064, for payment in this country, and 759,636 money-orders, aggregating $11,293,870, for payment in foreign countries; and 236,992 money-orders, aggregating $4,169,675, were drawn abroad for payment at post-offices in the United States.

It is estimated that during the past fiscal year nearly 372,900,000 parcels of merchandise were transmitted through the mails. Wonderfully great has been the growth of our postal system during the past fifty years, and although every year of this period has added to the powers of the Postmaster-General, we have yet to learn of any attempt upon the part of any of those who have filled that high office to interfere with the liberties of the citizen or use his position to influence elections.

To say that the construction of the post-office buildings proposed by this bill would have a tendency to make Postmasters-General bad men, or make the voters in the towns or cities where they are located corrupt men, is a very strange utterance. How the influence of the Postmaster-General can be greater if the building used for postal purposes is owned by the Government than if rented from a citizen, is not clear to my understanding. While these buildings are in course of construction the Postmaster-General, if a bad man, might possibly influence a few voters in the localities where they are building, but when they are completed and in use his influence could be no greater at those localities than it is now.

If this bill should become a law, within a few years these buildings will be built and in use and then the power of the Postmaster-General during construction will be at an end. After their completion the Postmaster-General will have no more control over them than he now has over other post-office buildings owned or leased by the Government. So that after all it is merely a question as to whether within the next few years the Government shall for all time to come own a post-office building in the larger towns and smaller cities of our country with every convenient appointment for the transaction of its postal, express, and banking business, or whether it shall continue to use buildings in these places owned by some citizen, pay high rentals, move, probably, every four years, and suffer, and the public also, from indifferent accommodations.

This subject is presented in the last annual report of the late Postmaster-General Vilas with marked force. From that report the following is taken:

> A large majority of the post-offices in the United States are so wretchedly lighted and ventilated, so hampered by scant or ill-shaped area, by the isolation of divisions or sections in different and widely-separated rooms upon the same or different floors, by rickety and antediluvian furniture, screens, and other equipments, and badly located and insufficient lobby space, that the expense of operation is frequently more than 25 per cent. higher than it would be were all these facilities up to a maximum standard.
>
> Were it possible to secure Congressional enactment which would enable the Postmaster-General or the Secretary of the Treasury to purchase a lot and erect upon it a suitable fire-proof building for every first and second class office in the United States, specially adapted to the necessities of the respective localities, a much better as well as more economical service could be secured them than in the rented premises now occupied, which in a majority of cases are not such as the Department needs, while the high rents and additional expenses required to keep up the grade of efficiency are a heavy tax on its revenues.

Postmaster-General Dickinson in his annual report made in December last speaks of the pending bill in these words:

> This measure is one of the highest merit. Its policy is dictated by sound business principles, and as a measure of economy it is to be preferred to the present system of leasing buildings for postal purposes. At the expiration of leases it is almost invariably the case that strife arises among citizens of towns over the fixing of a new site for the post-office.
>
> Real estate values are, to some extent, unsettled by such changes, and it is frequently difficult for the head of the Department to determine whether the case presented for the location has strong popular support in the interest of the general convenience of the community or whether it is made up in the interest of mere real estate speculation. From my experience in the matter of making new leases or renewing old ones I am led to present this subject to Congress with much earnestness.

Mr. Speaker, it will be seen that this bill contemplates the erection of 1,433 post-office buildings at an estimated cost of $17,775,000 and the purchase of 1,433 sites at a cost of $7,165,000—or a total cost of buildings and sites, stated in round numbers, of $25,000,000. Donations will no doubt be made for sites, if not for buildings, in some of the cities and towns, and these, there is reason to believe, will materially reduce the cost of these structures to the Government. Stated in other words, the bill contemplates that a building in every way adapted for use as a post-office shall be erected in 1,433 of the larger towns and smaller cities in the United States.

Sir, in my opinion these cities and towns are as much entitled to Government buildings suitable for postal purposes as the cities which now have such structures. Ought we to refuse them because of their cost? Bear in mind that what these buildings cost, less donations, is to be paid out of the postal revenues. These towns and cities contain near 10,000,000 of our 60,000,000 population, and they are the post-office address of full 2,000,000 people who live adjacent.

The postal receipts at these 1,433 towns and cities for the last fiscal year were $14,492,900. Upon the double ground, then, of population and business, these people have rightful claims upon the Government for better postal accommodations—postal accommodations equal to those which the Government furnishes in the more populous cities. In the ten principal cities of the United States having a population of 4,881,188 and with annual postal receipts amounting to $14,668,400, the Government has expended the sum of $46,766,804 in buildings for court and for postal purposes.

What proportion of this sum was for court purposes and what proportion for postal purposes it is impossible to state. Much less than this sum, if expended in the judicious manner prescribed by this bill, would provide every town and city in the United States having a population of 2,000 and upward (the few principal cities excepted) with

a substantial and commodious post-office building, handsome without and handsome within. We have one hundred and sixty-five other cities, with an aggregate population of 4,210,928 and with yearly postal receipts amounting to $12,654,210, in which the Government has spent for public buildings $27,522,674.

These cities, it will be observed, have less than half of the population of the cities and towns for which this bill provides and their annual postal receipts are nearly $2,000,000 less. The expenditure of a like sum in the towns and cities covered by this bill would put these cities and towns upon the same postal footing. All of these expenditures, bear in mind, have been made with tax-money collected from the people. The revenues of the Government come from every section of our country, and in the same sections, so far as it is possible, they ought to be expended.

At the last session, and thus far at the present session, the House voted $6,107,000 for the construction of public buildings in thirty-eight cities, whose aggregate population is 1,204,978, and whose aggregate postal receipts for the last fiscal year were $2,826,657. These cities have no more right to these buildings than have the other cities of the country, and the sum thus appropriated would, under the provisions of this bill, provide post-office buildings for two hundred and forty-five cities, whose postal receipts for the last year were $6,124,632, and whose population is 3,614,280.

It is very far from my purpose, sir, to complain about the construction or the cost of the public buildings which the Government has erected in the more populous cities. Every citizen, whether he be poor or rich, feels proud when he looks upon these evidences of his country's power and greatness. Some of them are magnificent structures, and no one would have them otherwise. When they were built the people did not complain of their cost, nor do they complain now, nor will they complain of the buildings for which this bill provides, if they are constructed not for show but for the better accommodation and convenience of the public, and at a cost, as the bill provides, from $15,000 to $25,000.

The sole purpose of this line of remark is to call the attention of the House and of the country to the fact that the benefits of our postal system are very unevenly distributed. It must be conceded that the Government is more mindful of the postal wants of those who live in the larger cities than it is of the postal wants of those who live in less populous localities. In three hundred and fifty-eight cities mail matter is delivered within city limits by carriers free of charge, and in the same cities boxes are provided at convenient points for the deposit of mail matter, and for this service the Government paid during the past fiscal year the sum of $5,422,356. To maintain this free-delivery service the people in the other cities and towns, and those not in cities or towns, are directly and indirectly taxed; yet it is to be observed that they do not have either of these postal advantages.

Why, sir, should the Government provide for those who pay less than half of its postal revenue the best of postal accommodations, and to those who pay more than half be indifferent when they ask for equal advantages? In my opinion this bill, in case it becomes a law, will go far toward equalizing the benefits of our postal system. The people of the district I have the honor to represent, like the people in other districts, contribute their full share to the revenues of the Government.

In some of these districts no part of the public revenues are expended, while in other districts much larger sums are paid out than are received. In my district there are no Government buildings, no navigable waters, or other objects upon which any portion of the public revenues are expended. The district has a population of 200,000, and its postal receipts for the last fiscal year were $96,286. Less population and less revenue have secured the best postal accommodations in other sections of the country; why, then, ought not the population and revenues of my district to secure to its people equal accommodations?

The buildings which this bill, if a law, will put into my district may not be as costly or sightly as those built by the Government in other parts of the country, nor will they be, perhaps, in other respects all that may be desired by a people who have $200,000 and $300,000 court-houses, $50,000 and $75,000 colleges, academies costing $40,000, churches $80,000, and common-school houses $100,000, yet they will be warmly welcomed. That Government structures more imposing than those for which this bill provides ought to be erected in this district no one familiar with its present industrial condition will dispute. In business and in population its growth for two years past has been wonderfully great, and there is every reason to believe that it will be a very populous and a very busy section of our country in the immediate future.

The district is known as the largest gas and oil producing region upon the American continent, if not in the world. In no other part of the globe are oil and gas gushing in inexhaustible and incalculable quantities to the earth's surface from twelve hundred feet below.

It is these developments, sir, developments of so much interest to the industrial world, that are attracting the mechanical laborer and the manufacturing capitalist of this and of other countries to this region, which is now rapidly filling up with manufacturing industries and with a stirring and busy population.

Under the provisions of this bill Government buildings suitable for postal purposes would be constructed in eight cities of my district, Bucyrus, Crestline, Findlay, Fostoria, Galion, Ottawa, Tiffin, and Upper Sandusky, and at an aggregate cost to the Government, including sites, of $160,000. The present population of these cities is estimated at 66,000, and full 17,000 more people live close to their boundaries. The postal receipts at these cities for the year ending June 30, 1888, were $62,796.

It will be seen, therefore, that the postal receipts at these cities for thirty months would be sufficient to meet the entire cost of the buildings and sites, and with increased receipts, which may be reasonably expected, the expenditure may be met in two years. When it is remembered that these postal receipts represent the sum which the people of these places pay the Government in a single year for doing their postal business, their demand for postal accommodations equal to those enjoyed by the people in larger cities is from every point of view reasonable and ought not to be longer denied.

No one, not even my honorable friend from Arkansas, need fear that harm will come to my people if these eight Government buildings are constructed so near to their homes. If it be thought that the presence of the ten Government buildings to which Arkansas will be entitled in case this bill becomes a law will make the liberties of her citizens insecure or the ballot-boxes in that State impure, build them in Ohio; build them in the Fifth Congressional district of my State, where wrongs against liberty or the ballot-box are unknown, and where, as memorials of governmental regard, they will ever have the highest appreciation.

Mr. Speaker, this bill, in my judgment, is a money-saving measure—a step in the direction of true economy. In the smaller cities and larger towns of the country it is cheaper in the long run for the Government to own a post-office building than to rent one. With a vast sum of money lying idle in its Treasury it pays many heavy rentals. Such a policy is unsound. The Government ought to be the landlord and not the mere tenant at will. The post-office is an institution as enduring as the Government itself, and therefore its place ought to be permanently fixed.

The erection of these buildings will give better postal facilities to the public, and this the public have the right to demand. The money to put up these buildings is to be taken from the yearly postal revenues of the Government, and thus will a small part of the money paid by the people for their mail service be expended in bettering that service. The bill appropriates less than 4 per cent. of this year's postal receipts; and to what better use can this money be applied than in providing for a more satisfactory mail service? In lieu of the money expended the Government will have other property of equal value and the expenditure will add largely to the visible and tangible property of the country.

There can be no waste or extravagance in the use of this money, and there can be no chance for any undue advantage over the Government. Every State and every community of considerable size in each State will share in the public good for which this bill provides. All interests, and particularly those of labor, will be greatly benefited by the construction of these Government buildings. There are public buildings in these towns and cities for municipal purposes, many of them have buildings for county purposes, and some no doubt for State purposes

The General Government is far greater in resources than all of our towns and cities and States, and its authority is over them all. Why, then, ought it not to have in these places its own building well and conveniently appointed, in which its business with the people may be transacted? The people of the cities and towns for which this bill provides, and the people adjacent thereto, number millions, and all have postal business to transact; and for this purpose many are obliged to make visits to the post-office daily, or oftener; others again, once, twice, or thrice every week. For them it is the duty of the Government to provide every reasonable facility at the post-office for their convenient accommodation. This is done in the larger cities of the country, and the same ought to be done in cities of less size. Through the post-office every citizen is brought into frequent and immediate contact with his Government, and to many the post-office is the only visible evidence of the Government's existence.

Sir, as the town building reminds the citizen of his town government, the county building of his county government, and the State building of his State government, so do the custom-house, the United States court-house, and the post-office building remind him of his General Government and impress him with the majesty and might of his country. The number of these buildings is increasing year by year, and the people are demanding that more and more be constructed.

It is better, sir, that we have some definite and well-matured policy respecting their construction than to legislate year after year by special laws favoring a few localities at the expense of others equally meritorious. The passage of this bill will relieve the Congress of a constant pressure for the erection of public buildings, and in no small degree will it prevent extravagant appropriations for this purpose.

The policy proposed by this bill is, in my judgment, a wise one; and the Congress that adopts it and the administration that executes it will be memorable in our history.

Nicaragua Canal.

REMARKS
OF
HON. J. B. WEAVER,
OF IOWA,
IN THE HOUSE OF REPRESENTATIVES,
Wednesday, February 6, 1889,

On the bill (S. 1305) to incorporate the Maritime Canal Company of Nicaragua.

Mr. WEAVER said:

Mr. SPEAKER: As general leave has been given to print remarks upon this bill, I wish to submit the following observations concerning the same: The conference report does not contain all the safeguards which I deem desirable in a great measure of this character. But I have given the measure very careful consideration, and think it should pass. I find the Pacific railroads present in great force, opposing the passage of this measure with all their power. The reason for this opposition is plain. The measure takes from them their monopoly of the transcontinental carrying trade of this great people. In a word, I think the country will be infinitely better off if the present measure be adopted, notwithstanding it may be defective. This canal should be built by the Government of the United States, and the day will come when the wisdom of this suggestion will be appreciated; but it is impossible to secure such action at this time. Let me suggest also that the day for the construction of this great commercial enterprise has arrived. If we do not authorize its construction Germany or some other foreign power will do so at once. I trust the measure may pass, and that this great route, which shortens our pathway to the Orient between eight and ten thousand miles, may speedily be constructed.

Smalls vs. Elliott.

SPEECH
OF
HON. RALPH PLUMB,
OF ILLINOIS,
IN THE HOUSE OF REPRESENTATIVES,
Wednesday, February 13, 1889,

On the contested-election case of Smalls vs. Elliott, from the State of South Carolina.

Mr. PLUMB said:

Mr. SPEAKER: In what I may say upon the question before the House I shall not undertake to analyze the votes cast for the contestant and contestee for the seat due to the Seventh Congressional district of South Carolina, nor do I propose to examine into the methods pursued by the officers of the law in counting the votes and making up the returns in this particular case. The majority and minority reports of the Committee on Elections and the able presentation by the latter so fully disclose these facts as to leave but little to be added, and they demonstrate, it seems to me, that to refuse to seat the contestant would be not only to do an injustice to Robert Smalls, but likewise to inflict wrong upon every citizen of the United States.

It is evident that Mr. Smalls was not only duly elected, but that if he had been a white man and a Democrat instead of a colored man and a Republican, and had been voted for precisely as shown in the evidence in this case, no certificate of election would have been given Mr. Elliott, and no contest would have been here to occupy the time of the House. In other words, I contend and shall undertake to show that the denial to Robert Smalls of his seat in Congress is but a part of a well-defined plan, inaugurated and persistently prosecuted in six States of this Union, the purpose of which is to rob colored men and Republicans of their political rights by violence and fraud.

In the election of the members of the Forty-ninth Congress Mr. Smalls and the contestee, Mr. Elliott, were opposing candidates, and the result then was the choice of Smalls by a majority of 3,835, while in the election to the present House the returns give Elliott a majority of 533, which exhibits the remarkable change of 4,368 votes in Smalls's support in elections only two years apart.

Why this change? Was it in consequence of any new light coming to the supporters of Smalls as to what he was in standing and character among them? They knew that he was born in their Congressional district; they knew he had served them faithfully through ten sessions of Congress; they understood well the distinguished services rendered by Mr. Smalls for the Union cause as a naval pilot in Charleston Harbor, as a captain of a Government steamer, and in various capacities as a soldier and civilian; and yet, suddenly, without apparent cause, a very extraordinary change seems to have come over the minds of some four thousand of his adherents, a remarkable defection in the support which had so long been given him.

The Seventh Congressional district of South Carolina in 1880 had a population of 187,536, of which 31,520 were white and 156,016 were colored. Of these, 7,695 were white voters and 32,893 colored, making a total of over 40,000 electors; but it appears that in the election under consideration only 12,454 votes were cast and counted, while, as a matter of fact, the possible colored vote alone in that district was over 32,000.

Concede now that every vote counted for Smalls was deposited by a colored man, there remain nearly 27,000 colored electors in the district who for some unexplained reason did not vote, or if they did their votes were not counted. Is it not strange that such indifference should be manifested by the colored electors in regard to the affairs of the Government of which they are a part and in which they have so deep an interest?

Mr. Speaker, if this was the only Congressional district in the Southern States in which this remarkable indifference appears, it might be accounted for by something peculiar to that particular district, but there are too many such to admit of an explanation in this manner.

I have here a carefully prepared statement from official data, which demonstrates that this failure on the part of the voter to express himself at the polls extends over a large portion of the States lately in rebellion. It also shows the difference between a group of six of those States North, and another group of equal size South, in the proportion of actual votes cast to the population in the two sections. I will append this table in full, and print it with my remarks, as it will materially aid in getting at the true reason for this disparity.

These returns, be it remembered, are made by the members of this very Congress, each for his own district, and reported by them to the Clerk of the House of Representatives, and therefore are not to be questioned. They show that there are no less than twenty-three members now having seats on this floor, from the Southern group of States named, against whom practically no votes were counted in the election returns upon which their certificates were granted. To be exact, eleven of these members had 2, 5, 6, 7, 11, 17, 23, 27, 27, 55, and 58 votes respectively recorded against them, while twelve seem to have been elected without an opposing vote. In contrast with these returns look now at the number of votes against each member of this Congress from the six Northern States named in the table and you will see that their average is 15,436, while in the six planting States it is only 1,888.

Mr. Speaker, is there one here who will pretend that these twenty-three members hold their seats as a result of the free choice of a majority of the electors residing in their respective districts? Why, sir, such a proposition can not for a moment be sustained. In the one case votes cast show conclusively that in that section government is "by the people," for there parties are equally free to act, and their members are expected to express their honest convictions by their vote; while in the other, the evidence is just as conclusive that no such freedom and equality exist at the polls. One is republican in fact, the other is republicanism outraged. In one group of these States the rights of voters are respected and enjoyed in the manner provided in the Constitution and in the other they are utterly disregarded.

Mr. Speaker, this outrage upon the rights of free colored people must be regarded as the result of a purpose deliberately formed, which is intended to rob the colored man of the protection the ballot affords; and I make this statement here not only for the reason that the returns in the table demonstrate its truth, but because such a purpose has been declared again and again to me personally by men of responsibility residing in the States named; and what is more, the intimidation and fraud which has been denied by the perpetrators is now generally confessed and unblushingly avowed.

There are, however, exceptions to these denials. Why, sir, it was only recently in this House, while a point of order was being debated, that the gentleman from Georgia [Mr. CRISP], the distinguished chairman of the Committee on Elections, took occasion to say to the gentleman from Maine [Mr. REED] that he—

> Need not be disturbed about Georgia. I can assure him and other members of this House, and the people of this country, in the utmost sincerity, that in no State in this Union is the right accorded by the laws and by the people to all classes of voters, to go to the ballot-box and deposit their ballots for the candidates of their choice, more fully and freely than in Georgia.

Mr. Speaker, when the gentleman from Georgia makes a statement here and declares that he does so "in all sincerity," I have no desire to question that sincerity; but, sir, when the statement made is so very different from what seems fairly deducible from the public records, to which all have access, and upon which we depend for accuracy, I must be permitted to quote from these records and at least ask for an explanation.

Now, the record shows that Georgia has ten Representatives on this floor, and the total number of votes cast against them in 1886 was 1,950, while the same number of Representatives from ten districts in the State of Michigan had cast against them 197,895 votes. In Georgia the average opposition vote was 195 to each member, while in Michigan it was 19,789.

Nor is this all. You will observe that in three of the Georgia districts the vote recorded in opposition to the sitting members was 11, 17, and 55, respectively, while in five other districts there was not one op-

posing vote recorded, and, strange to say, among the five stands the name of Hon. CHARLES F. CRISP. The total number of votes cast for that gentleman were only 1,704. Now, I ask "in all sincerity" whether it is probable in a Congressional district in which there must be a population of at least 150,000, and not less than 35,000 voters, that only 1,704 voters of all classes went "to the ballot-box and deposited their ballots for the candidates of their choice freely and fully?" If this be so, why is it that the votes in Georgia differ so widely from those in Michigan? Look at the figures! Seventeen hundred and four voters elect a member of Congress in Georgia! Why, sir, at the town in which I reside in Illinois at the last election there were cast at the polls 2,700 votes, enough to elect a member of Congress in Georgia and a thousand votes to spare; and in the Eighth Congressional district of Illinois, which I have the honor to represent, there were 5,000 more votes cast than the returns show were counted for the entire State of Georgia.

Why this difference? It can not be explained upon any ground save this: That in Georgia violence and fraud keep one class of voters away from the polls through fear, and another class is kept away because of the utter disappearance from elections in that State of that fairness which alone satisfies the mind of the manly citizen, while in Michigan and Illinois public sentiment will not tolerate either violence or fraud at the polls.

CHARACTER AND PROOF OF THESE OUTRAGES.

Mr. Speaker, volumes could be filled with the sickening details of the manner in which portions of the six States I have been considering—on a mere pretense of any wrong done by colored people, they have been driven from their homes and hundreds shot to death just "to make them know their place," which means to so terrorize them that they dare not go to the polls. In other portions of those States, by means of laws made for that special purpose and regulations arbitrarily adopted, difficulties are thrown in the way of colored voters which make a full, free, and fair expression of the citizens of those States at the polls an impossibility. It is not uncommon for all the officers of an election to be of the dominant political party, and so seated that their doings are seen by none but themselves. The methods used are preventing registration, rejecting registered votes, rejection of polls, rejection of ballot-boxes, theft of ballot-boxes, and stuffing of ballot-boxes.

Proof of these shameful wrongs has been made again and again before committees of investigation, and despite all efforts to conceal the nature and extent of a recent campaign of violence conducted by white citizens of Mississippi against its colored citizens, honestly conducted, public journals acknowledge the truth of the charges and protest against the wrong.

Sir, if a tithe of these outrages had been committed on American citizens, either native or foreign born, in any other country on the globe, the resources of this Government both in men and money would have been levied upon to any required extent to redress the wrong, and woe be to the party that would object.

CONFESSED AND JUSTIFIED.

Now, as I have already said, these assaults upon a free ballot and a fair count are now generally confessed and, I am obliged to add, justified by many who are sworn to support the Constitution of their country and to faithfully execute the laws. This justification is based upon the declaration that "this is a white man's government," in which the citizen who has a colored skin shall take no part. It is, moreover, claimed that there is in the very nature of things a race antagonism which renders it impossible for whites and blacks to live under and participate in the same government. History is quoted to sustain the proposition that either the whites or the blacks must become a subject race; that both can not have the elector's right to the enjoyment of a free ballot without producing social equality between them. It is also insisted that white supremacy and colored subserviency are rendered necessary by the existence among us of the negro population.

Mr. Speaker, if this be so, if it is still a fact that "a colored man has no rights that a white man is bound to respect," should we not in the name of honesty and fairness erase from the Constitution and the statutes all the provisions that have been placed therein for the protection of these people? If this be so, the people of this country should acknowledge that the proclamation of emancipation was a blunder, if not a crime; a curse, and not a boon to the colored man. If this be so, the friends of freedom ought to ask forgiveness for having protected the Territories from what they honestly believed was a blight to every foot of soil on which it rested. If this be so, the spirit of the age is only a phantom of diseased imaginations, and the past half century of struggle now culminating in an honest attempt to apply the doctrine of man's right to liberty to every portion of the Republic is only a misuse of man's noblest powers, a sad record of blood and treasure spent in vain. Thank Heaven, a just consensus of public opinion declares that never before in history has equal advance in the right direction been made, and it proclaims that the duty of the hour is to "go forward."

DENIAL OF A SACRED CIVIL RIGHT.

What, now, is the real proposition? Why, sir, it is this: Seven millions of people, American born, to whom the Constitution guaranties the rights of citizenship and equality before the law, guilty of no crime, peaceable and law-abiding, must be deprived of the ballot for no other reason than the color of their skin, and as if conscious that violence and fraud can no longer be relied upon to accomplish it, disfranchisement is by some gravely proposed.

Mr. Speaker, the proposition is entirely untenable, and can not be adopted without destroying the fundamental principles of free government. Our Bill of Rights declares that governments "derive their just powers from the consent of the governed;" and our fathers not only proclaimed that truth, but framed this Government upon that doctrine. The right to become a citizen and the right to discharge the duties of a citizen does not depend upon nationality, race, color, or sex. In a republic the ballot belongs of right to every adult who needs the protection of government. Every such person stands alone on the earth, as it were, with wants akin to every other person, and must depend upon his own exertions for their supply. Each has a body to clothe, a stomach to be supplied with food, and a mind that needs intelligence; in short, the mission of his life is to promote the highest possibilities of his own being. By labor man supplies his needs out of the store-house of materials with which the earth is filled. To be secure in the right to labor for himself he must have around him the shield of law, which means order and safety established and maintained by the government under which he lives, and of which, in a republic, he is a part, and as such every citizen has the right to be heard in person in the establishment of the order that is to be his shield.

In a republic the citizen can speak effectively only through the ballot; those who are deprived of its free use are deprived of protection, and the more dependent the individual citizen the greater his need of the ballot. He may not be highly cultured; he may not be able to calculate the distance to the fixed stars; he may fail to describe correctly important particulars respecting his own country; nay, he may not be able to read or write, but with a ballot in his hand though ignorant he has a scepter that he can wield in a way that will insure protection to himself while he struggles for advancement. He knows well enough whether his home, however humble, is secure from violence, and he also understands whether for his honest toil he has a fair wage or is made the victim of fraud.

The shield of the law, which should surround every citizen, is often denied to those who can not vote, but the lawmaker, as well as the magistrate whose duty it is to enforce the law, will be sure to guard the rights and interests of the voter, who has power to dismiss them from office in case they fail to give him protection. This, in fact, is the legal redress of the citizen of this Republic, and it is all he requires. If he is law-abiding, it is all he cares to have. This is the very rock on which all our institutions rest. To deny it to a single citizen is a crime against liberty, for it robs him of protection, and subjects his life, his labor, and his prosperity to the caprice and avarice of others.

EXCUSES FOR DEFRAUDING THE COLORED MAN.

Mr. Speaker, there be many who, while assenting to the principles I have laid down, deny their applicability to seven millions of the people of the United States because of the color of their skin. It is, moreover, claimed that it is a question of social equality; that if the colored man is allowed to vote the result will be that he must become the social equal of the whites; that the races must intermarry, must dine and wine together, etc. A graver misapprehension than this was never entertained by mortal man. It is a mere scare-crow of imagination, as a little reasoning will clearly show.

Social equality is not and can not be made by law, nor can it result from the enjoyment by any one of any right which the law confers. It is always a matter of choice between individuals, and be the number concerned great or small, each must give free consent to such equality or it can not exist. Think for a moment of the absurdity of the proposition that if any man in any given community has conferred upon him all of the civil rights pertaining to citizenship, it must follow as a consequence that such an individual on that account must be acknowledged by every other man in that community as his social companion. No one outside of the penitentiary can be obliged to accept another as a social equal; it must be a result of a deliberate choice of those who become social equals. Those who oppose negro voting lest it break down all social distinction confuse themselves by thinking that civil status and social status mean the same thing, while nothing is more erroneous.

The civil status of any individual in a community or State is a public condition, while the social status of that individual is a personal and private affair; the one is the proper subject of law, the other can not be reached by statute. In the Northern States of this Union men in every social condition vote side by side, but the thought that the enjoyment by each of these voters of his complete civil rights implies or necessitates any change in their social relations never once enters the minds of either party. Why, sir, there is not a community in this land, North or South, but that furnishes a complete refutation of such a claim. Those who allow themselves to think that social equality has anything to do with equality before the law do but deceive themselves. They need to search for some other reasons on which to base their objections to conferring equal political rights upon all men.

WHO OBJECTS TO NEGRO SUFFRAGE?

Mr. Speaker, it is a significant fact that those who formerly opposed granting freedom to the negro as a class now object to giving him his civil rights. It is also significant that the existing scheme to rob the colored citizen of his constitutional rights by violence and fraud is for the most part confined to that section of the country in which the great conspiracy had its birth, it is insisted upon by the very men under whose leadership the entire South has already suffered enough. I refer to the planting States, namely, Arkansas, Mississippi, Louisiana, Alabama, Georgia, and South Carolina, comprising the old planting portion of the South. The soil, climate, and natural advantages of these States fated them to become the theater on which the great contest between freedom and slavery was to be both begun and ended.

In these States more than elsewhere in the South the system of slavery worked out its inevitable results and produced there its legitimate effect on both master and slave. However great the sum of misery and woe that fell to the lot of the colored man during the centuries of his servitude, it fell far short of the lasting injury that slavery inflicted upon the white men of those States. It made it difficult for them to regard labor as honorable, natural for them to despise it. It put it beyond their power to subscribe to the doctrine of equal rights to all men. It led them to deny the faith of their fathers in the doctrine of human freedom. It caused them to believe that it was desirable to maintain a subject race as an integral part of the people, and led them to deny the fundamental principles that in a republic the majority must rule.

It prepared those States to furnish the leading spirits of the late rebellion, and after its collapse with ruinous consequences to themselves and to their cherished institution, it seems to have made it impossible for them to see their duty and do it. Evidently they do not now realize either their own weakness or the strength of the forces they are vainly striving to overcome. Nay, more, they seem unconscious of the cool effrontery they are exhibiting to the world in their attempt to defraud not only the colored man of his rights, but the people of the other States of this Union of the political power which the Constitution confers upon them.

INJUSTICE TO OTHER SECTIONS.

The white population of that group of States (census of 1880) was 3,800,150. Now, Illinois alone has a white population of 3,034,503. It will be seen, therefore, that in States where the colored citizen is practically disfranchised the total white population is but little more than that of the single State of Illinois. The Constitution (fourteenth amendment), by declaring in effect that in States where the right to vote is denied to any male inhabitant thereof, or in any way abridged, the basis of representation therein shall be reduced in the proportion of such denial, has settled the principle of equality as to representation in Congress and in the electoral college as it ought to be settled; and yet what are the facts as we find them to-day? Why, sir, the six States we have been considering have forty-three members of Congress, while Illinois has but twenty; the former has fifty-five electors of President and Vice-President and the latter only twenty-two.

Now, I appeal to you, Mr. Speaker, have these forty-three members on this floor and the fifty-five members of the electoral college who have recently cast the vote of these six States for President and Vice-President a right to twice as much power as lawmakers and electors as have representatives and electors of Illinois with an actual voting constituency essentially the same.

Why should the Fifth Congressional district of Arkansas, with only 4,746 votes cast therein have a Representative, when it is a fact that there are not less than 32,000 voters residing in it, and no less than 20,000 of them have been kept from the polls by violence or their votes fraudulently thrown out?

Is there not something wrong when, as in a Kansas district, Hon. B. W. PERKINS is backed by 36,716 votes cast, 19,614 of which were in his favor, while in Arkansas, in Mr. PEEL'S case, only 4,746 votes are recorded in any way?

In Michigan my Democratic friend TARSNEY represents 37,846 actual votes, while Mr. OATES, of Alabama, is backed by only 4,660, and not one against him.

In the First Mississippi district, represented by Mr. ALLEN, only 3,169 votes were recorded as cast, and all but 27 are for that gentleman, while Mr. BYNUM, from the Seventh Indiana, represents 43,990 votes recorded, with 21,108 against him.

The chairman of this committee has a seat on this floor with only 1,704 votes participating in his election, every one of whom voted for that gentleman; while Hon. J. H. ROWELL, a member of the same committee from Illinois, had 15,319 votes in his favor to 14,703 against him, a total of 30,022 votes cast.

I will not take the time to further show the amazing difference in the number of votes actually cast in these two sections. The table tells the story and it demonstrates that as a rule elections in the planting States are worse than a farce; they are covered all over with violence and fraud and carry with them no valid constitutional right to seats on this floor.

Sir, it would not, I greatly fear, be presuming too far to say that the condition which now exists in each of the several Congressional districts in the States I have named, by which the election of their present Representatives was made possible, was brought about by the murder of white men as well as black men, political murders, committed solely for the purpose of securing political supremacy.

WHERE DOES THE BLAME REST?

Mr. Speaker, it is not in my heart to speak unkindly of the honorable gentlemen who represent on this floor the States under consideration. Their learning and ability, no less than their gentlemanly conduct and social qualities, place them in as high a position here as any other members can fairly claim. They are rather to be commiserated than blamed, for they are in a situation replete with difficulties. Circumstances beyond their control fastened upon their fathers before them a system of human chattelism under which, necessarily almost, unrepublican ideas of government and the rights of man have come to control their political action. The States they represent are vexed by an evil spirit which still clings to the scenes of its earth life and haunts the very region in which before the suicide of its body it held undisputed sway. The system it once animated was an embodiment of a disease which the preservation of our national life required should be removed by the sword, and it was done.

That disease was human slavery—a system that could not exist except by violence and fraud. Since the removal of slavery neither violence nor fraud is necessary to secure to a free people every needed good. If in any section these agencies are still invoked you may be sure that some of the old virus rankles there and awaits restoration of perfect soundness.

> Before the curing of a strong disease,
> Even in the instant of repair and health,
> The fit is strongest; evils that take leave
> On their departure most of all show evil.

We are accustomed to hear these gentlemen declare with a gusto received with applause that they are "in the house of their fathers and have come to stay." Sir, no man on this floor more heartily welcomes back into this Union the States from which these gentlemen come than I. That they are here, and here to stay, can neither be doubted nor defeated; but the question is not as to those States; it is as to the gentlemen who essay to represent them. They, too, are here, as we all well know. They are not only here, but they hold the balance of power in this body. They are the leading spirits of the party to which they belong, and through that party they shape every national measure that comes before the House of Representatives. How came they here? is the question. Was it in the way contemplated by the Constitution? Was it in an honest, legal way, and did they bring with them a title that will bear inspection? What right have these gentlemen to represent their respective districts here, when, as everybody knows, the body of the legal voters of such districts never chose them as their Representatives?

THIS QUESTION MUST BE MET.

Mr. Speaker, I warn these members and the States they essay to represent that such a condition of things is repugnant to every idea of fairness, and is not to be tolerated. The people of this country are fair-minded and considerate, but they will not willingly allow any great wrong to be done to any class, nor will they suffer to exist an outrage upon the principle on which the Government is founded. Whenever the attention of the voters of this country is concentrated upon an existing wrong, you may be sure it will not be diverted until the wrong is righted. The time is coming, and now is, when the violence and fraud by which the colored man's rights are denied him, must endure the searching ordeal of public opinion. The perpetration of these acts of violence and fraud raises a question that can not be blinked down, but must be met and settled in a manner worthy of the Republic. How will you meet it? Two ways are open—one by State action, the other by national legislation.

The Constitution has put it beyond the power of any State to exercise its legislative functions in a way that shall destroy, or even abridge the citizens' franchise; but it is within the powers granted to a State to make the necessary rules for holding elections for Representatives in Congress, subject, however, to the control of the General Government. In proof of this proposition I quote section 4, Article II, of the Constitution, which reads:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but the Congress may at any time, by law, make or alter such regulation except as to the place of choosing Senators.

Now, it will be seen that each of these States have the power to end these outrages upon the citizen's right to vote, and to have his vote honestly counted. They can enact and enforce the laws that will insure fairness in all elections. If, however, they fail to do this, the Congress has a duty to perform that it can not neglect. That duty is to make such regulations as are necessary to protect every citizen in his right to vote for the candidate of his choice, and to have that vote counted.

The Constitution in the article just quoted confers the power upon Congress to enact such laws, and by further provisions defines who are citizens and restricts any State from abridging their rights as electors. The language used is as follows:

> That all persons born or naturalized in the United States and subject to the

jurisdiction thereof are citizens of the United States and of the States where they reside, and no State shall make or enforce any law which shall abridge the privileges and immunities of the citizens of the United States.

And it further declares:

That the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Mr. Speaker, it is still insisted by some that the States being sovereign have a right to manage their domestic concerns in their own way, and elections held under regulations made by the States being domestic concerns the General Government can not constitutionally interfere. This doctrine has somehow a familiar sound to us who were conversant with public affairs before the rebellion, but I submit that the war has settled all controversy on that point, and especially as to the franchise.

State sovereignty can not now be used to cover these election outrages any more than the States in which they are committed can escape responsibility for them by charging that they are the work of their own irresponsible citizens. Each State has the right to manage its municipal affairs in its own way, provided always that it be done in a manner not in violation of the Constitution of the United States nor in derogation of the rights of its citizens; but a careful reading will show that the statesmen who framed that instrument never intended to confer upon the States the power to abridge or in any way interfere with any of the sacred rights of citizenship, nor was any such reserved to the people.

WHAT STATES MOST RESPONSIBLE.

Mr. Speaker, I have already given the names of these States in the table appended, and have likewise shown their responsibility for the commission of these outrages on the civil rights of the colored people. If the States named were beyond seas, scarce anything would be left to disturb that oneness of purpose so desirable among the people of this great country, but I am pleased to know that they are here and are surrounded with influences that tend to perfect homogeneity in our system of States. They are a part of the Republic, the government of which is not in keeping with their long years of education under a false system of labor, which after a hundred years of constant struggle to maintain, it has been swept away. The trouble is these States have not yet adopted the only method by which they can come into harmonious relations with a Government administered on the idea of protecting all ranks and conditions alike.

They are still out of line with true democratic republicanism and have yet to overcome the deep-seated prejudices which their peculiar institution has left so strongly imbedded in the minds of those who control their political action. They are "now in the house of their fathers, and are here to stay," and with confidence I appeal to them. That they are brave men, most of them have demonstrated by facing death on many a battle-field. The cause for which they fought was not lost for lack of valor on their part, but because they strove against forces of civilization and progress which though often resisted, are too powerful for the bravest to overcome. They were conquered, but are still combating in a new form the same forces to which they have been obliged to yield, and undoubtedly the same fate awaits them now. Let them calmly address themselves to the consideration of the inevitable.

Stripped of all disguises, what they contend for now is not chattel slavery—the entire South is satisfied with its destruction. They want instead a subject class; subjects instead of citizens; and this is the real purpose they now have in hand.

Sir, it was natural that the old-time abettors of slavery should enter upon such a work, one so thoroughly at war with democratic-republican doctrines, and that they should attempt to accomplish it by violence, for it is the natural ally and chief reliance of tyranny. Violence is invoked wherever the rights of man are disregarded, but a people who are willing that a majority shall rule will repudiate and reject it as their worst enemy. Right does not need violence to make itself secure, nor can that method be relied upon to establish the wrong, as our own history abundantly demonstrates.

The slave power invoked violence and shot down a Lovejoy, hoping to destroy the freedom of the press. The result is the press is free. It invaded the Senate Chamber and struck down a Sumner, hoping thereby to destroy free speech. The result is freedom of speech. It invaded territory sacredly consecrated to freedom, intending thereby to fasten upon its soil forever a blighting curse. The result is that every acre of our domain is free soil. By violence it even attempted to destroy the Union of these States in order that a confederacy with slavery for its corner-stone might be built up. The result is "liberty and union are one and inseparable now and forever." And last, but not least, comes this scheme of the planting States, which, in pursuance of a deliberate plan, instigates and employs violence against the citizens, both white and colored, that the freedom of the ballot, that the very rock on which our entire governmental fabric is built, may be removed.

To this end lawlessness, pursuing its attack on a free ballot, has assassinated John M. Clayton, of Arkansas, for daring to attempt in a legal and peaceful manner to secure the seat on this floor to which he had been elected. Will this execrable violence succeed after failing so signally in these several assaults upon liberty?

Sir, it is impossible; this Republic is for human liberty, and for equal human rights; it stands upon a basis too broad to admit of the exclusion of any citizen from the exercise of his rights on account of his color.

BE WISE IN TIME.

Mr. Speaker, have we yet to learn that retribution is a law from which nations can not escape; that the rights of each are dependent upon their being vouchsafed to all; that if we consent to outrages on the weak, the wrong will be avenged upon the strong? Violence licensed to rob and kill a negro will not stop until white men are robbed and white men are killed—a proposition which is abundantly verified in the history of the planting States for the last fifteen years. Shall these murders and outrages be permitted to continue? Is this the pathway that leads to prosperity and peace, or to permanent political supremacy even? Can any State build on such a foundation and be safe? Is it certain that the colored man will always submit to these outrages?

The wronged colored voter is still a man, he carries in his breast every feeling common to man's nature; and you may be sure that sooner or later he too will conclude that "resistance to tyranny is obedience to God."

A BETTER WAY.

Before the law the colored man is in all respects the equal of the white man. That is the platform on which the Constitution places him, and on it he must stand. All the privileges and immunities and rights of citizenship are his as well as ours, and what is necessary is to heartily and sincerely accord to him his true position. Dismiss at once and forever the heresy that this is a white man's Government; it is not that; it is man's Government in the largest sense.

Let us begin at once a new deal with the colored man, treat him as an equal citizen, encourage him because he needs encouragement; in matters of business and employment deal with him fairly; pass the bill now before the Committee on Education, and in that way enlarge and strengthen the common-school system of the South, and make it what it now is in the Northern States—a means of elevation and increased prosperity to all classes. Give the colored people education and their degradation will rapidly disappear.

While slavery existed a system of free common schools in the South, such as was the strength and glory of the North, was impossible. Then the education of white children was attended with difficulty, and to teach a colored child to read was a crime; but when emancipation came the way opened for the common schools—as great a boon to the white as to the colored people, especially of the planting States. The testimony of those who know most on the subject goes to prove that a great advance has already been made in the improved condition and education of the colored people.

Rev. Dr. Haygood, of Georgia, says:

Not far from $50,000,000, all told, has been expended in the education of the negroes since 1865. More than half of this has been paid by the South in the support of fifteen thousand public schools for negro youth. * * * Nearly one million of these people are at school in the South, and about two millions of them can read.

Vast sums of money have yearly been contributed by the people of the North for the support of colleges and the lower grades of schools for colored people in the South, and hundreds of self-sacrificing men and women have devoted their lives to the work of educating and preparing them to become teachers of common schools among their own people. These institutions are located in nearly every Southern State, and are already recognized as very important factors in the solution of what is called the negro question.

Mr. Speaker, I have before me a document just issued by the National Bureau on Education in North Carolina, by Professor Charles Lee Smith, of Johns Hopkins University. The eighth chapter of this interesting circular contains a list of eight prominent institutions of learning in that State, giving the course of study in each, with the names of their professors and teachers, some of which are directed, controlled, and officered entirely by colored people. Beside the higher institutions there are a number of academies, high schools, normal, and industrial schools.

Professor S. G. Atkins, of Livingston College, who furnishes this chapter, concludes his interesting account in these words:

In all schools, high, intermediate, and primary, the attendance is increased this year by from 15 to 30 per cent., in some cases it is nearly doubled. This is significant. This fact can not arise from any lax tendencies in the management of the schools, for the schools have rather raised their standards, broadened their scope of work, and made their discipline more circumspect. These observations taken all in all, it seems to me, teach that the North Carolina negro is making his way slowly but truly to the position of a useful intelligent, Christian factor in the body-politic of this progressive, intelligent, and Christian Commonwealth.

The colored man is not only making progress in education; he is slowly but surely learning that lesson which too many white people need to learn, namely, that prosperity is conditioned upon sobriety, integrity, and industry. Many of them have already become owners of real estate, some are wealthy, and multitudes more everywhere are filling positions of responsibility, and have the confidence of the community. Let them feel the full responsibilities of citizens and it will be to them, as it is to every American citizen, an incentive for good. It is a mistake to suppose that these influences fail to operate upon a human being because he is black.

Mr. Speaker, by what authority can we say that the negro is and

will continue to be an inferior race? Who can say that all the possibilities of intellectual attainments and ability which Caucasians in the long centuries have evolved out of their natures may not by similar processes be reached by the colored man? Why, sir, evidence exists all around us, and is accumulating on every hand, which justifies the prophecy that not many decades will pass before these newly made citizens will vindicate their claim to all that is highest and best in human character.

The story of the colored people of this country from the time their ancestors were captured in their native jungles in Africa and brought manacled to our shores to lead a life of bondage, hopeless alike to themselves and to their children, their progress even while slaves, their emancipation, and the vital relation they have from the beginning sustained to our national life, may well be termed the romance of history. That story with all the great principles it has served to emphasize in our institutions and all the illustrious characters it has developed within the period of our national history will be studied with increasing interest by the people of every country as the ages go by.

To trace the growth of "the peculiar institution" from its introduction to its overthrow, to rehearse its many assaults upon human liberty, its attempt to appropriate to its own use and behoof the public domain, to refer to its efforts to cleave down free speech, and to imprison those who dared to obey God rather than man, is useless now except to enable us upon whom rests the responsibility of deciding the question of suffrage aright to get at the full meaning of that Providence by which human affairs are guided and the better to understand the duty of the hour. That duty is to maintain at all hazards the right of every citizen to vote and to have that vote counted. The suffrage must be maintained inviolate. It is the foundation on which our Government rests. Destroy it and the Republic falls. If there is a man anywhere who by violence or fraud, by intimidation or bribery, is kept from voting as his own judgment dictates, and Government is powerless to redress the wrong, we are lost as a nation. An educational test will not answer, even could one be applied. A citizen guiltless of crime has a right to vote that no lack of learning can take away. It is manhood that the ballot represents. In this country we must have no privileged class; none who can dictate to others how they shall vote, or that they shall not vote.

We have no right by the decision we are about to record here to settle a question of honor or profit between the contestant and the contestee; we ought not to decide what that vote shall be by our personal preferences or tastes; the facts relating to this contest, and they alone, should decide our action. To deny the suffrage to the humblest citizen upon whom the Constitution confers it, to abridge its exercise or permit fraud or violence to strike down this great right, is a high crime against liberty and a menace to our form of government. Let one State, section, or political party permit the commission of this crime, and the knowledge obtain that the honest votes of another section or party are thereby neutralized, reprisals in kind will begin at once. This, Mr. Speaker, is the condition of this country to-day, and it ought to fill the patriot with alarm. Returns made by officers in elections ought to be so carefully and honestly made as to be received with perfect confidence in their verity by all concerned; but, sir, how rapidly in almost every section of the country is distrust taking the place of this needed confidence. The public conscience in respect to fair elections is becoming diseased, and if there be not a speedy return to honest ways it will soon be utterly destroyed.

The South charges the North with corrupting the ballot by money, and that in every Northern city multitudes of unnaturalized foreigners are made to vote just as the political machine directs; while the North insists that the South practices violence and fraud in elections; and to our shame it must be conceded that both charges are true. "Oh, for a bugle call" that shall arouse the North and South alike to the danger that threatens us. It is a pleasure to know that in several of the Legislatures of the North now in session needed reforms in election methods are being introduced and doubtless will be carried through, for the people demand it.

Mr. Speaker, if the States themselves do not at once provide for honest elections, at least of members of Congress and electors for President and Vice-President, it will be the duty of Congress to exercise the power conferred upon it by the Constitution and enact laws that will accomplish that end, and such a movement has already been entered upon in both ends of this Capitol, which I trust will result in securing for all time the right of every elector, however humble, to a free ballot and a fair count.

The question now is, shall we falter at this crucial period in our career as a nation and permit obstructionists to stand in the way of establishing in practice what the theory of our Government demands? Let us have the courage to apply the principle of equality which pervades our system to the low as well as to the high, to the weak as well as the strong, to the poor as well as the rich, and the result will be a Government so strong that the gates of anarchism can not prevail against it. Let us realize that we have as a nation enlisted the earnest criticism of the civilized world. Professor Bryce, of England, in his noted work on the "American Commonwealth," speaking of our institutions, says they—

Are something more than an experiment, for they are believed to disclose and display the type of institutions towards which, as by a law of fate, the rest of civilized mankind are forced to move, some swifter, others with slower, but all with unresting feet.

Mr. Speaker, every great event in our history as a people, every conflict of arms from Lexington to Appomattox, every State constitution adopted within the century just closed, and our unexampled growth in wealth and population alike give evidence that a wise and good Providence has in the order of things ordained that we here and now are to establish principles of human freedom as applied to government upon the foundation laid by our fathers "that all men are created equal and endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness." "All men," says the great Bill of Rights, not white men only. Be it so that the fathers builded better than they knew, and did not foresee the test that time would bring to the import of these two words, "All men," yet the purpose of the Infinite was that in a single century they should become the talismanic words of the Republic. To emphasize this it was that in the long ago the colored man was brought to our shores. The object of those who brought him was only sordid gain, regardless of the rights of their victim, and yet the design of Providence was in this way accomplished. It brought the Republic face to face with this supreme test of its devotion to the principle on which it was founded. The acknowledgment of the white man's right was not enough to establish that principle; it must needs be applied to a people with "a skin not colored like our own" in order that it might come to be, through our example, for the uplifting of the human race.

APPENDIX.

Comparison of votes cast in the following States.

District.	Member.	Votes for.	Votes against.	Total vote cast.
	IOWA.			
1	J. H. Gear	16,115	15,078	31,193
2	Walter J. Hayes	15,309	16,611	31,920
3	D. B. Henderson	18,676	15,889	34,565
4	William E. Fuller	17,063	15,132	32,195
5	Daniel Kerr	16,756	16,048	32,804
6	J. B. Weaver	16,593	16,027	32,620
7	E. H. Conger	15,167	14,231	29,398
8	A. P. Anderson	17,969	15,757	33,726
9	Joseph Lyman	16,953	14,792	31,745
10	A. J. Holmes	16,767	12,868	29,635
11	I. S. Struble	15,356	10,919	26,275
	Total	182,724	163,352	346,076
	ILLINOIS.			
1	R. W. Dunham	14,008	15,359	29,367
2	Frank Lawler	7,369	11,329	18,698
3	William E. Mason	13,721	6,774	20,495
4	George E. Adams	12,147	12,477	24,624
5	A. J. Hopkins	14,222	8,370	22,592
6	R. R. Hitt	13,106	10,528	23,634
7	T. J. Henderson	12,586	9,027	21,613
8	Ralph Plumb	16,827	13,893	30,720
9	L. E. Payson	13,753	11,642	25,395
10	P. S. Post	15,186	16,026	31,212
11	William H. Gest	16,733	17,533	34,266
12	George A. Anderson	18,718	13,834	32,552
13	William M. Springer	17,423	17,819	35,242
14	J. H. Rowell	15,319	14,703	30,022
15	J. G. Cannon	16,739	16,124	32,863
16	S. Z. Landes	16,424	16,284	32,708
17	Edward Lane	14,947	12,704	27,651
18	Jehu Baker	15,396	14,943	30,339
19	R. W. Townshend	16,316	12,730	29,046
20	J. T. Thomas	16,246	15,658	31,904
	Total	297,186	267,757	564,943
	INDIANA.			
1	A. P. Hovey	18,258	16,901	35,159
2	J. H. O'Neall	16,095	14,866	30,951
3	J. G. Howard	12,458	13,568	30,766
4	William S. Holman	15,777	14,989	30,766
5	C. C. Matson	16,694	16,162	32,856
6	T. M. Browne	20,397	12,253	32,650
7	William D. Bynum	22,882	21,108	43,990
8	James T. Johnston	20,918	19,816	40,734
9	J. B. Cheadle	22,437	19,021	41,458
10	William D. Owen	18,114	16,041	34,155
11	George W. Steele	19,649	19,241	38,890
12	J. B. White	17,900	15,416	33,316
13	B. F. Shively	21,037	19,989	41,026
	Total	242,616	219,371	461,987
	OHIO.			
1	Benjamin Butterworth	15,522	13,166	28,688
2	Charles E. Brown	17,009	15,210	32,219
3	E. S. Williams	17,235	19,362	36,597
4	S. S. Yoder	16,959	11,689	18,648
5	G. E. Seney	16,996	6,652	23,648
6	M. M. Boothman	19,476	19,444	38,920
7	James E. Campbell	15,303	15,301	30,604
8	R. P. Kennedy	18,080	18,344	36,424
9	William C. Cooper	17,659	17,690	35,349

Comparison of votes cast in the following States—Continued.

District.	Member.	Votes for.	Votes against.	Total vote cast.
	OHIO—continued.			
10	Jacob Romeis	17,180	15,592	32,772
11	A. C. Thompson	17,550	14,140	31,690
12	J. J. Pugsley	18,283	18,581	36,864
13	J. H. Outhwaite	20,310	19,005	39,315
14	Charles P. Wickham	13,835	14,340	28,175
15	C. H. Grosvenor	15,794	14,324	30,118
16	Beriah Wilkins	20,258	17,608	37,866
17	J. D. Taylor	17,623	15,958	33,581
18	William McKinley	18,776	16,217	34,993
19	E. B. Taylor	17,707	10,122	27,829
20	G. W. Crouse	15,777	16,741	32,518
21	M. A. Foran	14,899	14,160	29,059
	Total	362,231	323,646	685,877
	KANSAS.			
1	E. N. Morrill	17,347	13,832	31,179
2	E. H. Funston	18,037	16,755	34,792
3	B. W. Perkins	19,614	17,102	36,716
4	Thomas Ryan	21,961	17,123	39,084
5	J. A. Anderson	19,240	16,986	36,226
6	E. J. Turner	19,624	11,807	31,431
7	S. R. Peters	34,515	26,537	61,052
	Total	150,338	120,142	270,480
	MICHIGAN.			
1	J. Logan Chipman	17,367	16,677	34,044
2	E. P. Allen	16,518	17,945	34,463
3	James O'Donnell	20,215	19,093	39,308
4	J. C. Burrows	18,257	17,743	36,000
5	M. H. Ford	18,567	21,206	39,773
6	M. S. Brewer	19,034	20,575	39,609
7	J. R. Whiting	13,777	14,556	28,333
8	T. E. Tarsney	18,301	19,545	37,846
9	B. M. Cutcheon	17,226	16,591	33,817
10	S. O. Fisher	15,047	13,964	29,011
11	Seth C. Moffatt	16,467	9,045	25,512
	Total	190,776	186,940	377,716
	MISSISSIPPI.			
1	John M. Allen	3,140	27	3,169
2	James B. Morgan	7,858	3,792	11,650
3	Thomas C. Catchings	4,518	2,382	6,900
4	F. G. Barry	2,964	122	3,086
5	C. L. Anderson	3,500	27	3,527
6	Thomas R. Stockdale	8,284	3,825	12,109
7	Charles E. Hooker	4,508	6	4,514
	Total	34,772	10,181	44,953
	ARKANSAS.			
1	Poindexter Dunn	6,092		6,092
2	Clifton R. Breckinridge	8,612	4,380	12,992
3	Thomas C. McRae	8,909	6,512	15,421
4	J. H. Rogers	8,314	5,077	13,391
5	S. W. Peel	4,746		4,746
	Total	36,673	15,969	52,642
	LOUISIANA.			
1	Thomas S. Wilkinson	11,350	1,651	13,001
2	Matthew D. Lagan	7,930	6,537	14,467
3	Edward J. Gay	14,782	11,692	26,474
4	N. C. Blanchard	5,747		5,747
5	C. Newton	13,618	495	14,113
6	S. M. Robertson	6,707	2,550	9,257
	Total	60,134	22,925	83,059
	ALABAMA.			
1	James T. Jones	4,220		4,220
2	H. A. Herbert	5,659		5,659
3	William C. Oates	4,660		4,660
4	A. C. Davidson	14,913	6,045	20,958
5	James E. Cobb	5,558	775	6,333
6	John H. Bankhead	7,938	4,369	12,307
7	William Henry Forney	7,549	4,608	12,157
8	Joseph Wheeler	11,684	8,639	20,323
	Total	62,181	24,436	86,617
	GEORGIA.			
1	Thomas M. Norwood	2,061	17	2,078
2	H. G. Turner	2,411		2,411
3	Charles F. Crisp	1,704		1,704
4	Thomas W. Grimes	2,909	330	3,239
5	John D. Stewart	2,999		2,999
6	James H. Blount	1,722		1,722
7	J. C. Clements	5,043	1,537	6,580
8	H. H. Carlton	2,377	55	2,432
9	A. D. Candler	2,355	11	2,366
10	George T. Barnes	1,944		1,944
	Total	25,525	1,950	26,475

Comparison of votes cast in the following States—Continued.

District.	Member.	Votes for.	Votes against.	Total vote cast.
	SOUTH CAROLINA.			
1	Samuel Dibble	3,315	2	3,317
2	George D. Tillman	5,212	23	5,235
3	James S. Cothran	4,402	7	4,409
4	W. H. Perry	4,470		4,470
5	John J. Hemphill	4,696	5	4,701
6	George W. Dargan	4,411	58	4,469
7	William Elliott	6,493	5,983	12,476
	Total	32,999	6,078	39,077

Recapitulation.

State.	Counties.	Districts.	Population. White.	Population. Colored.	Total vote cast.	Vote for.	Vote against.
Iowa	99	11	1,614,600	9,516	346,076	182,724	163,352
Illinois	102	20	3,031,151	46,368	564,943	297,186	267,757
Indiana	92	13	1,938,798	39,228	461,987	242,616	219,371
Ohio	88	21	3,117,920	79,900	685,877	362,231	323,646
Kansas	104	7	252,165	43,107	270,480	150,338	120,142
Michigan	78	11	1,614,560	15,100	377,716	190,776	186,940
Total	563	83	12,269,184	233,219	2,707,079	1,425,871	1,281,208
Mississippi	74	7	479,398	650,291	44,953	34,772	10,180
Arkansas	75	5	591,531	210,666	52,642	36,673	15,969
Louisiana	57	6	454,954	483,655	83,059	60,134	22,925
Alabama	65	8	662,185	600,103	86,617	62,181	24,436
Georgia	137	10	816,906	725,133	26,128	24,525	1,603
S. Carolina	33	7	391,105	604,332	39,077	32,999	6,078
Total	441	43	3,396,079	3,274,180	332,476	251,284	81,192

	North.	South.
Average vote cast in each district	32,616	7,732
Average vote for each successful candidate	17,179	5,844
Average opposition vote for each successful candidate	15,436	1,888
Per cent. of opposition vote to population	10.25	1.21
Number of districts in which no opposition		12
Number of districts less than 60 votes		11

Agricultural Appropriation Bill.

SPEECH

OF

HON. JOHN D. STEWART,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 8, 1889,

On the bill (H. R. 12485) making an appropriation for the Department of Agriculture for the fiscal year ending June 30, 1890, and for other purposes.

Mr. STEWART, of Georgia, said:

Mr. SPEAKER: I am much surprised that any member on this floor should oppose this bill. If it does carry an increased appropriation over former years, if the agricultural condition of the country should thereby be increased, I should only wish that the appropriation was larger.

It has well been said that our national as well as our individual prosperity is largely dependent upon agriculture, and when we remember that more than sixty millions of our people in a great measure are dependent upon the successful prosecution of agriculture for food and raiment how important, then, that we should give the subject due consideration, and do all within our power for its vigorous and successful prosecution.

I admit that we, as an agricultural people, can look with pride to what has been accomplished in the past, and we can not fail to regard the present as most auspicious; and if we do our whole duty the future is most full of promise.

It may be urged with propriety that Congress has manifested a deep concern in this subject in having recently made the head of this Department a Cabinet officer. I admit that Congress has sought to give this Department that dignity which its great merit demands. And will we not appear most inconsistent if we now withhold needed appropriations? As a test of our sincerity and earnestness we should deal with the Department with a liberal hand.

Farmers pay taxes; they furnish a majority of soldiers in time of war. In every crisis we admire their conservatism and energetic support of the Government; in progress they have led the advance guard; they have faced dangers, trials, and hardships, and have borne the banner of civilization aloft in its westward march. From the Atlantic to the Pacific, from the Northern Lakes to the Gulf of Mexico, they have established schools and churches and many happy homes. Have they not a right, then, to demand at our hands such appropriations as will make this bureau most efficient? Will not the toiling millions hold us to an account for our conduct in dealing with that which most deeply concerns them?

Some complain of the amount appropriated by this bill. How insignificant is it when compared with appropriations made for the maintenance of other interests and other departments of the Government; and in this connection it may not be uninteresting to give a statement of the appropriations for the last fiscal year for the following purposes:

Pensions	$90,000,000
Post-offices	63,860,000
Navy	20,000,000
Army	24,500,000
Indian affairs	5,500,000
Rivers and harbors	22,397,000
Ministers and consuls	1,428,000

We appropriated millions for the construction of ships and engines of war. I had rather vote twice the amount to be used in methods which will facilitate the feeding of the hungry and clothing the naked than vote for appropriations designed for the destruction rather than the preservation of human life. While it may be proper to provide for the public defense, yet I refer to this to show that we should not be timid in making appropriations for other matters equally meritorious.

With reference to the matter of appropriations we might profit by looking to the conduct of other countries. Last year France expended for agriculture and commerce $20,000,000; Brazil, $12,000,000; Russia, $11,000,000; Austria, $5,500,000; Japan, $1,000,000; England, $22,000,000; while our Government only expended $1,716,000.

It was not the object of those who constituted this bureau that it should simply distribute seeds. It was their declared purpose that the bureau was organized for the promotion of the following objects:

For promoting the science and practice of agriculture.
For gathering information in natural history connected with agriculture.
For promoting agricultural chemistry.
For instruction in agricultural mechanics, manufactures, and commerce, and statistics.

And we might add, forestry and animal industry.

Since this bureau was established, in 1862, much good has been accomplished, and if the means had been furnished much more could have been done.

Most valuable information has been obtained in this and other countries in the science of agriculture; the best modes of tilling the soil, together with the best and most improved implements to be used; the composition of the soil and its needs, and proper fertilization. In addition to this much has been done to ascertain how the greatest yield can be obtained with the least cost and labor; and this information has been distributed, to which I will more specifically call attention when I refer to the last year's work of this bureau.

We have reached that period in our history in agriculture where all must admit that old processes will not do, and where science, in harnessed forces, must hitch on to our every-day methods in sowing and reaping, and urge them forward with the same speed that propels machinery in mechanics and in our methods of conducting commerce.

Farmers know that it is a truth sustained by observation that natural disabilities, although great, are less injurious than bad cultivation, and they can measurably be overcome by the intelligent farmer with improved implements of husbandry.

It is the crop of the unskilled cultivator which drought, insects, or early frosts usually destroy, and it is the poorly-cultivated crop which brings the lowest price in market.

From this day forward we should understand that farming must be directed by sense and science; and that without skill to improvise the best machinery and without science to understand the nature and needs of the soil, the supremacy of agriculture will be greatly diminished if not broken down.

I venture to suggest that we will fail to meet the expectations of the country if we do not do all in our power to foster this industry.

Among other provisions of the bill under consideration it provides for the establishment of experimental stations in agriculture. Who can estimate the benefits which may be derived from these? for it will be remembered that agricultural chemistry now forms a part of the curriculum of studies in most of our schools and colleges. And the same advancement has been made in agricultural mechanics. Who could have foretold a few years ago what can now be accomplished by the reaper and other improved agricultural implements?

As agriculture furnishes about 82 per cent. of the commerce of the United States, I beg to submit a table showing its rapid development for a given number of years. This of itself seems to me to be a sufficient reason why we should do all in our power to encourage those engaged in agriculture, since it is seen that they contribute so largely to the general prosperity of the country.

Years.	Exports.	Agricultural exports.	Per cent.
1820	$51,600,000	$41,600,000	80
1830	58,500,000	48,000,000	82
1840	111,600,000	92,500,000	83
1850	131,900,000	108,600,000	80.5
1860	316,100,000	256,500,000	81
1870	455,200,000	361,200,000	79
1880	824,000,000	683,000,000	83

Years.	Increase of production for a number of years in—		
	Breadstuffs.	Provisions.	Cotton.
1830	$7,100,000	$3,000,000	$29,700,000
1840	13,500,000	3,500,000	64,000,000
1850	13,600,000	11,000,000	72,000,000
1860	21,500,000	16,600,000	192,000,000
1870	72,600,000	29,000,000	227,000,000
1880	288,000,000	127,000,000	211,500,000

Increase of crops from 1870 to 1880.

Cotton:		
1870	bales...	4,352,317
1880	do.....	6,000,000
Corn:		
1870	bushels...	761,000,000
1880	do.....	1,755,000,000
Wheat:		
1870	bushels...	288,000,000
1880	do.....	408,000,000
Tobacco:		
1870	pounds...	263,000,000
1880	do.....	446,300,000
Oats:		
1870	bushels...	282,000,000

From the foregoing table and other information it has been ascertained that the capital invested in this industry amounts to $28,000,000,000, and that the annual productions of the farms amount to $9,300,000,000; that in 1880 the United States sold of farm products to other nations $683,010,976, constituting about 82 per cent. of our exports. When our great western country shall be thickly settled who can estimate what the value of our farm products will be?

I am of the opinion that our people have not been thoroughly informed as to the character, nature, and extent of the work which this bureau has performed, and I ask permission to incorporate as a part of my remarks a letter received from the Department, and containing a synopsis of the work done during the last twelve months, together with other matters contained in said letter.

UNITED STATES DEPARTMENT OF AGRICULTURE,
Washington, D. C., February 7, 1889.

SIR: In reply to your inquiries of this date, I have the honor to say:

1. This institution was established as a branch of the Patent Office on the 4th of July, 1836.

2. The act establishing the Department of Agriculture, became a law on the 15th of May, 1862.

3. The "annual expenditures since 1862" have been computed only to 1877. From that date forward I give the annual appropriations.

Expenditures for the fiscal year ending June 30—

1862	$74,000.00	1870	$149,500.00
1863	79,633.51	1871	184,268.00
1864	104,840.70	1872	191,362.91
1865	155,104.05	1873	206,941.77
1866	167,487.82	1874	227,403.11
1867	189,400.00	1875	319,939.19
1868	259,018.29	1876	208,021.14
1869	237,779.67	1877	192,134.12

Appropriations for the fiscal year ending June 30—

1878	$227,640.00	1884	$428,140.00
1879	215,900.00	1885	677,690.00
1880	212,000.00	1886	598,452.50
1881	264,300.00	1887	673,684.10
1882	371,500.00	1888	1,046,730.00
1883	487,780.00	1889	1,754,972.28

Five hundred and eighty-five thousand dollars of the appropriation for 1889 is to be disbursed by the officers of the experiment stations.

4. The "quantity of seeds distributed the past year" aggregated in the number of 4,655,519 packages.

5. The "nature and quantity of the literature distributed the past year" may be summarized as follows:

From the statistical division eleven bulletins on the acreage, condition, and yield of cereals, potatoes, and tobacco; distribution and consumption of corn and wheat; the number of farm animals; freight rates of transportation; progress and result of cotton planting; condition of crops in Europe and America; wages of farm labor, etc.; in all, 200,000 copies.

From the botanical division four reports, on the downy mildew and grape rot, on the grasses of the arid regions, fungicides or remedies for plant diseases, and the annual report of the botanist; in all, 30,500 copies.

From the chemical division three bulletins, on experiments in the manufacture of sugar, on sugar and sugar-producing plants, and analyses of commercial fertilizers.

From the entomological division thirteen reports and bulletins, on the character, habits, and means of extermination of insects injurious to agriculture; on

the chinch bug, mulberry silk-worm, shade trees and their defoliators, annual report of the chief, catalogues of the exhibition at New Orleans, and of North American insects, with seven bulletins on insect life; in all, 58,600 copies.

From the Bureau of Animal Industry, the annual report of the chief, and circulars on diseases of animals and their remedies; in all 30,000 copies.

From the forestry division, report of the chief, the forest condition of the Rocky Mountains, increasing the durability of timber, and on new forage plants; in all, 16,000 copies.

From the division of ornithology and mammalogy, report of the chief, and on bird migration; in all, 6,500 copies.

From the division of pomology, report of the chief, and bulletin on the adaptation of Russian and other fruits; in all, 26,000 copies,

The annual report of the Department, 400,000 copies.

Aggregating 790,600 copies.

In addition to this printed matter, a vast amount of agricultural literature has been disseminated in manuscript, by reports and letters, to different regions of the United States, as well as abroad, in response to inquiries; as well as new facts, without special inquiry, which have been collated by the Department, relative to desirable products, their names, characteristics, with climatic and other conditions necessary to successful culture.

6. The "general scope" of the work has been, in accordance with law, the distribution of seeds adapted to the different sections of the Union; the dissemination of useful information in regard to the cultivation of different products, and the names and characteristics of new and rare varieties; the collection of agricultural statistics; the collation and publication of scientific and practical details relative to botany, entomology, and agricultural chemistry; the cause of, and remedies for, the diseases of domestic animals; the development of the silk industry by the collection of cocoons and the operation of successful machinery; pomological information as to the nomenclature and merits of different fruits; collating information as to the nomenclature and merits of different fruits, both native and foreign; facts and fallacies relative to the dairy industry; and causes of the denudation of our forests, with suggested remedies for their preservation; and suggestive facts in ornithology and mammalogy, with kindred labors of the different divisions to promote our agricultural interests.

7. The recent establishment by Congress of experiment stations in the different States has met the unqualified approval of all parties interested in agriculture, and there are now forty-six of them established and engaged in active work, with which this Department is in hearty co-operation. Though they are yet in their infancy the results so far fully certify the wisdom of Congress in its appropriation for the purpose. These results, taken in connection with those from similar institutions in other countries, warrant me in anticipating a value from their work vastly in excess of the cost of their establishment and maintenance.

8. "General remarks." In general, it may be safely said that the impetus given to the better production of our agricultural values, as evidenced by the correspondence of the Department from all sections of the country, certifies without qualification to the great benefits everywhere resulting from its labors; and it has thus been able to keep up with the development of the agricultural economies desired by our people. It has so well commended itself to the country and to Congress that it now has no less than twenty separate divisions, which are sending broadcast numerous reports and bulletins, showing what science and experience has to teach of the different problems that present themselves to the cultivators of our varied soils, of the insects which depredate, and diseases which devastate, making, as a whole, an aggregation of scientific and practical effort which is not paralleled in the agricultural history of any other nation.

The Department of Agriculture now presents a striking and instructive contrast with its status when established as a separate Department in 1862. The organic law but faintly outlines the present labors and purposes of the Department. At its organization there were but three divisions and but few employés; indeed, but one, the seed division, was generally known to exist, and to many minds its one object, the gratuitous distribution of garden seeds to miscellaneous applicants, comprised the beginning and the end of its aims and efforts.

The position which the Department now occupies is that of an adviser in those investigations and enterprises which are to have an important bearing upon the future agriculture of this country. Its development has been natural, and there is a valuable lesson in its evolution. Its position requires and deserves recognition not through the mere changing of a name, nor by any radical legislation which may meet the favor of one class and the disfavor of another, but rather through a well-endowed Department, fully authorized to employ scientific experts and specialists in its several lines of investigation, and well equipped with the latest and most approved apparatus, with conveniently arranged buildings in safe and healthful surroundings. Science and experiment are to be the handmaidens of our future agricultural independence and supremacy.

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

NORMAN J. COLMAN, *Commissioner.*

Hon. JOHN D. STEWART,
Member Congress Fifth District Georgia.

In addition to the information contained in the letter of Hon. Norman J. Colman, I desire, if possible, to call the attention of the public to one other matter which I insist has resulted from experiments conducted by the Agricultural Department. I refer to the manufacture in this country of sorghum and beet sugar.

The sorghum plant is believed to be indigenous to most temperate and subtropical countries. And yet how little is known to the great mass of our agriculturists respecting its culture and utilization as a producer of saccharine matter. It may be profitably cultivated in nearly every State in the Union; and the sugar made from its stalks is, under the new processes of manufacture, just as good as that from the tropical cane.

The testimony before the Senate Finance Committee, taken in January last, discloses the fact that in one little district in Kansas a single local manufacturer made last year 700,000 pounds of best crystallized light-brown sugar from the hitherto neglected sorghum plant. The plant was cultivated within an area of 3 miles of the manufactory, and was a source of fine profit to farmers. It paid them better than their corn crops. It was less uncertain and less exhausting to the soil. The factory bought it in bulk from the planters at $2 per ton, stripped it by machinery, utilized the leaves for provender and for the manufacture of paper, and made from the juice of the stalks a sugar which sells readily at 6 cents a pound. An acre of ground, it has been found, will produce 10 tons of sorghum in the gross; that is, stalks, leaves, seeds, and all. The seed was sold for $1.10 per bushel, and used for the manufacture of glucose, for which purpose it is preferable to corn. And it has been demonstrated that with proper facilities an excellent and salable article of light-brown sugar can be made from sorghum at a cost of from 2½ to 3 cents per pound. With a bounty from the State government, as, for instance, in Kansas, it has been made at a cost of about 1 cent per pound. This was brought to light by the evidence to which I refer. In response to a question by the committee whether sugar could not be made as low as 1 cent per pound, Mr. Parkinson (a sorghum manufacturer at Fort Scott, Kans.) said:

That depends, of course, entirely on the price of the by products. If you will give me $1 a bushel for the seed and 20 cents a gallon for the sirup, I think I can produce sorghum sugar for nothing. But then, of course, I can not say what a pound of sugar costs unless I know what I am to get for the seed, and for the leaf, as even it is valuable for food. That, however, we can get at very accurately. But the molasses and the food products are very important, and their value must be determined, of course, before the price of sugar can be determined.

Senator ALDRICH. Does this molasses go into domestic consumption to any great extent?

Mr. PARKINSON. No, sir.

Senator ALDRICH. On account of the flavor?

Mr. PARKINSON. No; the flavor is not disagreeable to all, but the people in the West have been educated to a lighter colored sirup and to a mixed sirup. People do not want pure sirup. It is too sweet. I believe that is true everywhere. We work some of it into "Vermont maple" by doctoring it up a little, and it goes off very well.

Senator HISCOCK. How many bushels of sorghum seed does it take to plant an acre?

Mr. PARKINSON. About a pound and a half is enough.

Senator HISCOCK. And the yield of seed is about 20 bushels to the acre?

Mr. PARKINSON. Yes. If the price of sugar is maintained at about what it is now there is a great future for sorghum, unquestionably. I am not speaking theoretically, because we have solved this problem of extraction, and we are improving every year, not only upon the quality of the product, but upon the increased amount of sugar. Take this cane of Western Kansas that averages 15 per cent. of sucrose; we certainly ought to get 150 pounds of sugar out of such cane, and I believe we can with more intelligent processes than we have been able to apply.

The CHAIRMAN. How far is this sorghum hauled by the farmers to your factory?

Mr. PARKINSON. About 3 miles is as far as it can be profitably hauled.

The CHAIRMAN. Would a circle of 3 miles radius support a sugar factory in the center and supply it with sufficient cane for seventy days, say, at Topeka?

Mr. PARKINSON. Yes; very much more. Three miles square would be 9 square miles, nine sections; say 3,000 acres. The Topeka factory works about 2,000 acres. We have made some experiments this year in drying these chips for preservation, so that they could be transported and worked during a portion of he year when we can not work them. We have macerated them and dried them with hot air, and we have had some very hopeful results, but have done nothing on an extended scale.

The CHAIRMAN. How do the farmers find your $2 a ton pays them as compared with a good crop of corn at 80 bushels to the acre?

Mr. PARKINSON. We call 80 bushels to the acre a very fine crop of corn in Kansas.

The CHAIRMAN. Say 50 or 40?

Mr. PARKINSON. It pays them better.

The CHAIRMAN. Better than to raise corn at 40 bushels to the acre?

Mr. PARKINSON. Yes.

Senator HISCOCK. That is, 40 bushels of shelled corn?

Mr. PARKINSON. Yes. I think I can say this with safety; that we could secure almost any given quantity of cane contracted for to-day at $1.50 a ton. At $1.50 a ton it would pay the farmer better than any crop he raises, considering the uncertainty of corn, and then considering the certainty of sorghum.

Senator HISCOCK. What time do you plant sorghum in the spring?

Mr. PARKINSON. About the 1st of May, about the same time that corn is planted.

Senator HISCOCK. And commence cutting it in August?

Mr. PARKINSON. Yes; an early cane will mature in ninety days with favorable weather.

Senator HISCOCK. Has it ever been raised enough so that you know to what extent it exhausts the soil?

Mr. PARKINSON. Yes; I think I can say that it has. I have a piece of land that has had ten successive crops of sorghum, and I think it is the best sorghum in the neighborhood. In other words, it is not an exhaustive crop.

The CHAIRMAN. Does it have practically the same effect as corn?

Mr. PARKINSON. It is not so hard on the land as corn is. One secret of its standing the drought is that it has a tap root that goes down deeply into the soil, and the sugar all comes from the atmosphere. It is something like a crop of castor-beans. We make three successive crops of castor-beans in Kansas, and keep the ground well manured.

Being asked whether the saccharine matter in the cane depended to any great extent upon the method of culture, the manufacturer replied that it did; the better and more carefully the cane was cultivated the greater would be the average yield per ton of saccharine matter. The average yield was about 80 pounds to the ton.

Another branch of agricultural industry that might be rapidly developed in nearly all parts of our country under the provisions of this bill is the sugar-beet culture. The climate of Georgia particularly seems well adapted to it, and so, indeed, of the other Southern States. It is shown by the testimony from which I have been quoting that this industry is already being rapidly developed on the Pacific coast, where the natural facilities are not so great perhaps as in Georgia.

Mr. Spreckels, the great sugar manufacturer, testified before the committee that in California he paid about $5.50 per ton for sugar-beets. The average crop per acre was about 35 tons. This, of course, makes it a very profitable crop to the farmers, while it enables the manufacturers to make an excellent article of sugar at a fair profit. Forty-four tons of sugar are made from 350 tons of beets, or say about 11¾ per cent. The manufacturer thus makes about 220 pounds of sugar from every 2,000 pounds of beets. He sells the residuum or pulp to cattlemen, who have discovered it to be an excellent food for their stock. In other words, the pulp can be utilized here, as in Germany, by the dairymen.

The chairman asked Mr. Spreckels if he had any knowledge of soils

that would enable him to express an opinion with reference to the production of sugar-beets, to which Mr. Spreckels replied:

I have not, but I could very easily ascertain from my own chemist. I am not myself so far advanced as that.

The CHAIRMAN. You only know that it will do in California?

Mr. SPRECKELS. I know that it is successful in California, Oregon, and Washington Territory, because we have had beets from there, and we have sent seed there. I think Oregon and Washington Territory are fully as good as California, if not better.

Senator ALDRICH. In selecting a location for your factory, was it done with any regard to the adaptability of soil for producing beets?

Mr. SPRECKELS. We knew that we could raise there potatoes, and could raise a certain crop on good land; so I thought they could raise beets; I knew they could.

Senator ALDRICH. But you made no special examination with that purpose in view?

Mr. SPRECKELS. No. Beets will not thrive on all lands. A beet will tell you in a short time what your land is, that it ought to have a fertilizer of some kind. It indicates the character of the land right away.

Senator HISCOCK. Does the beet crop exhaust the land rapidly?

Mr. SPRECKELS. No, sir; in fact, in Germany the more beets the more grain.

Senator HISCOCK. I mean can you repeat the beet crops?

Mr. SPRECKELS. Yes; you can repeat them in rich land every other year for a long time, and perhaps even every year; but then it would be the same as if you raised the same crop of grain for successive years; the grain will not be so good in after years as it was at the start.

Senator HISCOCK. What I was after was this: Whether the saccharine matter comes from the air or from the earth?

Mr. SPRECKELS. It comes from the air and the sunshine. We take out the salts of potash, and that we can give back in the fertilizers and lime.

The CHAIRMAN. In Germany, I understand, they rotate the crops. That is, they plant beets but once in four years.

Mr. SPRECKELS. Once in three years. For instance, after beets they raise a very big crop of grain, and in Germany they get 1½ cents more from the brewers for the barley.

The CHAIRMAN. That is, after the beet crop?

Mr. SPRECKELS. Yes. Then after the barley they put on fertilizers, costing from $10 to $15 an acre. Then they have wheat or some other grain after the fertilizer, and then they put on beets again. You must never fertilize your beets the same year that you plant them; the year before will do.

Mr. Speaker, the foregoing testimony shows that beet culture can be made a most profitable industry contiguous to an establishment for the manufacture of beet sugar, and that a beet-sugar manufactory may be profitable anywhere where lime and water and fuel and beets can be had. In other words, a good article of sugar may be made in the United States as cheaply from the sugar-beet as from the tropical and sub-tropical sugar-cane; and with the conditions as to labor being equal, beet sugar may be manufactured as cheaply here, nay, even more cheaply, than in Germany, where it has grown into an enormous and profitable industry.

I would, if possible, emphasize the successful experiments that have been made in the manufacture of sugar, hoping that other portions of this great country will undertake like experiments; and I trust that at no distant day we will manufacture all the sugar that our people consume. What a blessing this would be when it is remembered that we are now paying $55,000,000 of duty annually on imported sugar.

Mr. Speaker, in conclusion I here now assert that successful agriculture is as much dependent upon scientific investigation as is steam in propelling machinery or electricity in producing light; and if we desire the prosperity of this the greatest of all known Republics, we should contribute whatever means are necessary for the prosecution of these investigations for the purpose of bringing agriculture, the greatest American industry, to the highest perfection that can be attained by the exercise of human skill.

Death of Hon. Edward W. Robertson.

SPEECH

OF

HON. CHARLES E. HOOKER,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 19, 1889.

The House having under consideration resolutions of respect to the memory of Hon. Edward W. Robertson, late a Representative from the State of Louisiana—

Mr. HOOKER said:

Mr. SPEAKER: The invitation of the Louisiana delegation upon this floor requesting me to participate in these service in commemoration of the memory of our departed fellow-member occurs out of the fact I had the honor to serve with him in this body in the Forty-fifth, Forty-sixth, and Forty-seventh Congresses.

Representing, as he did, a coterminous State to my own, with similar interests, we were naturally thrown much together, and I had the honor to be called "his friend." We served together for a long period in the Congress of the United States, and I am gratified to be able to avail myself of this occasion, without preparation in writing, to express the sentiments I held towards this deceased brother of our body.

He came into the Congress of the United States one session after I had become a member, and as has been well said by his distinguished colleague [Mr. BLANCHARD] who has just addressed you, the appreciation of his services and of his ability and his fitness for the position to which his people had elected him was demonstrated by the fact that the unusual honor was conferred upon him of being made the chairman of one of the most important committees on this floor. He was selected to preside over that committee which had in charge the interest particular to the valley of the Mississippi River, being the Committee on the Mississippi Levees. As chairman of that committee he was the author of the bill, which finally became a law, creating the Mississippi River Commission. He was the originator, Mr. Speaker, I may say, of that tardy act of justice to the largest body of water which flows through our continent, embracing so many thousand miles of navigable waters. It had been the recipient of but little of patronage on the part of the Government in the way of improvement of its navigation and commerce. And as chairman of that committee he is entitled to the honor of inaugurating the policy of making adequate improvements for the great stream, draining, as it does, with its vast tributaries, twenty-four States and six Territories of the Union, and containing within its water-sheds a vast proportion of the population of this country.

He had been previously honored by his State, as has been well said, by being selected as its representative in its Legislature. He had twice been chosen its auditor of accounts. He served with distinction in no high rank in the Army in Mexico, for he belonged to the rank and file of minor officers and men whose valor forges the epaulets which adorn the shoulders of the commanding general. He served with equal distinction in the late war between the States; again in his modesty declining a high position, and seeking simply to discharge his duty, he assumed the humble rôle of captain of his company, declining to be the colonel of his regiment. He served in the Walnut Hills of Vicksburg side by side with myself during the entire siege of that great city. His services there are familiar to me, and his esteem amongst the men with whom he served I was cognizant of.

The last occasion I had, sir, the pleasure to grasp him by the hand was when he came with his comrades from Louisiana on the 11th of June, 1887, to Vicksburg to present to the good ladies of that city the monument which the affectionate regard of the survivors erected over the gallant men of Louisiana who lay buried on those battle-fields. I there had the pleasure for the last time to see him when the good ladies of that city of Vicksburg assembled to receive at the hands of the delegation from Louisiana the monument their gratitude reared to the valor of their comrades who had fallen by their side. I congratulated him on his splendid health. I congratulated him on his recovery from the accident which had prostrated him. He had then been elected a member of this Congress, and I had hoped to have the pleasure of greeting him here as I had the honor of doing in former times and to work side by side with him in behalf of the common interests of our common country. But that pleasure, by the fiat of Him to whose decree we all bow with humility, has been denied to me as to other members of this body who knew him so well. He was suddenly taken away. But his mantle has fallen upon the shoulders of that son who represents in this House the same Congressional district, being, I believe, among the youngest of its members; and I can wish him no better fortune than to inherit the principles of right and justice, of equity and fair dealing, and the high moral sense of duty which distinguished his eminent father. And as I had the pleasure to enjoy the friendship of the father, I hope also that I shall share with him in the same affection that it was my honor to share with his father.

It has been said, sir, by the great poet, whose magic hand sweeps across the chords of the human heart, and evokes from it every emotion that agitates it from the cradle to the grave, that there is nothing which men fear so much as death. To use his own memorable expression,

> The weariest and most loathed worldly life,
> That age, ache, penury, and imprisonment,
> Can lay on nature, is a paradise
> To what we fear of death.

That may be true, Mr. Speaker, in a general sense. But to the firm and true man, to the man of honest convictions and upright actions, to the brave man who can die only once, if he be armed with those convictions of right, those sentiments of morality which so prominently distinguished our dead brother, death has few terrors. For while Mr. Robertson was not one who thrust his religious views upon those with whom he was associated, he possessed such convictions in an eminent degree. In common with the whole of humanity he acknowledged our dependence upon the great Master whose arm sustains us all; and while it is not wonderful that among the intelligent, the educated, the right-thinking a sense of religion should govern, I doubt whether there be in all the world one so vile that when the hour of affliction and trial comes upon him, he does not in his inner heart acknowledge his dependence upon Him who rules us all. It is but the re-echoing of the sentiment which came from one of the Master's apostles. When undertaking to walk upon the water, he sank to the arm-pits, and heard the gurgling waters singing the requiem of death, he uttered that sentiment which comes from the heart of all in the hour of affliction, "Save, Lord, or I perish."

To the brave, I have said, it comes to die only once, and Edward W. Robertson was brave in his convictions, brave in his sense of right,

brave in his actions; courageous possibly to a fault; firm in his convictions; he never yielded what he thought was right, either on this floor or wherever else he had to perform the duties of a man to his fellow-citizens, to his country, and to his God. I know of no one whom it has been my good fortune to meet here among many distinguished men with whom I have associated on this floor who better deserves that magnificent comment which was made by the old Latin poet hundreds of years ago when, in describing the just, true, virtuous, upright, unconquerable man, he used these memorable words:

Justum ac tenacem propositi virum,
Non civium ardor prava jubentium,
Non vultus instantis tyranni
Mente quatit solida.

The Postal Clerical Service—Classification and Pay.

Nothing to hope for or labor for, nothing to sigh for or gain;
Nothing to light in its vividness, lightning-like, bosom and brain;
Nothing to break life's monotony, rippling o'er with its breath;
Nothing but dullness and lethargy, weariness, sorrow, and death.
—*Denis Florence McCarthy.*

SPEECH

OF

HON. S. S. COX,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 16, 1889.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 12490) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1890—

Mr. COX said:

Mr. CHAIRMAN: I have the honor and the pleasure to take, perhaps, an unusual interest in the Post-Office Department. That interest has been special, and on certain lines it is somewhat limited. The delivery system has long been associated with my duties here, and, I may say, even my anxieties abroad. But the letter-carriers have had not an unreasonable, on the contrary, quite a kindly, provision made for them from time to time as to the increase of their pay, their vacation, their recreation, and their hours of service.

FREE DELIVERY.

But how superbly have they recompensed the Government for its benefactions. As the facts justify our pride over my previous efforts in their behalf, may I be permitted to present now and here the last results of this free-delivery or letter-carrier service? Facts furnish the vindication of this system. They simply astound the mind as well as please the heart.

According to the last report of the Postmaster-General, during the last fiscal year that system was—

Extended to 169 additional places under the act of January 3, 1887, making a total of 358 free-delivery cities. The number of carriers was increased from 5,310 to 6,346, adding 1,036 to the number. The whole number of pieces of mail handled by the carriers was 2,630,861,758, against 2,234,564,658 the preceding year, showing an increase of 396,297,102 pieces, or 17.73 per cent. The percentages of increase were as follows: Letters delivered, 11.53; newspapers, etc., delivered, 25.22; letters collected, 23.19; postal-cards collected, 31.69; newspapers, etc., collected, 25. The total cost of the service was $5,422,356.38, being an increase of $803,664.29, or a percentage of 17.40 over the preceding year.

There is a largely-increased estimate for the fiscal year ending June 30, 1890, called for by the eight-hour law. The superintendent estimates that the amount required to carry out the provisions of that law will approximate about $1,462,000, of which amount $1,345,000 is for the pay of carriers, including promotions and $117,000 for incidental expenses, additional carriers, and pay of substitutes for carriers on vacation. If the law had not been enacted the appropriation required for the next fiscal year would have been about $6,538,000, whereas the estimate is $8,000,000.

Independent of the eight-hour law—

Says the report—

with the present number of offices, and the usual number of additional offices to be added annually, the annual increase would be about $500,000.

There is a special pride, Mr. Chairman, in the results of this free-delivery service as it affects the city of New York. New York does not arrogate, and therefore does not derogate from its sister cities. All are beneficiaries of this splendid system. The tables below illustrate what I say. Among the 358 offices where the system is operating, and with the 6,346 carriers, for 1888, the work done presents a net result which forever establishes the wisdom of Congress in increasing the service and extending its operations to the smaller cities. The excess of postage on local matter over the total cost of the service has increased, from 1887 to 1888, 15.39 per cent., or $1,030,435.47. Of this net gain New York makes a gain of $1,322,680.53. New York adds to the fund for other places over several hundred thousand dollars.

There is an unusually large increase of new offices under the act of January 3, 1887. That act extended the free delivery to cities of 10,000 population or to any post-office where the gross revenue was not less than $10,000; so that New York and a few other sister cities have been useful in this service beyond our most sanguine hope in aiding other places.

Let the tables from the Postmaster-General's report present the results:

The following table gives the aggregate results of the operations of the free-delivery system for the fiscal year, and the comparison of the results with the preceding year:

Aggregate results of the free-delivery service for the fiscal year ended June 30, 1888.

Statistics of free delivery.	1887.	1888.	Increase.	Per cent.
Number of offices	189	358	169	84.12
Number of carriers	5,310	6,346	1,036	19.51
Registered letters delivered	3,706,346	4,271,105	564,759	15.23
Letters delivered	783,393,058	873,760,692	90,367,634	11.53
Postal-cards delivered	215,934,009	212,426,703	*3,507,306	*1.60
Newspapers, etc., delivered	342,361,621	428,710,933	86,349,312	25.22
Letters collected	617,016,182	760,113,963	143,097,781	23.19
Postal-cards collected	170,079,552	223,980,437	53,900,885	31.69
Newspapers, etc., collected	102,073,888	127,597,925	25,524,037	25.00
Whole number pieces handled	2,234,564,656	2,630,861,758	396,297,102	17.73
Pieces handled per carrier	420,882	415,563	*5,259	*1.25
Total cost of service, including post-office inspectors	$4,618,692.07	$5,422,356.36	$803,664.29	17.40
Average cost per carrier	†$867.67	$852.05	*15.61	*1.79
Average cost per piece, in mills	†2.2	2.0	*.2	*9.09
Amount of postage on local matter	$6,691,253.69	$7,721,689.16	$1,030,435.47	15.39
Excess of postage on local matter over total cost of service	$2,072,561.62	$2,299,332.80	$226,771.18	10.94

* Decrease.

† Based on the aggregate, $5,407,200.16, paid carriers, and for incidental expenses, and not including $15,156.20 paid post-office inspectors.

The receipts from local postage exceeded the cost of service in 38 of the 358 offices (an increase of 8 over the previous year), as shown by the following table:

Post-offices at which the local postage exceeded the cost of the service.

Name of office.	Receipts from local postage.	Cost of carrier service.	Net gain.
Atchison, Kans	$6,652.35	$5,360.80	$1,291.55
Atlanta, Ga	19,867.32	16,852.13	3,015.19
Baltimore, Md	198,501.15	144,336.52	54,164.63
Birmingham, Ala	12,460.15	5,211.36	27,248.79
Boston, Mass	475,751.75	333,564.36	142,187.39
Brooklyn, N. Y	353,030.47	244,795.68	108,234.79
Buffalo, N. Y	85,998.82	73,498.86	12,499.96
Chicago, Ill	633,500.72	364,256.49	269,244.23
Cincinnati, Ohio	137,170.69	114,851.05	22,319.64
Denver, Colo	44,053.07	24,504.33	19,548.74
Detroit, Mich	66,899.71	60,479.94	6,419.77
Duluth, Minn	11,431.19	8,141.27	3,289.92
Elizabeth, N. J	9,493.27	8,756.63	736.64
Hartford, Conn	22,993.10	17,671.49	5,321.61
Helena, Mont	3,349.69	2,585.40	764.29
Kansas City, Mo	58,030.49	47,307.41	10,723.08
Leavenworth, Kans	10,158.40	7,189.10	2,969.30
Lexington, Ky	5,389.70	5,161.68	228.02
Lowell, Mass	23,254.13	16,455.38	6,798.75
Montgomery, Ala	7,265.98	4,587.80	2,678.18
Newark, N. J	53,219.13	42,931.29	10,287.84
New Haven, Conn	38,506.90	24,142.85	14,364.05
New Orleans, La	78,694.78	58,999.99	19,694.79
Newton, Kans	2,128.04	1,942.85	175.19
New York, N. Y	2,034,849.99	712,169.46	1,322,680.53
Omaha, Nebr	67,491.20	23,754.49	43,736.71
Philadelphia, Pa	1,184,048.90	444,864.34	739,184.56
Pittsburgh, Pa	85,966.16	62,166.38	23,799.78
Providence, R. I	46,107.80	42,789.58	3,318.22
Rochester, N. Y	49,267.80	43,421.13	5,846.67
St. Louis, Mo	459,639.13	186,160.74	273,478.39
St. Paul, Minn	58,674.75	49,660.40	9,014.35
San Francisco, Cal	168,329.94	114,834.17	53,495.77
Syracuse, N. Y	23,850.88	23,276.80	574.08
Topeka, Kans	10,853.14	10,085.00	768.14
Troy, N. Y	28,965.18	23,624.47	5,340.71
Wilkes Barre, Pa	12,252.82	9,326.08	2,926.74
Tacoma, Wash	2,076.57	1,810.37	266.20

The free-delivery system of the Post-Office Department was inaugurated July 1, 1863. The following table showing its growth in detail is herewith submitted:

Showing the growth of the free-delivery service from its inauguration, July 1, 1863.

Year.	Number of offices.	Number of carriers.	Cost of service.	Postage on local matter.	Excess of cost.	Excess of postage on local matter.
1863-'64	66	685	$317,063.20			
1864-'65	45	757	418,664.51			
1865-'66	46	863	589,236.41			
1866-'67	47	943	699,934.34			
1867-'68	48	1,198	995,934.59			
1868-'69	48	1,246	1,183,915.31			
1869-'70	51	1,362	1,230,079.85	$681,864.70	$548,215.15	
1870-'71	52	1,419	1,353,923.23	758,120.78	595,802.45	
1871-'72	52	1,443	1,385,965.76	907,351.93	478,613.83	
1872-'73	52	1,498	1,422,495.48	1,112,251.21	310,244.27	
1873-'74	87	2,049	1,802,696.41	1,611,481.66	191,214.75	

Showing the growth of the free-delivery service, etc.—Continued.

Year.	Number of offices.	Number of carriers.	Cost of service.	Postage on local matter.	Excess of cost.	Excess of postage on local matter.
1874–'75	87	2,195	$1,880,041.99	$1,947,799.54	.....	$67,517.55
1875–'76	87	2,269	1,981,186.51	2,065,561.73	.....	84,375.22
1876–'77	87	2,265	1,893,619.85	2,254,597.83	.....	360,977.98
1877–'78	87	2,275	1,824,166.96	2,452,251.51	.....	628,084.55
1878–'79	88	2,359	1,947,706.61	2,812,523.86	.....	864,771.14
1879–'80	104	2,688	2,363,693.14	3,068,797.14	.....	705,104.00
1880–'81	109	2,851	2,499,911.54	3,273,630.39	.....	773,718.85
1881–'82	112	3,115	2,623,262.74	3,816,576.09	.....	1,193,313.35
1882–'83	154	3,680	3,173,336.51	4,195,230.52	.....	1,021,894.01
1883–'84	159	3,890	3,504,206.52	4,777,484.87	.....	1,274,278.35
1884–'85	178	4,358	3,985,952.55	5,281,721.10	.....	1,295,768.55
1885–'86	181	4,841	4,312,306.70	5,839,242.97	.....	1,526,936.27
1886–'87	189	5,310	4,618,692.07	6,691,253.69	.....	2,072,561.62
1887–'88	358	6,346	5,422,356.36	7,721,689.16	.....	2,299,332.80

Remarking upon these tables, the First Assistant Postmaster-General, Hon. A. E. Stevenson, commends its popularity and efficiency and recommends the improvement of the service in many feasible ways.

CLASSIFICATION OF CLERKS.

When gentlemen like my honorable friend from Illinois [Mr. CANNON] are reluctant to add to the postal efficiency as to the pay and classification of postal clerks, may I not ask them to ponder these tables? They will remind that affable gentleman of our early struggles pro and con on this interesting phase of the postal service. He will be gratified with the stupendous success.

I quote these figures in the way of a supplication to my friend not again to impede the progress of the postal service. I pray him not to obstruct the classification system in other regards. He will note, and the House will note also, the recommendations of the Postmaster-General and his First Assistant in this direction. They but follow the testimony of their predecessors as well as that of the Chief Magistrate regarding the classification and salary of clerks in the larger post-offices. The results came from the investigation of a commission. The report of that commission is found in the documents connected with the report of Postmaster-General Vilas for last year.

GROWTH OF SYSTEM.

I can not, therefore, Mr. Chairman, but take an interest in the growth of every fiber of this postal system. Because of my association with the letter-carrier system I was requested to present other kindred reforms. Among them was that of the railway postal clerks and the clerks in post-offices. At the request of the railway postal clerks I introduced a bill looking to the amelioration of their condition. I trust in time the good sense and justice of Congress will reach their case. It is not pertinent to this occasion to discuss it.

MODIFICATION OF MEASURES.

In relation to the clerks in post-offices I became by the partiality of that class of public officials their organ for the presentation of their bill and memorials. That bill was introduced on January 23, 1888. At the request of the executive committee of the National Post-Office Clerks' Association, on the 21st of February, 1888, and after consultation with the officials of the Department and the Board of Civil Service Commissioners, the bill was modified. The modification was laid before our Committee on the Post-Office and Post-Roads. As presented by them it provided—

That the clerks employed in the first-class post-offices (except assistant postmasters, cashiers, superintendents, and assistant superintendents) shall be divided into six classes, and shall be distinguished as first, second, third, fourth, fifth, and sixth classes.

SEC. 2. That it shall be the duty of the Postmaster-General to separately arrange in classes, in conformity with the preceding section, the clerks employed in the post-offices mentioned in said section, except those clerks who are in their probationary period of service, who shall constitute the clerks of the first class; and said probationary period shall comprise the first six months after the date of appointment.

SEC. 3. That the annual salaries of clerks classified in pursuance of this act shall be as follows, to wit: To clerks of the first class, $600; to clerks of the second class, $800; to clerks of the third class, $1,000; to clerks of the fourth class, $1,200; to clerks of the fifth class, $1,400; to clerks of the sixth class, $1,600: *Provided*, That no clerk shall by such classification receive a less salary than he is paid at time of such classification.

SEC. 4. That there are appropriated out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary for said salaries, and such appropriations shall be deemed annual appropriations.

It is unlike the provisions of the proposition now before us in the annual postal appropriation bill, but its object is substantially the same. I shall regret it if the difference between them prove an obstacle to the success which we hope for as to some measure of relief.

Let us do what we can to reach some legislation, and if we can not obtain all we want do the best for the present.

The Postal Association represented at that time fifty-five of the (then) eighty-two of our first-class post-offices. In presenting their grievance they received rebuffs from certain postmasters; but I may say for them that generally they have received the good will of their superiors, and especially the earnest endeavors of the Postmaster-General (Mr. Dickinson) and his First Assistant (Mr. Stevenson) and their coadjutors.

Speaking for these hard-worked clerks I may say that it is with satisfaction that they applaud the effort being made, through the unanimous consent granted to the gentleman from Georgia [Mr. BLOUNT], who is the chairman of the Committee on the Post-Office and Post-Roads, to reach something, if not all they desire for the betterment of their condition as Government officials. Time and fair statements, together with the past history of the Post-Office Department and the recommendation of its chiefs, have brought the matter promptly, favorably, and pertinently before Congress for its action now on this annual appropriation bill. Notwithstanding the efforts made by the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Tennessee [Mr. ENLOE] to prevent this much-needed legislation, and notwithstanding the opposition of the gentleman from Illinois [Mr. CANNON], and notwithstanding the proposition may not be in all respects up to the standard of the clerks' executive committee, or up to my own standard of proper legislation, it is such a fair and just plan as to challenge our best attention.

REBUFF TO THE CLERKS.

I am not unaware of the manner in which the attempt on the part of these worthy and hard-worked people in the way of organization for their own benefit was received by the cynical and sinister action of the postmaster of New York. But the right of the clerks under him to unite for their own benefit and that of their families could not be eclipsed by any little scornful indignation on his part. Their unity of action has been vindicated. The control of these postal matters, it would seem, belongs to Congress in the first instance, and to the Department, as its organ and agent, and not to the self-appointed judge of our postal laws in New York City.

On the presentation of the Post-Office appropriation bill with this classification system embodied in it, as presented by the gentleman from Georgia, some gentleman inquired as to the necessity or urgency of the measure. He was answered by that gentleman that the business interests of the country, through memorials and through the press and other media, demanded attention to this matter.

CLAMOR FOR THE LEGISLATION.

In reply to the incredulous remark of the gentleman from Indiana [Mr. HOLMAN], the chairman [Mr. BLOUNT] remarked:

Oh, my friend sometimes does not hear of these things, but they have been heard of all over this House and all over this country. The Postmaster-General who preceded the present Postmaster-General had a clamor about his ears from offices all over the country; that complaint was voiced here through members upon this floor, and it was to the effect that the post-office clerks were paid insufficient compensation because the allowance was too low. The business men of the country were clamorous about that condition of things, the press and the people everywhere were clamorous about it, yet my friend from Indiana never heard about it!

This is not an overstatement of the public anxiety and sympathy in behalf of this movement.

What, then, Mr. Chairman, is the mischief connected with this peculiar service and what is the remedy therefor? It is an old maxim that—

> The harder the work and the longer the day,
> The more important the task, the smaller the pay.

The work in our first-class post-offices illustrates this adage. The postal employés of whom I speak number some five thousand in the country. They receive less pay, work more hours, perform more onerous and indispensable duties than perhaps any other officials in the Government service. The mischief consists in the lack of fair remuneration for such work. The mischief commanded organization for the right remedy. It demanded equitable remuneration. The clerks had a right, inalienable to freemen and formidable to tyrants only, to make their just request known to Congress in any respectful form or body they chose.

I said, in speaking upon this subject the other day—holding up a large bundle—that the facts had been accumulating since my bill was first introduced. I knew that there was a universal request for the remedy. That bundle consisted partly of extracts, which I had clipped from various newspapers all over the land. These sentiments came up, not by pumping, but like a fountain, to the source of power. These extracts reflect the public sentiment. They do not ask for inordinate pay. They do not disregard economy, but they do express their dislike of that parsimony which would destroy the service altogether, and that meanness which would belittle the attempt for a remedy.

HOURS OF POSTAL LABOR.

I called attention to the number of hours of labor per day of these clerks in about a score of these principal offices. I reproduce the list here in order to give it proper emphasis:

Statement showing the number of working hours per day in various sections of the country.

Brooklyn, N. Y., ten to twelve hours (until the work is up).
Bridgeport, Conn., twelve hours.
Boston, Mass., eight and one-half to thirteen hours (until the work is up).
Charleston, S. C., 5 a. m. to 7 p. m. (time for meals).

Cleveland, Ohio, eight to twelve hours.
Erie, Pa., twelve hours.
Hartford, Conn., nine to ten hours.
Jersey City, N. J., nine to eleven hours.
Minneapolis, Minn., ten to fourteen hours.
Newark, N. J., nine to ten and one-half hours.
New Bedford, Mass., nine to ten hours.
New York City, N. Y., eight to ten hours.
Philadelphia, Pa., nine to twelve hours (until the work is up).
Portland, Me., 5 a. m. to 10 p. m., with intermissions, making nine hours.
Rochester, N. Y., eight to twelve hours.
Springfield, Mass., twelve hours.
Worcester, Mass., twelve hours.

If the remuneration for this extraordinary service were adequate there would be no complaint. But inasmuch as these unusual hours of labor are increased now and then, owing to circumstances connected with the arrival or delay of vessels and trains, and as the labor has been growing in great disproportion to the pay, owing to the growth of the postal system in the first-class offices, is it not best to recur in detail to the unsuccessful efforts of the Department to distribute the allowances under existing law and to its detrimental and disastrous effects to both employés and the service? May we not be permitted to denounce the rule of favoritism or the occasion of importunity which combine to make the necessity for legislative action immediate and urgent?

PUBLIC OPINION.

It might not be amiss to glance at a few of the extracts from the newspapers as the reflection of that public sentiment which should find its reflection upon our statute.

The Boston Herald exclaimed against the meanness of expecting men to work twelve hours a day, with only a fraction of rest on Sundays and holidays, on an average pay of about $600 per year.

The Baltimore American regarded the demand of these employés as based on substantial grounds and entitled to recognition.

The New York Press regarded the compensation as the poorest paid to skilled labor in the country. The efficiency of the service depended, in its judgment, more upon this class of public servants than any other class in the Post-Office, whether postmasters, heads of bureaus, or carriers. It asks for substantial justice without unnecessary delay.

The Cleveland Leader pointed out the inadequacy of the compensation and urged the adoption of a better system.

The New Bedford Mercury regarded the post-office clerks who did duty about fourteen hours a day, beginning at 6 in the morning until 8 at night, as an overworked class.

The Ohio State Journal asks for the equalization of their salary, and regarded it as an outrage that with a surplus in the Treasury this important service should be crippled at so important a point as the capital of Ohio. It regarded the compensation as in no wise commensurate with the exacting duties.

The Toledo Blade, looking at the civil-service examination which these clerks were compelled to pass, their education, intelligence, good memory, and quick movement, made an urgent call upon Congress in their behalf.

The Chattanooga Sun, the Brooklyn Standard-Union, the New York Observer, the Scranton Truth, the Kansas City Journal joined with the great dailies East and West in the demand for fair, square, and intelligent remuneration. The latter journal could see no sense in leaving the salaries of the clerks undetermined and dependent entirely on the amount of the appropriation available.

The St. Joe Herald, the Chattanooga Times, the Springfield (Mass.) Union, the Baltimore Sun, the Boston Journal, the Philadelphia Ledger, the Florida Times-Union, the San Francisco Chronicle, and the Boston Traveller urged that the bill which I had the honor to offer should be passed so as to place the service on a satisfactory footing; so that the men should be graded according to the quality of their work and their pay arranged with an approach to justice. There was no exception in the press of every section. All united to denounce the niggardly inequality of this most shameful and inadequate pay.

The Argus and Press of Portland, the Kansas City Star, the Brooklyn Eagle, the Cleveland News and Herald, the "War Memories" of Hartford, Conn., the Hartford Telegram, the Charleston News and Courier, added their views to the chorus of public sentiment. They regarded the measure as a fair and thoughtful one, and the classification and salary proposed, depending upon efficiency, as having the moral support of the people.

One of the newspapers of Jersey City pointed out the fact that the chief clerk of that office received only $700 a year, while the same position in Trenton gave $1,500. This was an evidence of a discrepancy which was unbusiness-like and unjust, inasmuch as the business at the former post-office was greater than at the latter in the proportion of 5 to 1.

In Jersey City, according to the facts as they have been sent to me, there are ten men employed in handling the mail, whose average rate of wages is only $560, the highest being $700, while the lowest salary is $425. Could any fact show more cogently the necessity for classification? And that, too, in a city where there are 150,000 inhabitants! Compared with other officials in the postal service this was glaringly inadequate. The postmaster at that point has done what he could to forward the reform.

The city of Portland, represented by the gentleman from Maine [Mr. REED], who has shown such an interest in the matter, is another instance of the need of some such system as that embodied in the bill.

The constant and close attention and study and the long day's work—over fourteen hours in some offices—call for some business experience to remedy the wrong.

The number of employés in the ninety-seven first-class post-offices of the country are some five thousand. They have justly complained of the neglect of Congress to care for them. They have no complaint of the successive Postmasters-General, and none of their superior officers, except at New York. Unless we give a just measure of relief to satisfy their reasonable demands they have a right to complain of Congress.

In the Springfield (Mass.) office the annual allowance for clerk-hire is $9,500. From this sum $1,200 was deducted for the assistant postmaster. The rest is apportioned among the remaining fourteen clerks. This makes the pitiful average of $592.85 per clerk. Compared with their service the salaries are not commensurate with the labor or with the salaries of their co-laborers.

Why, a man in the Boston post-office may serve twenty-four years and be a conspicuously valuable officer, yet have a salary of but a few dollars over a thousand. The highest amount paid for clerks there is less than $1,200. The proposition in this bill makes but a meager increase. It should, to be just, perhaps make more.

The San Francisco Examiner regards the provisions of the bill which I introduced, and would likely regard the provisions of the amendment to the Post-Office appropriation bill, as but a small concession, yet just in so far as it goes.

The outside world, which enjoys the privileges of the postal service, are in comparative ignorance of the manner in which the mail is handled, or the exactitude and dispatch which is required, regardless of the quantity which is to be handled, the readiness with which these clerks are called to their duty at all hours of the day or night regardless of the size of the mails, as well as of the hours of their delivery, and of the discomfort of the twelve or fifteen hours of work, which is by no means an unusual occurrence at that post-office. Why should not the service of these men, some of them veterans in this postal army, conscientious, honest, and faithful, be graded and the salary fixed as in other branches of the Government service? Why should a postal clerk depend on the whim of a superior for his dole, little or big? No wonder the public mind and press are full of sympathy for this remedial legislation.

The Philadelphia Record thought it very unwise that we should undertake to reduce letter-postage before we brought up the numerical strength of the post-office force. It said:

Such experiments should not be swamped at the outstart by the insufficiency that grows out of the attempt to thrust upon one underpaid man the labor of two.

The absence of any regular system, which is evidenced by the fact that two men working side by side at the same desk, one of whom receives $200 more than the other, is the result of an uncertain and inequitable classification. It makes the rewards of ability and attention doubtful. No promotion brings, with certainty, an increase of pay. It often, however, brings a decrease. It is the law of equity, the law of God, that men should be paid according to the quality of their work. Then the Government pays fairly for what it gets; then the officials know that excellent service may bring promotion with increased compensation.

APPORTIONMENT OF MONEY.

What kind of a business arrangement is it—what kind of an annual act of appropriation can that be called which, by a single item for "compensation to clerks in post-offices," turns the amount over in bulk to the Post-Office Department for apportionment among the different post-offices which are entitled to clerks? What kind of distribution is that which, by a series of orders, allows so much to one office and so much to another; which allows an Assistant Postmaster-General to make his best effort at a guess of the proper sum for each importunate postmaster to expend? What kind of a system is that which would turn that distribution over to a subordinate who in turn redistributes the allotments according to any caprice of fancy which he may be pleased to indulge?

WORK AND WAGES.

What kind of justice is that which sometimes pays 50 per cent. more to one than to another for performing the same kind of work? What kind of business arrangement is that which makes the pay of each clerk to depend on the appropriation, the allotment, and the pleasure of his own postmaster? What kind of a limitation upon power is that which gives to a postmaster appointed through favoritism or partisanship the right to assist the inexperienced at the expense of the experienced? Does such a system tend to efficiency? Does it tend to the promotion and correct disposition of mail matter? Is there anything rational or comforting in such a custom, according to our rules of business or equity? Men who work must be made content, and are only so with a *quantum meruit*. Requited toil makes the bread light and the butter sweet and golden. It lightens labor to have its result remunerative and applied to the comforts of home. That home is no solace to which the tired

husband and father "wends his weary way" conscious of being a servant, without adequate reward for his service. He is then a slave—not a servant. Money thus gotten with pain is worse than poverty.

Do you want, Mr. Chairman, further particular instances? Take the case of Kansas City. I am advised that the appropriations for that post-office have always been far below its needs. What is the consequence? Clerks receive $400 per year, and make long hours. They are competent and faithful clerks. They have no prospect of any rise commensurate with the work required. Other post-offices may have managed to secure more liberal moneys. But the system has not tended toward justice, for in many cases the appropriations have been too small and the salaries, as a consequence, meager. In Kansas City there are experienced clerks who handle money and who have heavy responsibilities, who receive $300 less per year than the mail carriers of the third grade. It is unfair for such places as Kansas City, growing so rapidly, that it should be thus cramped. The chief clerk of that office says that when he took charge of the stamp-window, twelve years ago, the receipts did not average $100 per day. Now they average over $30,000 per month. There are sixty-three clerks in that office. They ask that the classification and salary be fixed by law as an encouragement to work and a just recompense for faithful service.

I have had personal interviews, Mr. Chairman, with friends of the clerks of the Baltimore post-office. It was about this post-office that Mr. Vilas, the recent Postmaster-General, remarked that they could find no regulation fixing a system or practice for the expenditure of the vast sum for clerk-hire. No matter by whom made the distribution was not well made. Finite intelligence could not make a just allotment of such a fund; infinite intelligence could not be obtained for fourth-class clerks.

There is no service as to which complaints are more constant than that of the postal service. There is no service for which there should be more charity. Why, do you ask? Because the mail matter must be disposed of in the shortest possible time, or else the business of the community at once suffers. There is a constant mental strain upon the clerk. It has no parallel in any other pursuit. These clerks must have not only health, but an intelligence of more than average ability.

A report made by the commission under Mr. Vilas to which I have referred recognized the value to the Government of classification of employés and recommended radical change in the system. The uncertainty of the pay makes the appropriation uncertain. Any change in that regard would rid the service of that favoritism among subordinates, or at least reduce it to a minimum and thus elevate the standard.

Mr. Chairman, when this matter was first brought to my attention I prepared certain memoranda, but the delay in considering the matter has rendered many of my data indefinite. The necessity for legislation remains and the facts accumulate. If the members of this House could only spend an hour in the New York, Boston, or Baltimore post-office, or, if you please, take an average post-office—say Toledo, for which I have substantial facts—there would be no difficulty, no carping, no harsh criticism against this effort of the Post-Office Committee to classify and equitably distribute their appropriation.

A PICTURE IN THE TOLEDO OFFCE.

Go, if you please, into the Toledo post-office. Observe how the mails are handled. Think of the hard work and the poor pay, and you will find that the postal clerk's lot is not entirely happy.

Let me make a picture of this office. The mail matter is deposited for delivery. It is being handled by two sets of clerks, those in the office and those on the route. Letters without end, newspapers beyond weight or measure. Omit the newspaper, it is such a ponderosity. Observe what is done with the letters. They come in by the car-load. They are made up of every kind of communication. The business man mails his hundreds of circulars without a thought of the work which they engender or the frequent handlings to which they are subjected. The young man and the young maiden interchange their love missives. They never reflect upon the fact that their sentiment is more or less disenchanted in passing through the hands of a score of weary clerks. But, nevertheless, the letters are dumped. All find, like death and love, their level. Here they lie on a large table. The clerks begin their work. The missives are placed in rows, the directions up. They must be readily read. The city letter is separated from the country letter. The latter is stamped by the canceler. This is done with a canceling iron, with the name of the post-office, date, and time. Then the letters are pushed by, after a smart blow from the clerk. The cancellation is as rapid and as precise as that of a machine. The average of stamps is five thousand to the hour, eighty to the minute. If, in the hurry, the stamp is placed anywhere but on the upper right-hand corner of the envelope, the left hand of the clerk is more apt to suffer than the letter. If, in addressing this House, a member should be compelled to pound his desk five thousand blows every hour and keep on, "by unanimous consent," pounding for eight successive hours, and keep it up with the regularity of a nail machine, he certainly would develop considerable muscle, even if he did not lose his mind.

After the cancellation the letters reach the separator. He or she arranges them for the case-men. Here comes in another diversion. Some letters are to be forwarded to other points for separation. These are tied up and then pouched. The separators, too, have to work like rattling machines. Each separator must handle twenty-five hundred letters per hour. Does he stop in this rapid work? Has he no hesitation as to the addresses upon the letters? Every one would suppose so from our own experience in handwriting; but if the clerk hesitates he is lost. Every possibile quality of chirography decorates the outside of the letter. An error occurs. Who suffers? The service? Yes, and the clerk, too, for he must account for the error with his head.

The case-men handle letters for States that are separated. They also have no light duty. Their packages are made up and afterwards again separated on the railroad by the railway postal clerks. And these railroads are divided into several post-roads or railway post-offices. The clerk must know the counties. The mail is pouched. It is dispatched. It must be on time. Every error is detectable. It is charged to the clerk. His position depends upon his record. Thus this confusing, incessant, everlasting work goes on as to the letters. What as to the newspapers, and matter other than letters and circulars? They are worked in what is known as a "dock." It is a large iron framework. On it are hung the sacks. Into this the clerks deftly throw the matter. They work the same as the case-men. They stand not exactly like the criminal in the dock, but at the end of the day they feel much in the same position of degradation if they fail of their work. They fling the matter into the pouch and have to be as accurate in their aim as a sharp-shooter.

In this Toledo office the mail department has ten men. They handle in twenty-four hours over fifty thousand pieces. They are paid on the average $600 per year. Six hundred dollars per year for all this wear and tear of hand and brain, mind and memory, and all the anxieties incident to this incessant life. The clerk may well sing the refrain of the "Old Kentucky Home:"

A few more days to tote the heavy load,
No matter, it will never be light.

Besides, there is a city division, if I may continue to remark about Toledo. It is subdivided into several other departments. It is under one head. It receives mail from every city distributing throughout the city. It also receives the mail matter from the street boxes. Five clerks are in this department, two special messengers, and twenty-six carriers. The mail matter handled by this force in the Toledo office was twenty-six thousand pieces—nearly ten millions of pieces a year.

But why go into detail further? The mail arrives. The strings are cut. The packages are opened. The time of arrival is stamped on the back of the letters and on the face of the postal-cards. They are placed in the cases. They are separated by the file clerks. Twenty-six carrier districts must be known correctly and filed rapidly. An employé must remember every alley and street and every byway and highway. There are four hundred box-holders to remember, to say nothing of the individual names connected with the firms. The changes must be remembered. No error must be tolerated. Work! Work! Work! The eyes wearied under the poor gas-light and poorer accommodations, the memory fatigued with a million figures, the body wearied with perpetual movement, and all for the magnificent sum of $600 or less per annum.

Do not forget the registry system. It transmits valuable matter. It must be done with security, the utmost security. I had occasion, as chairman of the Committee to Investigate the New York Post-Office some years ago, to look into the marvelous accuracy of this department. By it millions of money and bonds were transmitted. No one is reluctant to use it. It is more certain on the whole than any other mode of transmission. The mode of keeping the accounts of this registry matter is a part of that system which imperatively demands every precaution possible to human skill and prudence. And this must be done by men of quickness, done incessantly, done beyond the ordinary hours of labor, and all for, say, $500 per year.

A system so thoroughly ramified, involving so much labor and responsibility, with so many hands, minds, and memories ever at work, should receive the decent consideration of a fair government. Yet how exacting and critical is public opinion in our country on the Post-Office officials!

AN EXACTING PUBLIC.

I opened my newspaper this morning—the Post, of this city. Under the heading of "Lost for four hours" I read of two letters which have been delayed, it is said, unnecessarily. The anxious writer of the letters has done all he can, as well as the postmaster, to find the cause of the dereliction. Perhaps no postmaster is more vigilant than Mr. Ross, but he is unable to detect the cause of the delay. Two letters lying four hours or more before receiving the post-office stamp, astounds him. None of his subordinates understand it. They think it impossible. Fifteen minutes in the post-office, and the stamp should have been on. And yet there was no reason to doubt the statement of the sender of the letters.

GROWTH OF BUSINESS.

Perhaps the true solution is the utter weariness and exhaustion of the clerks in an office which has been constantly growing, and, there-

fore, the clerical force has become insufficient. The superintendent of the mailing division illustrates this general increase, for he shows the amount of sacks of printed matter handled in 1888 was 13 per cent. over that of 1887, and printed matter over 10 per cent., and special-delivery letters 29 per cent. Besides, new distributions have been added. From this office mail is distributed direct to sixteen States, for Canada, and for Mexico, to a total of thirty-six thousand offices. The entire State of Illinois has been added to it, and other additions are contemplated, and yet no addition to the clerical force.

This may account generally throughout the country for much of that seeming negligence as to which the public is very critical, if not harsh, and as to which we are all apt to be too exacting. Let us pay the clerks better and complaints will be fewer.

It is a service which is alluring to every interest of the community—social, mercantile, and industrial. It involves trusts and confidences; and, therefore, as a preliminary, requires of its agents a rigid examination and the best testimonials. The very diversity of the work demands a studiousness which has to be thorough. It requires an expertness which only can be gained by industrious habitudes. It requires a geographical knowledge which taxes the memory while it wearies the brain. The employé should have his recreative hours of rest in order that he may be bright and energetic. His pay should be significant of his work, and there should be before him the ambition of promotion and the incentive to trustworthiness.

POOR PAY.

The present system does not come up to these prerequisites. The rates of pay fixed by the rosters established by the postmasters should not depend upon the mere whim of the postmaster. A good postmaster will, of course, do what he can to correct inadequacies. But the law should do that, so as to render the equalization certain. Sometimes under the present system of allowances postmasters retrench from the salaries of clerks to pay for extra labor made necessary by the increase in the volume of the matter. This brings about irregularity as to salary. Sometimes the postmasters resort to long hours to remedy the neglect and to overcome the difficulty. But any injury to the social and physical condition of the clerk injures the agent while it detracts from the service.

Mr. Chairman, it seems incomprehensible that this system should have gone on so long and yet so little complaint from the employés of this service. Here are five thousand clerks, receiving for their service sums ranging from $300 to $700 annually. The character of the work has been shown. The comparative payment to others in the same departments may be well scrutinized in this connection. The employments of civil life, by corporations, manufacturers, and business men generally might also be examined to show the utter inadequacy of this official compensation.

No wonder the Postmasters-General from time to time have protested against this defective system. Postmaster-General James in his report for 1881-'82, page 63, called attention to the absolutely necessary obligations of postmasters for allowances for clerk-hire. Postmasters-General Howe, Gresham, Hatton, Vilas, and Dickinson have urged not only an increase in the pay of the post-office clerks, but additional clerical labor.

DEPARTMENT RECOMMENDATIONS.

The gentleman from Georgia [Mr. BLOUNT], in addition to his cogent statement, presents to us the recommendations of these prominent officials. He said in his remarks on the 9th instant (RECORD, page 1833):

> We have here fixed the salaries of postal clerks, because we have found that by a failure to do it in the past, when insufficient appropriations have been made, the clerks have been cut down to a meager amount of compensation and the service itself has been rendered unsatisfactory to them and less permanent in the character of its employés. So with the letter-carrier service; it was so delicate in its nature and so important that the Congress of the United States saw fit to classify the letter-carriers in the several cities of the country entitled to them into various classes, which I will not now stop to enumerate. Not only that, but leaves of absence were given to them, and then the eight-hour law was passed. We have gone on in this line of legislation, prompted by a desire for the betterment of the public service, until the clerks in the post-offices only have been left at the mercy of an arbitrary assignment of salary, made perhaps by a clerk in the Department who has but few facilities for informing himself or for forming a judgment in that connection. In the report of 1883 the then Postmaster-General, Judge Gresham, transmitted to Congress the report of the First Assistant, which contained the following language:
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> "As evidence of the increased requirements of the service and the close surveillance of this important subject, your attention is called to the fact that 2,758 allowances for clerk-hire were made during the last fiscal year—an increase of 478, or 20.9 per cent., as compared with the previous year, and 1,422, or 106.4 per cent., more than was made in 1880-'81. Two thousand six hundred and four applications for clerical assistance were declined, chiefly because the appropriation was exhausted. In fact, in order to keep the urgent demands of the service within the limited appropriation at the disposal of this Department, it was necessary to 'create' a fund by making reductions at 195 offices."
>
> In other words, the fund was given by Congress; he was required to conduct the service with it; and when the service was growing he could only carry it on by reducing the salaries of the employés. At the very time when the service was requiring better capacity the exigencies of the appropriation demanded poorer compensation.
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> In 1884 the then Postmaster-General used the following language:
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> "The increase of the postal service, especially the large increase of letter-mail occasioned by the reduction of postage from 3 to 2 cents, has made additional clerical assistance absolutely necessary in almost every office of the first, second, and third classes. From the best data obtainable it is estimated that in all the offices the additional clerical labor required is about 20 per cent. Post-office clerks as a rule are underpaid; their duties are exacting and require close attention."
>
> In this very same report Mr. Hatton goes on to make the very same complaint that was made by Judge Gresham. Mr. Vilas, in his report of 1887, discusses this subject in the same way, reaching the same conclusion. The present Postmaster-General again calls the attention of the House to it in the report of last year. And the President of the United States, in his last annual message, has seen fit to direct the special attention of Congress to this class of employés.

THE CLERK'S OUTLOOK.

What has a clerk to look forward to who labors in this service? Is he to become a wreck, with nothing laid up for old age? Are his faculties to be benumbed and his very limbs to be paralyzed during the best years of his life in the service of his Government, and no reward as a consequence, adequate, stimulative, and just? The five thousand clerks look for an abatement of this system. They are honest men. They are intelligent men. They think they are working for a grateful country 365 days in a year—a grateful country which gives them from $300 to $600 per annum. They have families. They desire to educate their children. They are more or less proud of the service whose first administrator was Benjamin Franklin. They have received the compliments of their superiors. But, alas! compliments do not clothe their children nor give comfort to their wives. They work from day to day, trudging the same old treadmill from year to year, now and then pleased with the hope of better reward. They sing, as they trudge and tread, the old song:

> I slept and dreamed that life was Beauty,
> I woke and found that life was Duty.

They find their hope a "shadowy lie."

Mr. Chairman, since the bill I introduced in January, 1888, has drawn the attention of our people, and especially of our business men, to the necessity of this increase of remuneration to these clerks and to the reformation of the system, it might be well at once, before their condition grows worse and the service becomes more crippled, to listen to their murmurs and complaints. They come to you with the sympathy of the people. To ignore this sympathy is ungenerous on the part of any member because his special postmaster or assistant postmaster may not be helped to a full *quantum meruit*, or because through inadequate legislative appropriations a deficiency may possibly be created which a subsequent Congress must supply. Such reasons are sophistical when used to defeat the valuable system of classification and compensation proposed by the committee.

THE AMENDMENTS NOT PERFECT.

The amendments of the committee may not reach the standard of the bill which I had the honor to introduce for the clerks. Indeed, in some classifications it would make the salaries of the letter distributors range from $600 to $1,400, while those of the assorters and separators range from $600 to $1,200, and this may subject the amendment to criticism. It may be an unjust distribution between the clerks who perform the same mechanical and intellectual work. This is particularly the case in the New York office. If I can not remedy that special defect at this time, if I can not obtain the sums named in my original bill—$600 to $1,400 all around for these classes—I will not attempt to defeat the system. I know that a clerk who has to memorize five thousand and more names of box-holders in New York City, besides the continual changes in the scheme of separation, should not be discriminated against by any bill, and the clerk against whom the discrimination is made may feel keenly the injustice proposed. But I am content for the present, since I can not get all that I desire, to do the best I can, trusting to future experience to remedy the scheme as it may be developed by the judgment of the two Houses of Congress and a fair administration of its provisions. I am led thus to hope from the happy results of the free-delivery system.

ELEVATION OF THE SERVICE.

The elevation of the postal service is a theme not merely for prose but for poetry. These manifold ramifications of the postal system concern the most refined sympathies of our nature. There is no possible branch of human enterprise, no fiber, leaf, or bloom of social life that is not more or less interlaced with the efficient, fleet, vigilant execution of our postal system.

It was said by one of our Postmasters-General—Hon. Joseph Holt—in his annual report for 1859—

> That the Post-Office Department mingles with the throbbings of almost every heart in the land. In the amplitude of its beneficence it ministers to all climes and creeds and pursuits, with the same eager readiness and with equal fullness of fidelity. It is the delicate ear-trump through which alike all nations and families and isolated individuals whisper their joys and their sorrows, their convictions, and their sympathies, to all who listen for their coming. Naturally enough such an institution has ever been, and still is, a cherished favorite with the American people. The country has constantly manifested the most intense solicitude for the preservation of its purity and the prosperity of its administration, and it can not now be disguised that the guilty abuse of its ministrations and the reckless waste of its hard-earned revenues, connected with the humiliations to which it has in consequence been exposed, have deeply and sadly impressed the public mind.

Mindful of this tribute to this universal agent of our political and social order, we can only do justice to those who are associated in the benevolence which it implies, by enacting here that they should receive that encouragement and remuneration which a clement and just government is bound to bestow.

Maritime Canal Company of Nicaragua.

REMARKS

OF

HON. THOMAS WILSON,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 5, 1889.

The House having under consideration the bill (S. 1365) to incorporate the Maritime Canal Company of Nicaragua—

Mr. WILSON, of Minnesota, said:

Mr. SPEAKER: In the remarks which I propose to submit I shall confine myself to one feature of this question. I am in favor of granting the charter to build this canal. I think this a public improvement of vast importance to our country. I would be glad to vote for this bill with what I believe to be proper and necessary limitations.

When the bill was before the Committee of the Whole House on the state of the Union I offered an amendment intended, and I think calculated, to provide against the issuing of stock without any consideration, or for a merely nominal consideration. This was adopted in the committee and afterward by an ay-and-no vote in the House. It has not been entirely stricken out by the conference committee, but it has been so emasculated that it is worthless. Indeed, Mr. Speaker, the conference committee have made, by the amendments which they have agreed upon, the issuing of watered stock very easy and more probable than it would have been under the original Senate bill.

The learned gentleman from Maryland [Mr. RAYNER], who is one of the conference committee, admits that there are great opportunities for fraud in this respect under this bill, but he asserts that the company would not accept the charter with the House amendment, and therefore that to insist on it would defeat the building of the canal; and, on the other hand, he asserts that if the amendment is stricken out and the conference report adopted the canal will be built. He did not see fit to give us his authority for these assertions. If they are merely expressions of his own opinion, a mere prediction or prophecy, they should not be permitted to control our conduct, notwithstanding the great respect which we all entertain for the views of that learned gentleman. Whereas if they are authorized by these incorporators or their agents, that fact should, in my opinion, put us on our guard and cause us to hesitate. If these men say that they would not engage in the enterprise, if by that charter the power to issue unpaid-for stock is taken away, we have a right to infer, or at least to fear, that they intend to exercise that power.

It must be unnecessary, Mr. Speaker, to dwell at length before this House on the magnitude of this evil. It is not possible to believe that any man can have lived in this country for the last quarter of a century without seeing and feeling it. We are frequently shocked by the bold and stupendous frauds and peculations practiced on the people by the defalcation and dishonesty of the fiscal officers of municipalities, and of public and private corporations. But where the people have thus been defrauded of hundreds of dollars they have by the fraudulent issue of stock in corporations created to act as common carriers been defrauded of hundreds of thousands.

I do not believe that any intelligent man who has carefully considered the subject will doubt but that the agriculturists of the Northwest have had extorted from them by the illegal issuing or watering of stocks hundreds of millions of dollars. It would be easy to refer by name to those who have accumulated in this manner fortunes of proportions until lately unheard of, and what they have so gained the people have lost. This has become an evil so notorious and of such magnitude that it is almost criminal for legislators to ignore it.

The issuing of such stock is unjust to honest stockholders. Those who invest their money in the construction of canals and railroads and in other corporations created to develop the wealth or commerce of the country do so for the interest or dividends which they hope to realize on their investment. Such investments are laudable and for the interest of the whole people. And any scheme that deprives the honest investors of a fair return is not only unjust, but against public policy.

If it costs $100,000,000 to build this canal, and that sum is subscribed and paid in, the stockholders are entitled to have the net earnings of the canal divided among them. And the rates of toll should be so fixed that the net earnings would pay a reasonable and fair interest on the investment, and no more. But if those now having control of this project are permitted to issue to themselves or their favorites stock for which no value has been paid, the consequence will be that that stock will be put on the market and pass into the hands of bona fide holders having no means of ascertaining its fraudulent character, and it will for all time to come stand on a par in every respect with the stock for which the full consideration was paid. This consequence will therefore be inevitable—the tolls must be increased so as to pay a dividend on the whole of the stock, honest or dishonest, thus levying an increased burden on the commerce of the country and on the whole people, or else the dividends justly due to the holders of stock fully paid for and honestly issued must for all time be divided with the holders of the fraudulent stock.

But I assume, Mr. Speaker, that those who invest their money in such public improvements will insist that the rates of tolls and freights shall be fixed and kept so high as to give a fair return on their capital invested in the enterprise. It is not to be expected that men should invest their means on any other condition, nor is it honest or fair to deny them such a return. And if this be so, then, as I have attempted to show, there will be a perpetual tribute necessarily laid on the whole people and on the commerce of the country to pay tribute to certain gentlemanly confidence men who have the impudence to impugn the motives of those who would place a limit to their power to prey upon the people.

But not only is this amendment forbidding the issuing of watered stock demanded in the interest of the honest stockholders and of the people at large, but it is specially demanded in the interest of the creditors of the corporation. If stock and bonds may be issued by such a corporation in excess of the money paid in or used in the enterprise, the experience of the past teaches us that the income of the corporation will soon be found inadequate to meet the ordinary expenses, interest, and maturing obligations. Foreclosure and sale will follow, and all the property of the corporation will be absorbed by the secured creditors, while the unsecured creditors, whose labor or means may have largely contributed to the improvement, will lose all. Mr. Speaker, it would be easy to prove by the records of our courts that this is neither fancy nor exaggeration.

While the issue of stock of such corporations without consideration is under all circumstances and everywhere wrong and generally intended to overreach or defraud the honest and unwary, perhaps above all others the people of the Northwest have been and are liable to suffer by such a wrong. Cheap transportation is essential to their prosperity. We of the West are so far from the seaboard and markets that the value of our products depends largely on the cost of transportation. If it costs 10 cents per bushel more to carry a bushel of wheat or a barrel of flour, or a dollar more to carry a steer to market, the bushel of wheat or barrel of flour brings to the shipper 10 cents and the steer $1 less. And if we are to have cheap transportation we must have cheap railroads and cheap canals, and we must insist that the producers of the country and the commerce of the country shall not be compelled to bear any unnecessary or unjust burdens, or to pay interest on a merely fictitious capital.

Nor is this all. It is understood that the books of the company are to be opened for the subscription of stock not only in the United States, but in other countries. This canal is to be not the property of or under the control of any one country; it is to be an international improvement. This is required by the concession obtained by the company from the Republic of Nicaragua. Appeals will be made to all classes to take the stock—to the rich out of their riches, and to the poor out of their scanty earnings—with the promise and hope that it will be a good investment and yield reasonable returns. I believe it will if we incorporate into the charter proper limitations and safeguards; but judging of the future by the past, if no such safeguards are incorporated it is possible that the investors may learn their fate by inquiry of those who were deluded by fair promises to invest in the stock of the Pacific railroad companies, and we may be compelled to again blush for the injury done to the reputation of our country.

Some gentlemen on this floor seem to intimate that it is not our duty to guard against such consequences. I am unable to assent to this. Since when has it been true that it is not the duty of the law-makers of the people to so frame the laws that scheming trickery may not impose upon unsuspecting honesty—that no stain may be placed upon the reputation or credit of our country or people? It is said that we can not place any restrictions that may not be evaded. True, but the same reason might be urged against a law to prevent any other fraudulent act or against any law forbidding or punishing crime, for all such laws are at times evaded. The amendment adopted by the House will, I believe, greatly lessen this pernicious practice. That amendment was, as I understand, drawn by Senator EDMUNDS, and adopted by the Senate in the Forty-ninth Congress, and made a section of the bill then passed by the Senate to incorporate a company to build this canal. I therefore claim no credit for originality in this amendment. But I think it a wholesome and necessary one, and therefore I offered it and advocate it. It provides—

That no certificates for stock shall be issued till at least 10 per cent. of the same shall be fully paid for in money at the par value of said stock and the money deposited in the treasury of said company; and said stock so subscribed shall not be assignable until the whole of the same shall be so paid in; and no payment on account of the capital of said company shall be made except in money; and said company is hereby prohibited from returning or repaying any part of the money so paid. No bonds in excess of the amount of capital paid and received shall be authorized or issued until such paid capital shall amount to the sum of $5,000,000. No part of the capital stock paid in shall be at any time withdrawn or returned to the stockholders or in any manner diverted from the proper uses of the corporation. Every person violating or aiding in the violation of the foregoing provision shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding $10,000, or by imprisonment not exceeding five years, or by both said punishments, in the discretion of the court.

As to the first clause, requiring the prepayment into the treasury of 10 per cent., the learned chairman of the Committee on Commerce says that with that amendment on the bill we can not pay to the Republic of Nicaragua the 6 per cent. of the stock which under the concession goes to it unless we pay it also 10 per cent. of the amount of that stock in money. He argues that Nicaragua is not required under the concession to pay and would not pay this 10 per cent., and therefore before the issue of the stock the canal company would be required to pay it. I deny this. According to the most narrow construction of the charter and amendment this result would not follow. The whole statute must be construed together, each section and provision by the light of every other. In section 1 of the charter authority is conferred on the canal company—

To exercise such other powers as have been conferred by the Government of Nicaragua by the concession of that Republic, etc.

One of the powers conferred by that concession is to issue this stock to the Republic of Nicaragua without the payment of any money consideration therefor. And as by reference that provision is incorporated into the charter and becomes a part of it, the power to issue this stock to that Republic is clearly authorized. The contention of the gentleman from Missouri is clearly, therefore, not tenable. In any view it is a mere verbal criticism, and even if technically justified by the language, it could readily be obviated by incorporating the words "export the stock issued under the concession to the Republic of Nicaragua."

Mr. CLARDY. Let me interrupt you there.

Mr. WILSON, of Minnesota. Certainly.

Mr. CLARDY. I deny the construction which the gentleman places upon the House amendment being a proper one. In point of fact the amendment which he is now considering was adopted before the other amendment and before there was anything in it that excepted the concession from the operation of the bill.

Mr. WILSON, of Minnesota. I know it was adopted before the other amendment referred to by the gentleman from Missouri, but that does not touch the point which I make, namely, that under section 1 of the original bill or charter, and which has always been a part of the bill, the delivery of this stock to Nicaragua without the payment by it of any money consideration therefor is guarantied.

As I proceed I wish to call the attention of the gentleman from Missouri to the fact, too, that as this bill was originally introduced and as it went to the committee of conference it did not authorize the issuing of stock in payment for work or labor performed, whereas, as modified by the conference committee, it does provide for this, which is merely making possible and even more probable the frauds that the amendment adopted in the House was intended to guard against and prevent.

Mr. CLARDY. I deny that.

Mr. WILSON, of Minnesota. You deny that? I do not wish to misrepresent my friend or his report. I shall therefore read——

Mr. CLARDY. You say for material.

Mr. WILSON, of Minnesota. I said for work and labor.

Mr. CLARDY. Then you may be right about that.

Mr. WILSON, of Minnesota. In the proposed charter as originally introduced it was provided as follows:

It—

The canal company—

may receive, purchase, hold, and convey such real and personal estate, property and right of property, or concessionary rights as may be necessary to carry into effect the purposes of this act; may issue stock to the amount of the value thereof in payment therefor, and the stock so issued shall be declared and taken to be full paid, etc.

By the House amendment it is provided, as has been shown, that except as above stated "no payment on account of the capital shall be made except in money," the object of this being to prevent the acceptance of materials or property at a fictitious value. By the amendment or report of the conference committee it is provided that—

It—

The canal company—

may issue stock to the amount of the just value of such estate, property, and rights, and for work and labor done, or materials provided in the execution of the work of constructing said ship-canal, and the stock issued for these purposes shall be deemed paid-up stock.

It is also provided that—

No certificate for stock, except as otherwise provided in this act, shall issue till at least 10 per cent. thereof shall be fully paid for in money.

The words "except as otherwise provided" in this act take from this clause any vitality or value, for it is "otherwise provided" that on almost any excuse or pretext stock to an almost unlimited amount may be issued without the payment of one dollar in money therefor.

It will be seen, therefore, that the report of the conferees is not only in direct opposition to the letter and spirit of the House amendment, but even much worse than the original Senate bill. The language of the amendment proposed by the conferees almost suggests a "construction company," which is usually, or at least often, a favored ring within the company, created to swallow up all the property of the company.

Let me call attention a little more particularly to the language of the report of the conferees. It will be seen that it authorizes this issue of stock—

To the amount of the value of such estate, property, and rights, and for work and labor and material, etc.

Any one familiar with the course not infrequently pursued in such cases knows that the provision which we find above, namely, that stock may be issued to the amount of the just value of the property, etc., taken, is by no means a guaranty against fraud. The only guaranty that approximates to security against fraud or that guards the rights and interests of honest stockholders or creditors or of the people is the requirement that the stock shall be paid for in money only. If stock is traded to one for property while another pays money therefor, it must be apparent that the door is thrown wide open for favoritism and fraud. And it is significant, and a fact not to be overlooked, that the report does not even insert the restrictive words "at the just value thereof" in the clause providing that stock may be issued "for work and labor done and material provided."

This provision is therefore for all practical purposes merely a suggestion to the corporators that may be disregarded with impunity. It is enforced by no sanction. Under an exact compliance with the language, all of the $200,000,000 of stock and all the bonds authorized and not before subscribed and taken might be delivered to a construction company, and all the property of the company, including the rihtg to be a corporation, might be transferred or mortgaged to such a company under some construction compact.

He is little acquainted with the doings of such companies who does not see the possibility and even probability under such a charter that no stockholder, though he may have honestly subscribed and paid in full for his stock, may ever realize one farthing therefrom, and that no creditor of the company may be able to enforce any claim against it.

In the light of the experience of the past I think such power to confiscate the property of others should not be conferred on any body of men. And, as I have above said, this is not all. The construction company, which would have the power to become the canal company, with an almost unlimited issue of stock, would, so far as I can see, only be restrained by a sense of justice in fixing the rates of freight and tolls to be exacted from the public. And I fear this would not be sufficient to guard the people against extortion.

Under the circumstances, Mr. Speaker, if we adopt this conference report, if a construction company does not after awhile own this property and freeze out all the stockholders and creditors, it will not be because we have made such a result impossible or difficult. It will be only because they do not take a hint.

Mr. BRECKINRIDGE, of Kentucky. Or because they can not make any money out of it.

Mr. WILSON, of Minnesota. I see before me gentlemen who know something about transactions of this kind. I have seen something about the working of construction companies myself. My friend from Pennsylvania [Mr. SCOTT] knows something about them, although I never knew him to be interested in or connected with one, and I think he will bear me witness that what I have predicted may happen, is neither impossible nor improbable. I fear that if this report is adopted those who purchase or pay for the stock of the company and its creditors and the people at large may have reason to realize the truth of the old saw that corporations have no souls. And we should bear in mind that we are making not only a law for this case, but a precedent that may be invoked in all like cases in the future.

Another objection is raised to this House amendment. It is said that the provision that the stock shall not be transferred until fully paid for would operate hardly in many cases. I am free to admit that this clause of the amendment is not in my judgment of so much importance as that requiring the payment for the stock in money only, and the prepayment of 10 per cent.

If those provisions are retained we shall have some reasonable guaranty of honest administration. I shall therefore advert but briefly to this clause.

It is argued that if a person having purchased a block of stock and paid in part therefor should die or become unable to pay future calls his legal representatives in the first case, and he himself in the latter, would lose the stock and what had been paid. This position is clearly untenable.

When we look at the charter of the company it is seen that transfers of stock can be made only on the books of the company. This is required for reasons understood by every one familiar with corporation law. Under this amendment the stock could not be legally or formally transferred until paid for; but the interest of any one therein, or of his legal representatives, would not be forfeited unless for some violation of law or of the by-laws of the company. They or their successors in interest would have a right to pay any unpaid installment and to have a legal transfer of the stock on the company's books.

The class of persons that this provision would principally affect are the stock speculators who do not subscribe for stock as an investment or with a view to pay for it.

Mr. SCOTT. Will my friend from Minnesota allow a single suggestion?

Mr. WILSON, of Minnesota. Certainly.

Mr. SCOTT. I will give the gentleman credit for great originality in this provision which he has proposed; but I say to him that he can not point to any case in this country or in any other where the limitation which he proposes to put upon the transfer of the stock of this company has ever been put upon the stock of any corporation by any legislative body of which history gives us any account. While the gentleman's idea may be a magnificent one, and perhaps would revolutionize the whole stock business, yet a little experience is worth more than a great deal of theory; and I would rather see it tried on some other institution than this.

Mr. WILSON, of Minnesota. That may be so, but it is also true that we have had experience; and hardly any other experience has cost this country so much or collected such heavy tribute from the masses of the people as that which we have gained from the granting of charters to corporations with power to issue their stock to favorites without any money consideration or for a mere nominal consideration. If with that experience before us we go on and repeat that which has done so much in this country not only to place unnecessary burdens upon the people, but to bring disgrace on our corporations and sometimes on our country—I say, after this experience, if we do not try to profit by it and to protect our people when we are incorporating this company, we have not the excuse that our predecessors had that their attention was not called to the matter, for ours has been.

We have seen that the consequences of the rule which they adopted has been evil, and that continually. It is quite recent that we have had any statutes against trusts and such combinations, or against unjust discriminations or extortions by such corporations. And by parity of reasoning my friend from Pennsylvania might argue that no law should at this late day be enacted against such attacks on the rights and interests of the people. I think otherwise. It is our duty to meet and thwart, so far as we can, the ingenuity of crafty speculators who strive to compel the people, without consideration, to contribute to their enrichment. The never-ceasing, ever-increasing power of corporations must be limited and controlled by legislative enactments or else they will acquire a dangerous power.

Few powers conferred on such artificial persons are more prejudicial to the people than that to issue stock without a full consideration; for experience has shown us that when they have the power they exercise it, and that the consequences are evil.

Mr. REED. What is the difficulty?

Mr. WILSON, of Minnesota. The difficulty I have before explained. If the corporation issues to its pets and favorites $100,000,000 of stock for $100,000 worth of work, or for nothing——

Mr. REED. How?

Mr. WILSON, of Minnesota. Permit me to answer your last question. If the tolls are so cut down as only to allow a reasonable return or interest on the amount of stock that should have been issued, namely, on the amount of capital actually put into the enterprise, then, as the good can not be separated from the bad stock, the honest investors, whose money builds the canal, must be compelled to divide the returns that are justly theirs with the holders of stock issued for a partial or nominal or for no consideration. That this is essentially unjust seems clear. Or if the tolls are placed so high as to pay a dividend on all the stock issued, then the people are compelled to pay dividends not only on the actual capital invested in the enterprise but also the stock which represents no capital, and the burdens on commerce and on the people are unjustly increased. It is wrong to so legislate as to permit scheming speculators, without consideration, to levy tribute on the commerce of the country or on any class of the people or on the whole people.

Mr. REED. How much would it levy?

Mr. WILSON, of Minnesota. It would levy just as much as the owners of the watered or illegal stock realize out of it. When one person by any legal legerdemain obtains money without any equivalent, some other person is wronged and loses just so much. If the canal is made for $100,000,000, but by reason of the laxity of the provisions of the charter an additional $100,000,000 of stock is issued, the tendency will be to double or increase the amount of the tolls.

Mr. REED. How?

Mr. WILSON, of Minnesota. Because, as I have said, the illegal stock not being distinguishable from the legal, any dividend that is paid on the latter class must also be paid on the former; hence if the tolls are put at such a rate as to allow a reasonable dividend, their aggregate amount must be increased in proportion to the issue of illegal stock. It is reasonable to suppose that the honest investors in the stock of the company should insist that the tolls should be fixed at such a rate as to pay a reasonable rate of interest on the investment. This is merely justice.

Mr. REED. If a railroad can fix the rate, as you seem to think it can fix it, on all its stock, watered or not——

Mr. WILSON, of Minnesota. My proposition is that after the watered stock is issued and put on the market it is not possible to distinguish it. If dividends are paid it receives its share the same as if it were issued for a valuable and full consideration.

Mr. REED. You mean to say that the railroad company can fix the rate?

Mr. WILSON, of Minnesota. I do not. Railroad rates are subject to legislative supervision and regulation. But that has no bearing on this question.

Mr. REED. Do you mean to say that any international canal company can fix its rates arbitrarily; that that is human experience in these matters?

Mr. WILSON, of Minnesota. I think no one but this canal company has the right or power to prescribe or fix its rates.

Mr. ADAMS. Here is a canal. Here is a certain amount of international traffic which under favorable conditions will go through that canal. But if the canal tolls are too high a part of the trade will not go through the canal; it will go around Cape Horn or by some other route. It is not true, therefore, that the canal company can fix the canal tolls to suit themselves. The laws of trade fix a certain maximum beyond which they can not go. Within that limit they will, of course, make the tolls as high as they can. They will do this whether the nominal capital is $100,000,000 or $200,000,000. I do not mean to say that stock-watering does no harm. The harm it does is this: It tends to conceal from the careless observer the rate of profit which a corporation is making on the real amount of capital invested. That is an evil, I admit.

But it is not true, as the argument of the gentleman from Minnesota seems to imply, that when the stock is nominally doubled the company is thereby induced or enabled to double the rates of toll on the canal. What will be, according to the gentleman's opinion, the methods according to which the rates will be fixed?

Mr. WILSON, of Minnesota. That is a very difficult question to answer. Indeed, any answer given in advance will be largely surmise. If the amount of business will admit, it is safe to assert that the rates will be fixed so high that the dividends on the stock will be equal to a reasonable rate of interest on it. It would not be safe for any one positively to affirm or deny that the business of the canal will not be such as to enable the directors of the company to fix the tolls at such a rate as would pay interest on all the stock, or to affirm or deny that competition may be such as to necessarily keep the tolls down to a reasonably low rate.

It would seem very probable that a very large commerce must pass through that canal. The route round the Horn being 7,000 miles or more longer, it could hardly be considered a competing route for the carriage of merchandise of great value compared with its bulk and weight, or of any merchandise in the carriage of which time is an important consideration. So far as can be foreseen there may not for a long time, or ever, be any direct competing route. Even if another canal were built across the Isthmus, experience has taught us that that would be no guaranty of such competition as would essentially lessen the rates of toll.

Although we have competing lines of railroad almost everywhere in the country, we find we can not safely rely on just competition alone as a sufficient regulator of rates or preventive of extortion. It is found necessary in almost every State by legislative enactments to control and limit the power of these corporations to levy excessive tolls. And if on the railroads of the country competition is not effective for this purpose, much less have we reason to suppose it would be on this canal.

By the fifty-second article of the concession of the Republic of Nicaragua to the canal company it is provided:

> From the receipts of the enterprise the company shall take in the first place the necessary amount to cover all the expenses for maintenance, operation, and administration; all the sums necessary to secure the interest, which shall not exceed 6 per cent., and the amortization of the obligations and of the shares, and what remains shall form the net profits, of which at least 80 per cent. shall be divided among the shareholders, it being agreed that after the lapse of ten years after the completion of the canal the company shall not divide among the shareholders in payment of dividends, directly or indirectly, by issue of shares or otherwise, more than 15 per cent. annually, or in this proportion, from dues collected from the aforesaid canal, and where it shall appear that these dues yield a greater profit, they shall be reduced to the fixed limit of 15 per cent. per annum.

What we who support the House amendment insist on is that this charter shall be in such guarded terms that the commerce of the country and the people of the country shall not be compelled to pay those rates on stock which should not be issued and which represents no capital, and that honest investors and the creditors of such corporation may not be left at the mercy of a class of shrewd and unscrupulous speculators who insist on reaping where they have not sown and gathering where they have not strewn.

Mr. BUTTERWORTH. Did not the House incorporate an amendment as a sort of safeguard to prevent the construction company from getting control?

Mr. WILSON, of Minnesota. Yes, but it is gone, or so emasculated that it amounts to nothing.

I wish, Mr. Speaker, to take the time of the House but a moment longer, to call attention to another singular feature of this conference report. By the amendment of the House before referred to a penalty was provided for the purpose of preventing the issuing of watered or unpaid-for stock as above shown. The House amendment punishes the guilty.

That is omitted, and instead we have inserted the following provision:

Any violation of the provisions of this section shall subject the charter to forfeiture.

That is, as a punishment of the illegal acts of certain officers it is proposed to forfeit the rights and property of honest stockholders, bondholders, and creditors who have not transgressed. Such a provision as this carries with it no terrors to the actual wrong-doer, and would not have a tendency even to correct the evil complained of.

Irrigation of Public Lands.

SPEECH

OF

HON. MARCUS A. SMITH,

OF ARIZONA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 26, 1889.

The House being in Committee of the Whole on the state of the Union, and having under consideration the sundry civil appropriation bill—

Mr. SMITH, of Arizona, said:

Mr. CHAIRMAN: It pains me very much, in the light of the great interests involved in the reclamation of the arid lands of the United States, to hear expressions in this debate which of necessity argue a want of information on the part of those who are honestly and vigorously opposing this increase of this appropriation from $150,000 to $250,000. This is a very small sum to expend annually in such a humane, beneficent, and statesmanlike measure. Do not the opponents of this increase of appropriation in this stirring age of steam find themselves on a narrow-gauge railroad run by horse power? [Laughter.] Have they opened their eyes on the magnificent country spreading before them? Have they contemplated the possibilities of its future power?

It would ill become me to criticise either the ability, wisdom, experience, or patriotism of the distinguished gentlemen who are opposing not only this increase of appropriation but are opposing any appropriation for this purpose. Their names have justly become a part of our national history. For them I, in common with my fellow-citizens, entertain the sincerest admiration. Hence I approach the objections emanating from such a source, I trust, with due modesty. But I may be pardoned for an emphatic dissent from the principal reasons urged against this appropriation. We are told to wait. We are assured that nothing can be lost by waiting. How long are we to wait? Are we to sit quietly down until population grows so dense in the Eastern States that their prayer for daily bread becomes a tragic invocation? Are we to await an attack before we build our defenses against it? Must we delay action until aggregated capital has actually monopolized the water of that land? Shall we, as has been here urged, wait until "proper restrictions" can be thrown around the expenditure of this pitiful sum of money, so reluctantly doled out to the just demands of posterity? We of course are equally anxious with you that all needful restrictions against reckless expenditure should be imposed, for on a proper expenditure of liberal appropriations for this purpose rests more of this country's future prosperity and happiness than on any question which this or any other Congress has had or will have under consideration.

We do not object to waiting for restrictions on the expenditure of the money, but we do object to having this amendment defeated by "restrictions." There are gentlemen on this floor whose commendable care of the public Treasury has been so vigilant that this House need never borrow a fear that "proper restrictions" will not go hand in hand with this bill as they have forced it to attend all others. Delays are as dangerous in public matters as in the important affairs of private life. Much time and a large sum of money must necessarily be consumed in this enterprise. There is no danger of starting it too soon. You have already delayed it too long.

The honored chairman of the Committee on Appropriations [Mr. RANDALL] has said that nothing can suffer by delay in this matter. I say to him that something can suffer; for, as I have already said, delay on the part of the Government will induce aggregated capital to take hold of the problem and solve it, to the great damage of the home-seeking people. I make the statement advisedly. I commend the energy and enterprise of those who go into the desert and at the expense of hundreds of thousands of dollars convey the water to the thirsty sands and convert the waste places into gardens of beauty. In absence of action by Congress these people are public benefactors.

But it is a shame that Congress should permit this to go on, instead of taking hold of it for the common good. Recognizing this fact, the chairman of the Committee on Public Lands [Mr. HOLMAN] has all through this Congress attempted to secure the repeal of the desert-land act. But against that policy I have always inveighed. It is not a proper solution of the great problem confronting us, as I shall endeavor to show when that question comes regularly before the House for consideration. Of the two horns of the dilemma I would accept the one granting the lands to anybody who would redeem them rather than leave them in their present unproductive state by a repeal of all laws looking toward their settlement. I repeat, private capital is gradually acquiring the most accessible water privileges; and, while again commending the enterprise, I instance here the case of the Walnut Grove Water Company, which has, as I am informed, located the first water-storage reservoir constructed in Arizona. The Walnut Grove Storage Company is a New York enterprise. What has it accomplished? I read an extract from a pamphlet lately published by our Territorial commissioner of immigration:

It is intended to hydraulic the gold-gravel deposits on the Hassayampa, 20 miles away, and to furnish water for the irrigation of several hundred thousand acres of agricultural land. The dam is given as follows: 110 feet high from the bed rock, and 400 feet long on the top; the base line of the dam is 135 feet thick at the bottom and 10 feet at the top. The front or apron wall 12 feet at bottom and 6 feet at 100-foot line. The back or down-stream wall is 15 feet thick at bottom and 9 feet at the 100-foot line, both walls being of rough, heavy, dry stone masonry, the space between the walls being filled in with the smaller stones. The apron or skin is composed of two thicknesses of 3 by 8 planks securely fastened longitudinally to heavy cedar butts, the entering wall being 8 feet and 8 by 8 vertical timber between the same, the first skin being fastened to the inner by a 6-inch galvanized wrought-iron spike, and the entire face of the apron painted with No. 3 paraffine paint, thus making a strong water-tight face on the water side. The dam is constructed to resist a water pressure of 23,000 tons, with flushing gates and service gate complete. It will impound 3,000,000,000 cubic feet of water, equal to a discharge of 3,000,000 miner's inches daily for one year, including loss by evaporation. The water will be conveyed by flume to the mining and agricultural land.

Such is the work that private energy is accomplishing in the line of water storage. Who owns the lands to be irrigated by this water? Whoever does must pay whatever tribute is demanded by the owners of the water. I am not complaining of this. It is better that such work should be done by anybody than that it should be left forever undone. I commend the tact, energy, and enterprise of this company, but while doing so suggest the wisdom on the part of the Government of taking hold of this great question and by proper law prevent vast holdings of land by dividing irrigated tracts into small farms, and thus not only add to the sum of human contentment, but give force, energy, and solidity to the nation.

Mr. SYMES. If the gentleman will permit, I would like here to ask him whether our controlling the water does not absolutely control at the same time all land susceptible of irrigation by that water?

Mr. SMITH, of Arizona. Unquestionably. There is no earthly doubt of the fact suggested by the gentleman. The first appropriation of water in all desert countries is superior in right. By every reason it should be so. When water is taken from a stream for beneficial purposes the usufruct becomes a vested right with which Congress has no power to interfere, except by the questionable one of condemnation for public use under the right of eminent domain and by compensating the owner to an extent usually far in excess of the real value of the property involved.

Many members of this House seem to be laboring under the false impression that this question of irrigation is a Western scheme, born of a Western desire to enrich the inhabitants of the West. Nothing could be farther from the truth. The West, in common with you, and to at least an equal if not greater extent, glory in the achievements of this wonderful Republic. They in common with you yearn to see humanity take its highest stand on this free soil. They desire the prosperity of the whole people with an ardor equal to yours. They love their whole country and take pride in the hope which its future holds out to the world, and from this pride and patriotism springs the energy which the people of the West have exhibited in this cause. They are asking nothing at your hands for their personal aggrandizement, but are, from a standpoint of knowledge of the conditions, beseeching you by every argument to do this to your whole country for your country's sake.

How is any man now living in the Western States or Territories to be personally benefited by the proposed legislation above any of yourselves who shall wisely see fit to go there? If a scheme to make money in this matter is sought, you will find it in the non-action of Congress, for by its refusal to act the land-grabber can, as I have before frequently said, take unto himself whatever amount of land he can find the water to irrigate.

There is another matter to which I desire to call the attention of Congress and also the attention of those having this work in charge. It is this: if this survey be confined to streams alone and to sites for reservoirs fed by streams, it will fall far short of accomplishing the full purpose to which this proposed expenditure should lead. The great watersheds should be surveyed. The mountain ranges surrounding the fertile valleys of Arizona should be utilized as sheds, conveying water from its gorges and cañons to reservoirs on the higher parts of the valley below, thence to be distributed over the land.

I know of no valley in Southern Arizona that could not thus be reclaimed. The rainfall is fully equal to our wants if it could be secured from waste. This I conceive to be the ultimate design of this survey.

It should not fall short of this. That land now known as the Western Desert ages on ages ago supported a dense population by this means. The silent footsteps of this prehistoric people are found in every county of Arizona. Desolation now in its awful silence abides where a prosperous people pursued the noisy avocations of life long before Cheops was born or the history of Asia had taken note of time or man.

In the very heart of the desert are found evidences of once populous cities and ruins of ancient reservoirs and canals. Are we less able in the closing days of the nineteenth century to cope with adverse nature than were those whom we dimly discern moving in the dawn of time? The water courses of our desert country will not furnish a sufficient supply to redeem the land. The rainfall must be gathered and held for use in the dry season.

It has been found by actual experiment that less and less water is required each year to irrigate the same field, and it is no flight of fancy to assume that the same water supply will gradually increase the area of irrigated land, and the substitution of cool vegetation for the hot sands of these inclosed valleys will increase the rainfall to an amount sufficient of itself to produce quick growing crops. The warm, dry air rising from the sands of these valleys absorbs and dispels the approaching winter clouds so that little or no rain is precipitated except in the general heat of the summer months. By a change of these conditions our rain will be distributed through a greater number of months and insure many crops without artificial irrigation. This may be deemed speculative, but I submit that it is not unreasonable.

When this same item of this bill was under consideration at the first session of this Congress I submitted some remarks on the general history of irrigation, and attempted then to forecast the glowing future awaiting the irrigation of our arid lands. I may, I trust, be pardoned for here repeating something of the substance of what I then said.

It seems a work of supererogation in this presence to go fully into the history and proclaim the results of irrigation as practiced since Cain made his unaccepted offer of the first fruits of the ground. Husbandry was man's first occupation on the earth, and has since been the source of all life to the teeming millions inhabiting the globe and the source of every nation's revenues.

All history, sacred and profane, attests the fact that man first flourished in desert countries where successful husbandry depended on artificial supply of water to the land. That irrigation was the oldest system of successful farming known to man is fully demonstrated not only in the Old World, but in the so-called New World as well. This evidence exists to-day on the most sterile land of this continent.

Herodotus, who wrote many centuries before Christ, assures us that Assyria and Babylonia, Chaldea and Mesopotamia, Media and Persia were supported by this means. He gives us an account of a reservoir constructed by the Egyptians which was almost equal in extent to the great Lake Ontario. We know that the great flow of the Euphrates was turned miles out of its course for irrigation purposes, and the channel of the ancient Tigris was simply a natural canal from which its own waters and the heavier flow of the Euphrates were distributed over the adjacent lands.

Herodotus estimates an ancient population of 70,000,000 people on lands which from subsequent neglect of irrigation now support a population of less than 20,000,000. Ptolemy is in the same field equally fruitful to the careful student of history. As I said in a former address to the House when this bill was under consideration, you who consider the present scheme chimerical and visionary have been careless in your study of man's conflict with nature and his marvelous victory over the most terrible obstacles.

Irrigation is no new question. It existed in Egypt before the pyramids were erected. It has fed the millions of Asia since the creation of the world. It nurtured Rome into existence, and was practiced in America ages before the birth of Columbus. The Moors introduced the system into Spain, from whence we have derived our imperfect western system.

The valley of the Nile for countless ages has yielded its abundance through this means, and Cato, in a language now dead, wrote in learned advocacy of its introduction into Italy. The Great Mogul gave it a grand impetus during the magnificence of his reign.

The wealth and grandeur of royal Babylon, of Nineveh, Thebes, Bagdad, Cairo, and Memphis, around which as centers the civilization of great periods of time revolved, were due to and dependent on the agricultural perfection surrounding them and made possible only by irrigation. The Nile supported the Roman world, and irrigated Egypt was the granary of the empire. To recur to the extent to which irrigation was practiced in Egypt I can not forbear giving the actual dimensions of the reservoir spoken of by Herodotus 454 years before Christ. He refers in his history to the pyramids, but gives them no such prominence as he does the reservoir, which, to use his own language, "excelled all other human productions."

The circumference of this reservoir, according to this historian, was 60 schoenes, or 3,600 furlongs. A furlong, he states, was 100 fathoms, or 600 feet. Reduced to our measurement, we find the circumference to be over 415 miles. The depth he states to be "one-half of a hundred fathoms" or half a furlong, 300 feet. Five centuries later Diodorus, from Sicily; Strabo, from Asia Minor; Mutianus and Pliny, from Rome, repeat the wide belief of this well-ascertained fact. I have somewhere seen in my reading a full confirmation of the facts stated by Herodotus, from the pen of a comparatively modern French engineer who traced the boundaries of this reservoir, and was, from close observation, convinced of the accuracy of the historian's seemingly marvelous statements, and of the further fact that the reservoir was fed from the Nile. Diodorus said:

> Considering the benefit and advantages brought to the government by this great work, none could ever sufficiently extol it according to what the truth deserved.

But we need not content ourselves with the statements found in the history of foreign countries, for we have in Northern Mexico and Southern Arizona evidences of vast irrigating reservoirs and endless canals and ditches constructed by a people who antedate all history. My country is full of these silent evidences of this potent fact. And it is now becoming a question with the student whether Asia was not first peopled by aboriginal Americans who drifted in their canoes across Behring's Strait. Ours is probably, after all, not the New World, but the Old. But in this matter we are luckily not forced to rely on ancient facts to demonstrate the utility of the proposed amendment.

Modern times have made their grandest achievement in the improvement of the system of irrigation in the East Indies by the British government of India. By scientific construction of reservoirs and by digging canals aggregating over 3,600 miles in length what was once a land of famine has become the granary of the world. What was once a scene of desolation and want now delights the eye with waving fields of green and gladdens the heart in the richness of its harvest. So will like enterprise and like statesmanship redeem the waste places of the West.

The question then is, will this Congress wisely learn of the experience of other ages and nations and proceed at once with a definite purpose and fixed determination to the reclamation of our desert lands?

I am led to believe from what I have heard said by so many of you in private conversations on this subject, as well as by your careful attention to the discussion on the floor of the House, that the time is not far distant when the full importance of this great question shall appeal to all alike, and each will hasten to do to our common country and our common interest the justice so long deferred. But, Mr. Chairman, the Constitution itself has been invoked to prevent this appropriation. Has any lawyer within my hearing, or any lawyer anywhere, the temerity to assert that Congress has no power under the Constitution to expend money in the improvement of public property? If such power is wanting what becomes of your enormous river and harbor bills, your public-building bills, and hundreds of others of a similar nature passed at every session of Congress?

We are no more taking public money for private interests in this appropriation than we did in any single item of the river and harbor bill. No lawyer can on constitutional grounds seriously defend the one and condemn the other. To your incorrect charge that we are taking your money to improve our lands, we answer with as much accuracy that you for years have been taking our money to improve your rivers and build your houses. Before repeating this charge, brethren, I charge you to cast out the beam in your own eye, so that you can see clearly the mote in your brother's eye.

Mr. Chairman, there can be no possible question of power successfully raised against this appropriation, and no power save the brute force of a majority will defeat this measure. It is right, and, like all right, conquers in the final conflict. You may postpone the day, but the day will come to curse your tardiness and proclaim its victory.

I am delighted to see a disposition on the part of Congress to take firm grasp of this mighty problem and solve it to the great good of our country. There is one other aspect in which I desire to present this question before taking my seat. During a long, learned, and interesting debate on the tariff bill at the first session of this Congress each side of the question and each man in the case vied with the other in honest and manly expressions of sympathy for the laboring classes of America. I am glad to believe that all were sincere, for that class not only engages our sympathy but should at our hands receive proper and fair consideration.

We have before us now a true test of that professed sympathy, for in the present amendment is found more to alleviate their condition by relieving the overcrowded labor marts than in all other public questions combined. American labor has been kept up to a decent living point by no charity of the employer, by no exercise of grace on the part of the capitalist, but by the intelligence and industry of the laborer himself and by the vent which our vast public domain gave to crowded localities. Wages have been high comparatively in our country because good land was cheap. That character of land is almost exhausted. When it shall have been fully occupied, can you conceive of any mere enactment of Congress that will prevent the poor and ignorant from being still deeper steeped in poverty and ignorance?

Will any law drive want from the door of unemployed labor? What, then, is the remedy? The field is too wide for discussion here. One plain answer, however, is open to us, which will for years to come postpone the ultimate catastrophe. It is simply more land for the land-

less unemployed, more homes for the homeless. More land can be reclaimed, and cheaply reclaimed, by wise and speedy action in the line of this amendment than is now occupied in the whole valley of the Mississippi. In its present unwatered state it is useless. When reclaimed it will support more people than now inhabit our whole country. Is it not more than worthy of your most attentive consideration? Posterity demands action at your hands, and action much more liberal than has yet been taken or proposed on this floor.

The Senate, I hope, may yet increase this amendment to at least $350,000 for the present year. I shall labor to that end, for I know that money can not be more wisely expended. In the light of the manifold blessings to accrue, why should we with sparing hand grudgingly dole out pitiful sums of money from our overburdened Treasury when every instinct of statesmanship, every impulse of patriotism, every voice from the past, and the sublimest hopes of the future alike demand decent generosity at our hands? The pittance we pray for is, like the river at its fountain, small, but in flowing to the vast sea of the future it will meet and yield largely accumulating revenues of glory and felicity to our common country by rearing happy homes in desert places—homes from which in peace we draw prosperity and in war find protection.

Direct Tax.

It is a step toward a complete and just reunion of the hearts of the people of the country. Not a reunion forced by law nor controlled by legislative enactment, but controlled and promoted by the wish and purpose of both sides of the country to do equal and exact justice toward each other.

SPEECH

OF

HON. CHARLES H. GROSVENOR,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, December 11, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill S. 139, being "An act to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861," and the question being upon laying the bill aside and recommending it for passage—

Mr. GROSVENOR said:

Mr. CHAIRMAN: I had intended to occupy the time of the committee for a few moments in responding to the peculiar arguments that were presented in opposition to the passage of this bill by the gentleman from Georgia [Mr. STEWART] and the gentleman from Georgia [Mr. BARNES], but I had the misfortune to only hear a sort of outline of those speeches, my attention having been distracted more or less during the delivery of each of them, and I trusted to the presumption that the time might come within a reasonable limit when I would have an opportunity to read them in the RECORD, and read the exact and peculiar arguments that were made by these gentlemen, and then be better prepared to reply thereto. These arguments were made on the 6th of the current month and they have not made their appearance in the RECORD yet, and I am not aware of the time when they probably will appear.

Mr. KERR. The speech of Mr. STEWART is in the RECORD.

Mr. GROSVENOR. I have not seen it. When did it appear?

Mr. KERR. This morning, I think.

Mr. GROSVENOR. It is suggested that the gentleman from Georgia [Mr. STEWART] had published his remarks. I have not seen them and therefore I am in exactly the same position as I was before, except, of course, that there is no force in my suggestion that his remarks have not been published in the RECORD.

Now, sir, this is a question of very simple character to me, and I am going to discuss it for a few moments in a very elementary and simple sort of way.

By the law of Congress, the validity of which and the binding force of which nobody, I believe, has ever questioned, there was assessed upon the people of the United States $20,000,000 as a direct tax; and I may be permitted to turn aside here for a moment and say that it was a tax levied peculiarly in the direction that ultimate "free trade," and I put these words in quotation because they are the declarations of the conservative wing of the Democratic party of this country, would ultimately compel the Government to support itself by. Because I have always taken the ground that if 40 per cent., on the average, is robbery, then 5 per cent. is robbery, *pro tanto*, and you can not escape; therefore the proposition that a direct tax is standing across the pathway and seems to be the ultimate goal of the men—the statesmen of America—who are inveighing against the idea of taxation upon the articles which are consumed by the American people.

Money must be raised for the support of the Government and for the purposes of the Government, and if taxation upon imports is robbery at a high per cent. it strikes me that it is robbery in a degree in a lower scale. There is no more odious form of taxation known within the power and scope of the taxing authority of the Government than that of a direct tax. It is unpopular. Our people do not want to see that sort of taxation resorted to. But there was in this case an emergency upon the country, and this remedy seemed to be the only remedy, this relief the only relief within the scope of the taxing authority of the Government. We had no commerce; bad administration had destroyed it; we had no importations that we could tax with any assurance of estimating what would be produced, and there was an emergency therefore upon the country that some of our friends seem to have forgotten, or if they have not forgotten it, the full force and power of the emergency does not seem at this time to be properly and adequately estimated.

That emergency was nothing else, nothing less than the question of the existence of this Government itself, the union of these States, the supremacy of one flag, the question of whether or not there was inherent in this Government, not in its written Constitution, but inherent and inferable, because of its existence, the right and power to maintain its existence by all the means of defense and offense known to the Constitution certainly, and whether with the approval of American people the Government might do some things to sustain its life not written in the Constitution.

It was a strain upon the Constitution. There was war under the circumstances; the Democrats construing the Constitution strictly denying the power of the Government to save its own life. Abraham Lincoln, upon a broader and more statesmanlike view of the Constitution, called for troops and declared that the law of self-preservation inherent in every individual man was inherent in the great aggregation of men. And so, among other things, a tax was assessed of $20,000,000 in the following sums against the several States:

State or Territory.	Amount imposed.	State or Territory.	Amount imposed.
Alabama	$529,313.33	Missouri	$761,127.00
Arkansas	261,886.00	Nebraska	19,312.00
California	254,538.67	Nevada	4,592.67
Colorado	22,905.33	New Hampshire	218,406.67
Connecticut	308,214.00	New Jersey	450,134.00
Dakota	3,241.33	New Mexico	62,648.00
Delaware	74,683.33	New York	2,603,918.67
District of Columbia	49,437.33	North Carolina	576,194.67
Florida	77,522.67	Ohio	1,567,089.33
Georgia	584,367.33	Oregon	35,140.67
Illinois	1,146,551.33	Pennsylvania	1,946,719.33
Indiana	904,875.33	Rhode Island	116,963.67
Iowa	452,088.00	Tennessee	669,498.00
Kansas	71,743.33	Texas	355,106.67
Kentucky	713,695.33	Utah	26,982.00
Louisiana	385,886.67	Vermont	211,068.00
Maine	420,826.00	Virginia	729,071.02
Maryland	436,823.33	West Virginia	208,479.65
Massachusetts	824,581.33	Washington	7,755.33
Michigan	501,763.33	Wisconsin	519,688.67
Minnesota	108,524.00	South Carolina	363,570.67
Mississippi	413,084.67		

These were the total assessments, and the aggregate of $20,000,000 was the so-called "direct tax."

It was very largely paid by the loyal States, as I am proud to call them, Mr. Chairman, and the time will never come while I live that I will not draw a distinct line between loyalty in the present, the probability of loyalty in the future, and, Mr. Chairman, the loyalty of the past, to the flag and Constitution of this country, and the acts, sentiments, and opinions which were not expressive of loyalty. These taxes were paid by these States, as a general thing, as a voluntary offering of the people of this country upon the altar of their country's peril without process of collection or distraint.

A portion of this amount was wrung from the people of some of the States, which I trespass on no man's feelings in saying, were disloyal States of this country. And there has stood upon the account-books and upon the records of the Treasury Department a debit and credit side of that assessment. It has stood alone. It was of its own species, a peculiar account of all the money received by the Government upon the only direct tax within the memory of living man that had been assessed in this country. It stood at the time as a monument of a single effort of the Government in an unpopular direction to raise money by an unpopular process, but as a last resort and to save the Union and make the present condition of this country possible. Some of the States did not pay their share, and they stand charged with it. Others of the States did pay their share, and they stand credited with it. The following is a statement of the amounts unpaid by the respective States and Territories, and the statement in full of the accounts in the language of the Treasury officials:

The amount of direct taxes which has been paid is not stated in any summary, but I have collected from the report the amount of taxes paid and the amount of credits allowed, or to be allowed, and the amount now due, which may be summarized as follows:

State.	Quota charged.	Amount credited.	Amount due.
Alabama	$529,313.33	$18,285.03	$511,028.30
Arkansas	261,886.00	154,701.18	107,184.82
California	254,538.67	254,538.67	
Colorado	22,905.33	22,189.96	715.37
Connecticut	308,214.00	308,214.00	
Dakota	3,241.33	3,241.33	
Delaware	74,683.33	74,683.33	
District of Columbia	49,437.33	49,437.33	
Florida	77,522.67	4,760.30	72,762.37
Georgia	584,367.53	117,982.89	466,384.44
Illinois	1,146,551.33	1,146,551.33	
Indiana	904,875.33	904,875.33	
Iowa	452,088.00	452,088.00	
Kansas	71,743.33	71,743.33	
Kentucky	713,695.33	713,695.33	
Louisiana	385,886.67	314,500.84	71,385.83
Maine	420,826.00	420,826.00	
Maryland	436,823.33	436,823.33	
Massachusetts	824,581.33	824,581.33	
Michigan	501,763.33	501,763.33	
Minnesota	108,524.00	108,524.00	
Mississippi	413,084.67	111,038.46	302,046.21
Missouri	761,127.33	761,127.33	
Nebraska	19,312.00	19,312.00	
Nevada	4,592.67	4,592.67	
New Hampshire	218,406.67	218,406.67	
New Jersey	450,134.00	450,134.00	
New Mexico	62,648.00	62,648.00	
New York	2,603,918.67	2,603,918.67	
North Carolina	576,194.67	377,452.61	198,742.06
Ohio	1,567,089.33	1,567,089.33	
Oregon	35,140.67	35,140.67	
Pennsylvania	1,946,719.33	1,946,719.33	
Rhode Island	116,963.67	116,963.67	
South Carolina	363,570.67	222,396.36	141,174.31
Tennessee	669,498.00	392,004.48	277,493.52
Texas	355,106.67	180,841.51	174,265.16
Utah	26,982.00		26,982.00
Vermont	211,068.00	211,068.00	
Virginia	729,071.02	442,408.09	286,662.93
West Virginia	208,479.65	208,479.65	
Washington	7,755.33	4,268.16	3,487.17
Wisconsin	519,688.67	519,688.67	
Total	20,000,000.00	17,359,685.51	2,640,314.49

Quota	$20,000,000.00
Paid or credited	17,359,685.51
Amount due	2,640,314.49

The second column includes taxes collected, amount of 15 per cent. deduction, and credits allowed.

The books of the Treasury Department now contain, and constantly, all the time, and under all circumstances that may arise in the future, will contain this statement of debt and credit, and the Government is in a condition to be always annoyed by it in all the varied transactions between the States where the Government becomes obligated to pay to a State a sum of money—there stands upon the account book of the Treasury, if the State failed to pay, this amount, which nobody wants to collect, and yet blocking the way to a business-like adjustment of the financial relations between the States and the General Government.

To illustrate, should the General Government become obligated to the State of South Carolina for a sum of money and the same is passed to the credit of South Carolina upon the books of the Treasury, on the other side of the ledger stands an acknowledged debt of the State of South Carolina to the Government. Does the present generation of South Carolina—loyal, I trust, to the Government, ambitions and hopeful of the future—desire that their obligations, the obligations of the Government to them, shall be canceled by an old-time debt that South Carolina has not paid to the Government? Does the gentleman from Mississippi [Mr. ALLEN] propose that hereafter, always and under all circumstances, any claim that Mississippi may assert against the Government in the form of money shall remain unpaid and stand ever against the unpaid debt of Mississippi in this behalf? Is that his view of it?

But the other side of the question is that we will "wipe it off; sponge it off." I heard some gentleman on the other side talk about "sponging it off." Our proposition is that we will sponge off all accounts of the Government that relate to this unpopular, undemocratic, un-American, unusual tax; and how are we to do that and have fair play between the different sections of the people of this country? The proposition is a very simple one. It is this: Just as certainly as a promissory note of any individual on earth is an obligation that he shall pay a sum of money to the holder of it, just so certain do these States of the South, in law and in equity and in morals, owe to the General Government this sum, aggregating about $3,000,000.

Why do we not collect it? We do not want to collect it. Do you want it collected? Does the eloquent and witty member from Mississippi [Mr. ALLEN], who does me the honor to sit in front of me and listen to what I am saying, desire that that question shall be made, and that the General Government shall coerce Mississippi to pay that debt? Or does he desire that this question of account shall stand unsettled between the National Government and the State government?

It is said that the General Government can not collect this debt. If it can not, if this remaining balance can not be collected, if by any act of these States or of the General Government, or both combined, whether acts of commission or of omission, whether overt acts or mere laches, the right to collect this unsettled balance has ceased, then by a much stronger reason equity demands that this Government shall refund to the States that did pay, and that the States that did not pay shall be silent.

Our proposition is that we will expunge, in so far as it can be done at this late day, all record of that transaction. It is a tax we do not like. Our proposition is to raise money for the support of the Government in a better way, in ways more popular with the people of this country, in ways more just to all the interests of the people of this country. And we say you have not paid. You did not put your money in. You are here now. You are in the original sisterhood of States. No man feels more happiness than I do in the fact that you are here now. You come here because you could not go anywhere else. You come here because we invited you by a process of invitation that while you attempted and tried to decline you were finally coerced to accept. It was an invitation in kindness. It was an invitation in obedience to law, and to-day you are glad that you are here, that you did accept our invitation to come back, stained though the invitation was by the blood of some of your best men, stained though it was by the blood of some of the men who went to carry the message to you.

But here stands an instance upon the records of this country where you have not done your share and we have done ours. We paid money and saved you from your folly—I will not say crime, because I am not here to rekindle the smouldering embers that the gentleman from Georgia [Mr. STEWART] seems to be so disposed to stir up on this occasion. We paid our money to save you from the consequences of your indescribable folly. Now, out of the common fund we propose to withdraw that which we paid in and leave you without a record of defalcation. You stand defaulters to your country. You stand owing this debt; you stand here in the record that in the hour of your country's peril you did not pay your money to save your country that the laws and the Constitution of your country demanded you to pay. What do we say? We say we have reached a time now when we can afford to obliterate all that debt; that we will get even with you, and get even by the most complete and perfect system of equity possible so far as you are concerned. You shall not pay that money; you shall not be charged with it; the records will be clear of it. We ask simply to draw out of the fund the principal which we paid more than a quarter of a century ago, and we do not charge you one cent of interest on it.

The people of my State paid nearly a half million dollars in good cash promptly out of the treasury of the State. We did not collect it off of our people, but now we want to return it to the treasury of the State of Ohio. We want to lift the burden of taxation from the shoulders of our people there. I want the farms and the houses and the property of the people of my district to be relieved to that extent of future taxation. It is fair that it should be, because we paid the money and you did not. It is fair in one sense and unfair in another. We paid the money a generation ago; we are to go without the interest on it; but the interest has come to us in a hundred fold by the blessing of a reunited Government, and one of the grandest triumphs of to-day is that the blessings of that Government which came in a restored form to us by reason of our patriotism we are able to divide in equal moieties with you.

What is the interest on that money, Mr. Chairman? What is the interest which the States that are protesting against the passage of this bill have drawn upon that fund which we put in and which they did not? It was our principal, but they have drawn their share of the interest. Can anybody compute it? The interest upon the fund itself in dollars and cents is immaterial, but the interest which has accumulated and been distributed upon that $17,000,000 and the other funds that we paid into the Treasury, put in by the loyal people of this country, not by the disloyal, has grown until it has become the mightiest accumulation of wealth upon the face of the earth. It has come to us in the form of this magnificent tree of liberty, and in the branches of that tree in profound safety rest the people of the States which to-day are unwilling that justice shall be done upon this great question, a question involving simply the repayment to those who contributed it of the sum of $17,000,000, which was put into the Treasury more than a quarter of a century ago.

They are willing to take the benefit of that money, but we are not to have it. They are willing to take the interest upon it, and we are glad to aid in distributing it to them; we are glad to divide it with them. We raise no question upon their right here. We are glad they are here. We are proud of it. They are glad that that money was put up and they are glad that that money was effectual. They are glad that that $17,000,000 with the other millions that followed crushed the rebellion, destroyed slavery, saved the Union, restored the Constitution, brought back the old flag. Who are most benefited by it, the men who paid it or those who to-day are back as States in the Union, honored members of the great family of the great Union of States?

Why should those gentlemen contend, therefore, that at this late day the little financial substructure upon which this great, magnificent, and glorious result was achieved is to be withdrawn from the Treasury for the double purpose of restoring imperfectly the consideration which our people paid and getting rid of the charge against the people who never did pay? It is a very unimportant thing to the people of the North that the $17,000,000 which they paid honestly and loyally shall be returned to them, but it is a great and magnificent thing to the people of the South that there shall be blotted out of the books of this country the evidence that in the hour of this country's peril they did not do their duty according to the laws and the Constitution.

I understood the gentleman from Georgia [Mr. STEWART] to say something about the equities in the case, and he used language pointing in the direction of a subject which under no circumstances on the floor of the House will I ever be driven to comment upon. He said that it was inequitable to restore to the people of the North the money which they had expended, because the expenditure had resulted in the desolation of the firesides and the destruction of the industries of the South.

Mr. STEWART, of Georgia. Will the gentleman permit me to ask him a question, as he is greatly mistaken in quoting my language?

Mr. GROSVENOR. I am not purporting to quote the gentleman's language. I quote the logic and effect of his remarks.

Mr. STEWART, of Georgia. You are mistaken as to that, too.

Mr. GROSVENOR. I want to know what in the name of common sense any mention of desolation of firesides has to do with this bill?

Mr. STEWART, of Georgia. I can not suppose that the gentleman intends to misrepresent me, and therefore I desire to correct him. I referred to the desolation of the South as being the condition of things when the cotton tax was imposed.

Mr. GROSVENOR. I am not discussing the cotton tax at all, and it has nothing to do in this connection. It is no more germane to this bill than the tobacco tax, or the income tax, or the tax upon doctors and lawyers in the North, or any other tax. We might as well come here and complain of sore feet that we had, and the hungry days and sleepless nights we passed during the war, as for these gentlemen to come and talk in this way about the cotton tax or the tobacco tax.

Mr. Chairman, this is a question of dollars and cents, and if the people of the North were to be heard here, they could very well reply to the gentleman from Georgia by saying two things which I by no means utter here except in reply to him. The desolation of homes in this country was not confined to the South. There may have been greater desolation of homesteads and the material prosperity of the South than there was in the North, but there was desolation of hearts, there was desolation of homes, there was desolation of families at the North in the same degree as in the South, and you can never discuss this question, Mr. Chairman, without reviving a spirit which I would not invoke here and now.

I warn the gentleman from Georgia [Mr. STEWART] never again to introduce it while he has the honor to be a member of Congress, for this reason: ultimately, behind all these questions of suffering and sacrifice stalks the great question which he does not want to discuss, the question of who was right and who was wrong.

Without going into that question now, I warn the gentleman that I hope that while I am a member of this House I may never again hear, from the Southern side of the Union at least, an equitable consideration put forward in answer to a just claim that the Government has; never again will it be put up against the question of the war on the part of the Government that somebody in the South suffered by reason of the war. No man ever complains of his injuries or his sufferings without being logically met by the question, how came those injuries and those sufferings; and the gentleman from Georgia does not want to discuss that question with me. That question has been decided. It is *res adjudicata*, and ought never to be opened up again on a question like this. If it is desired to do so—if the question is pressed here—I am ready to discuss it; but I pray I may never be called upon to do so.

Now, Mr. Chairman, the gentleman from Georgia, as I understood, said—and that has been the line of argument running all through this discussion on the other side—that a tax once collected can never be refunded by the judgment of a court. I certainly do not misquote the gentleman.

Mr. STEWART, of Georgia. Yes, sir. The gentleman will pardon me; I do not wish to interrupt him.

The CHAIRMAN. Does the gentleman from Ohio yield?

Mr. GROSVENOR. Yes, sir.

Mr. STEWART, of Georgia. I said that a tax once collected and appropriated destroyed all legal obligations to recover it back.

Mr. GROSVENOR. I so understood the gentleman. We are not standing here upon any legal right of recovery. The supreme court of Ohio never made the decision which my friend from Alabama [Mr. HERBERT] said it did, taking the ground that upon the theory of a legal right a tax once collected could never be refunded. It based its decision upon the ground that as a matter of law no legal right accrued to the party who has paid a tax, and that he could not recover it back by judgment at law, but the same court has said over and over again that when a tax has once been collected the questions growing out of a proposition to refund it are questions to be remitted to and decided by the legislative department of the Government, and that the Legislature has full power to meet a question of that kind. That is exactly what we are claiming here now. We are claiming that here is a great question of equitable consideration. We can not sue in the courts to recover this money. But we appeal to the legislative department of the Government to do equity to the people of these States.

Mr. Chairman, what limitation is there upon the power of Congress to appropriate money in the Treasury, no matter where it came from? I do not understand that the question of the power to appropriate money is in any wise influenced by the question whence the money came. If there is any constitutional question here it can only be this question: What limitation is there upon the power of Congress to appropriate the money in the Treasury? Has it been shown that Congress may not look about the country and discover some claim—equitable it may be, legal it may be, a matter of generosity it may be—and appropriate money to meet the demand? Is there authority anywhere that limits the power of Congress in this behalf? I deny it. This is the one issue here which can by any possibility involve a constitutional question. It has not been pretended that this money in the Treasury stands in any other attitude or relation to the legislative power of the Government than any other money in the Treasury. The money is there, and it is the fund of the Government. The question is raised, how can you control the legislative discretion of the Government by saying that some time and somewhere they collected an unjust and unlawful tax?

I will not discuss the question of the cotton tax. I will not discuss another question which has been raised. I want simply to say to these gentlemen that there are a number of matters that are to come in here if we are to have a general overhauling of the books and a general statement of the equities between the Government and the people of the different States. I have in my hand a statement of the Treasury Department showing that a great many years ago—away back before the war—there went into the Government's hands a number of bonds of the States of this country representing what is known as the Indian trust fund; that the interest was not paid upon those bonds away back at the beginning of the war or before the war by these States, and the Government has never received the money. It was money for which the Government was liable. It was substantially money that the Government loaned these States, and they have never paid it, and never paid the interest. We have been paying these States' claims that they asserted; we have paid them without regard to these charges against them.

The following is a statement of these claims:

State bonds in Indian trust fund.

State.	Amount.	Per cent.	Interest from—	Amount of principal and interest to January, 1889.
Arkansas	$77,000.00	6	July 1, 1874	$146,300.00
	91,000.00	6	January 1, 1875	167,440.00
Total	168,000.00			313,740.00
Florida	53,000.00	7	January 1, 1868	130,910.00
	79,000.00	7	January 1, 1867	200,660.00
Total	132,000.00			331,570.00
North Carolina	147,000.00	6	July, 1879	235,000.00
	17,000.00	6	October, 1860	39,780.00
	28,000.00	6	April, 1861	65,040.00
Total	192,000.00			339,820.00
South Carolina	118,000.00		1860 and 1871 (averaged 23 years).	280,840.00
	1,000.00		do	2,380.00
	3,000.00		do	7,840.00
	3,000.00		do	7,840.00
Total	125,000.00			298,900.00
Tennessee	125,000.00		1861 and 1869 (averaged for 44 years).	455,000.00
	92,000.00		do	334,880.00
	1,000.00		do	3,640.00
	66,666.66		do	506,666.66
	19,000.00		do	69,160.00
Total	303,666.66			1,369,346.66
Virginia	1,000.00	6	1861	2,680.00
	90,000.00	6	1861, 1870, 1867 (averaged at 35 years).	279,000.00
	450,000.00	6	do	1,395,000.00
Total	541,000.00			1,676,680.00

RECAPITULATION.

Arkansas	$313,740
Florida	331,570
North Carolina	339,820
South Carolina	298,900
Tennessee	1,369,347
Virginia	1,676,680
	3,684,747

Against which is: United States, debtor, to Florida, Seminole war, $224,648, with interest from January, 1858; South Carolina, war of 1812, amount unknown; Virginia, war of 1812, not determined.

That interest has been in default upon those bonds ever since 1861; not a dollar of it has been paid.

Mr. RYAN. The Government paid it.

Mr. GROSVENOR. The Government has paid it; the Government has discharged its duty, but these States have never paid it. Yet, Mr. Chairman, it is a strange fact that protest against the refunding of this comparatively small amount of money comes from States that stand, by the accounting books of the Treasury, charged with these bonds.

I do not say, Mr. Chairman, that there is any dishonor growing out of this record. There may be, and I think there is, a question of payment; questions of equitable accounting between these States, or some of these States, and the Government, growing out of this Indian bond transaction and other transactions. I only point out that these States ought now to be willing to square up one by one these unsettled balances.

Mr. Chairman, underlying this proposition is the great fact that the passage of this bill, its enactment into law, the payment of this money under it, would put the people of this country just where equity would say they ought to stand, except the account on the side of the States that had paid the money and who received no interest upon it; and, secondly, the grand results that have accrued to the country, and which we share in common with the people of the whole country.

It is a step toward a complete and just reunion of the hearts of the people of the country; not a reunion forced by law nor controlled by legislative enactment, but controlled and promoted by the wish and purpose of both sides of the country to do equal and exact justice toward each other. [Applause.]

[Here the hammer fell.]

Dakota and the New States.

These stones, these magnificent, brilliant, imperishable stones, which the Democratic builders rejected for all these years, the same have become the head of the Republican corner.

SPEECH

OF

HON. CHARLES H. GROSVENOR,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, January 17, 1889.

The House being in Committee of the Whole on the state of the Union on the bill for the admission of the Territory of Dakota, and the question being upon the substitute offered by Mr. SPRINGER, of Illinois—

Mr. GROSVENOR said:

Mr. CHAIRMAN: In the early days of this session of Congress the gentleman from Illinois [Mr. SPRINGER] asked unanimous consent of the House to set apart a day to consider the bill which is now pending in the form of a substitute for the Senate bill under consideration. At that time, believing that I could see in the movement a purpose to delay rather than to forward the interests of Dakota, I objected to the unanimous consent being granted. I did so because at that time I was of the opinion that it was in the power of the majority on this floor to enact any legislation that would be favorable to the early admission of Dakota into the Union if they saw fit to do so, and I insisted that there should be time granted for due consideration before any such action as that proposed should be permitted. That is to say, I desired that a day should be assigned far enough in the future of the session to allow the friends of Dakota and the friends of the speedy admission of the other Territories to be ready to meet the wily movements of the gentleman from Illinois [Mr. SPRINGER].

Time has justified my supposition that it was not the early admission of Dakota that the gentleman was in favor of, but such action as would impede her admission and render it impossible at present that that consummation should be worked out. The presentation of this substitute justifies my opinion, and I say now that not only this proposed action is not calculated, however it may have been intended, to facilitate the admission of Dakota into the Union; but on the other hand, in my judgment, it is a deliberate, well-organized, and most insidious arrangement to hinder and delay——

Mr. ALLEN, of Michigan. And defraud.

Mr. GROSVENOR. And in the future very possibly prevent the admission of the Territory of Dakota into the Union within any reasonable time. I have heard no objection by any gentleman on this floor to the claim of Dakota, as presented in this Senate bill. No one has said that the action of the Senate in this behalf is too precipitous. No one has intimated that Dakota ought not to be granted the relief sought for by this bill; and, on the contrary, the Senate bill represents the voice of Dakota, and it is the voice of the people of the United States, and of each one of them who understands anything about the great question which we are discussing at this time.

Mr. Chairman, so far as this substitute divides and deflects public opinion from the lines proposed in the Senate bill, just so far is it an unnecessary and unwarranted obstruction placed in the way of the admission of Dakota into the Union of States. By the provisions of the Senate bill, by sixty days from this date, the State of South Dakota may be in the Union with all the qualifications, prerogatives, and powers of a sovereign member of this great Union of States. She can be represented at this end of the Capitol by two Representatives, and in the Senate of the United States by Senators chosen pursuant to law. Under the substitute of the Committee on Territories, no man can point out that by any reasonable action that may take place, Dakota will be ready for statehood at any period during the year 1889, and then, after she has complied with all the requirements under this bill, she is subject then after that time to the capricious action of a minority on this floor which may see fit to delay her introduction by measures of a dilatory character which are so easily managed.

Mr. Chairman, we have a right to ask or at least to raise the question of whether or no the same spirit, the same judgment, if you please, that produced the substitute here, may not at that time interpose further delay and impede the action of Congress in its further attempt to admit this Territory? Nobody complains that the Senate bill goes too far. All of the prerequisites have been complied with so far as the Territory itself is concerned, and the necessary precedent steps that ought to be required under any circumstances for the admission of South Dakota have already been taken. Her constitution is approved by the people of the United States. Nobody objects to it. Under this bill if it speedily passes, at an extra session of Congress, should it become necessary to hold one even as early as the 1st day of April, Dakota may be here. Why should she be kept out? Do gentlemen on the other side of the House believe and hug to their breasts the fond delusion that they are going to impose this sort of action upon the people of Dakota and mislead them into believing that the Democratic party has been doing something for the people of Dakota? I misunderstand the intelligence of the people of Dakota if they are not ready to hurl back into the face of Congress a proposition which first makes it impossible for their admission for a year and then subjects them to the expense, trouble, and annoyance of traveling over and over again the pathway which they have already traveled with so much unanimity. Why should Dakota be humiliated in this matter?

Mr. Chairman, I am not opposing any of the other Territories embraced in this omnibus bill. I will cheerfully vote for the admission of Montana and Washington. They are Territories which, in my judgment, some day in the near future are to make two of the great States of the Northwest. Nor do I say that, under the new light which I have been receiving, I will not vote at the proper time and under proper limitations for the admission of New Mexico. She has claims upon us by treaty stipulation, claims by her struggles and efforts to make herself competent, and a suggestion made to me the other day by a distinguished gentleman, a member of this House from Massachusetts, Governor LONG, will have a great influence upon my vote when I cast it. The suggestion is that New Mexico is on our hands with her population, such as it is. Some day she must be a State of the Union. Some day those people must become citizens of the United States, or, in other words, citizens of a State of the United States, and the question presenting itself to the statesmanship of to-day is, which position is the best for her to occupy while the necessary improvement in her population, her customs, her laws, and her purposes which are required to make her a fit State for the great Union shall be going on?

Can all these be best accomplished while she remains a Territory, or will it be best accomplished when she is a State in the Union, with all the duties and obligations of a State. In the condition of her Territorial relation, this improved condition is not calculated to be speedily reached. Not so speedily, certainly, as when as a State in the Union she relies solely upon her independent effort to make herself what she ought to be. This consideration, Mr. Chairman, will probably control my vote on the question of the admission of this Territory at the proper time, but I am unwilling, sir, that this bill now before us shall be loaded down with considerations of that character and crowded out of the pathway of immediate action thereon.

The old idea of balancing one State against another seeking admission into the Union has ceased to be a potent factor in considering these questions. Slavery is dead and gone, and therefore it is not necessary that we shall admit one State free and the other slave in order to keep up the old idea of equilibrium in the Union. Sectionalism ought to be abolished and it ought not to be recognized in the question of the admission of States. Pass this bill and admit Dakota under the precise terms of the Senate bill and there is ample power given to the House under this order, which is continuing and which can be maintained by a mere vote of a majority, to go straight forward and admit all of these Territories, each upon its own merit, and do what is right and just to each of them. There is no occasion for an omnibus bill for the admission of States now. These Territories should be considered

one by one, and if there is one of them which can not stand upon its individual merits I protest that there is no reason why it should be loaded upon any bill and put through Congress in that way.

Mr. Chairman, it is too late for the Democratic party to shield themselves from the wrath of the people due to their betrayal of their trust in the matter of these Territories, for lo these four full years of Democratic administration the Territory of Dakota has been ready for admission into the Union. She has a population of 700,000. Her wealth and enterprise is manifested from one end of that magnificent domain to the other. Her towns are built with taste, regularity, and business enterprise. Her school-houses and public improvements everywhere manifest the sterling prosperity and enterprise of a great people. Her churches and institutions of charity everywhere mark the presence of Christian civilization. No better population holds possession of any State in this Union. She has been kept out of the Union because she is not barbarous and treacherous, nor Democratic. She has been kept out of the Union with the hope that the power of the Democratic party might be projected four more years over the people of this country. She was kept out of the Union to prevent the possibility that her four electoral votes might turn the scale of the Presidential election and turn Mr. Cleveland and the Democratic party out of power.

The scheme has failed. The effort has been abortive. The people of the country have understood the bad faith of the Democratic party, and one of the most powerful agencies by which the Republicans carried the country was by its manly appeal everywhere to the justice and fair play of the American people to protest indignantly against the course of the Democratic party in this behalf. Now, smarting under the lash of political disaster, whipped by the rod of public justice, the Democratic party comes here and seeks now, while obstructing Dakota, to blind the eyes of the people of the country with the notion that they are the champions of the admission of the Territories.

Why was not the vote of Washington Territory counted in the great question of the election of a President? Simply, Mr. Chairman, because it was feared that she would vote the Republican ticket, as she would have done. Why should not Washington Territory be in the Union, with her magnificent soil, with her magnificent mountains, her beautiful plains, her alluvial soil, her beautiful inland ocean, her magnificent forests, her patriotic people, her enterprise, her civilization—why should she not be in the Union? Away out there she is upon the Pacific coast standing guard upon the entrance from the Pacific Ocean into our great inland sea, standing sentinel upon the rock-bound coast of the Pacific, guarding jealously the approach of a foreign enemy upon our Western shore. She is grand in the present, she is glorious in her just anticipation of the future, and it is a shame to stand in her way and keep her out.

Montana, with her beautiful plains, her mountains, her fields, her patriotism, why should she not be here?

Mr. Chairman, it is the voice of the recent election, it is the thunder-tones with which the American people have repudiated the Democratic party, that has caused the gentleman from Illinois [Mr. SPRINGER] to hasten to undo the work that he more than any other man contributed to do in the last session of Congress.

These stars that are to be added to the crown of our rejoicing, these diadems which are to take their places in the coronet that crowns our nationality, these stars which are to take their places upon the flag of the country, all these are the evidences, the testimonials of the triumphs, of the glories of the Republican party. Peopled as these magnificent Territories are by the men who have gone forth from the Republican States of the Union, they are the just recompense of the great patriotism of the Republican party, and it is a consummation devoutly to be hoped for that they may be kept out of the Union no longer. They will strengthen the Republican party. Nobody can doubt that. They owe their creation as Territories to the Republican party. They owe their possibilities as States to the Republican party. It was the triumph of the Republican party in 1888 that has forced the American people and the Democratic party to concede the justice of their claims to statehood. These stones, these magnificent, brilliant, imperishable stones which the Democratic builders rejected for all these years, the same have become the head of the Republican corner. [Applause.]

* * * * * * *

The bill having passed, Mr. SPRINGER made a motion to amend the title, and upon that motion demanded the previous question; thereupon Mr. GROSVENOR asked unanimous consent to offer an amendment to the amendment, which was refused; thereupon debate ensuing upon the amendment to the title to the bill,

Mr. GROSVENOR said: Mr. Chairman, I wanted to have offered what I conceive to be the true title of this bill and one that would have conveyed to the people of the United States the idea which they have already formed. My amendment is as follows:

An act to try to convince the people of Dakota that the Democratic party is willing that Dakota may come into the Union, but, in fact, to keep that Territory and all others which have a Republican majority out of the Union for an indefinite length of time.

Now, Mr. Chairman the fulsome efforts as to the magnificent Territories of the Union by the gentleman from Illinois [Mr. SPRINGER] will not deceive anybody as to what was and what is the deliberate purpose of the Democratic party on this floor. This bill to admit the Territories on this ground was reported to this House away in March last, and the gentleman from Illinois [Mr. SPRINGER] and his party resisted at every step every attempt made here by the friends of Dakota to call up that bill or to assign any day for its consideration, and they went on in that way through the long session of Congress, baffling every effort that was made by this side of the House to admit Dakota into the Union of States, and that long session, which extended away past the middle of October, ended without a single effort being made by the Democrats to act upon this bill. They presented a solid front in opposition to the admission and in opposition to everything that would enable us to act on any one of the Territories. But gentlemen have heard a voice, not "as one crying in the wilderness," but it has been the voice of a magnificent uprising of the same people whom the gentleman from Illinois now so fulsomely and eloquently describes. I imagine that they have given an utterance that fully vindicates his phrases, but they have said in tones of thunder that the Democratic party is not fit to rule this Government, and that it has no disposition to deal fairly with the people of the Northwest.

What fact is it that has come to the knowledge of the Democratic party within the last two or three years? Why has their policy changed towards the Territories? Why is it that they, after having been silent, inactive, and refused to aid the admission of the Territories, now suddenly are alert and active and willing to do anything to pretend that they are the friends of the Territories? The single fact is that the people of the Northwest in thunder tones at the recent election condemned the course of the Democratic party; and now what do they offer?

The people of those Territories have asked for bread in the form of an enactment by Congress which will allow a splendid Territory to come into the Union now, and the Democratic party, through its caucus in this House and through every vote of every Democratic member on this floor, has given them a stone.

There is nothing in this bill but delay. Its purpose is delay and deceit. Its proposition is to delay and, in the language of a gentleman here yesterday, "defraud" the people of that Territory out of their rights to come into the Union.

The people of the country and of the Northwest say they shall come in: their rights are undeniable and they shall not be chained to all these other Territories and delayed as they have been.

This bill will go to the Senate of the United States now. It will be revised, altered, improved, rehabilitated, reconstructed, upon the basis of the Republican willingness that two Dakotas, Montana, and Washington shall come into the Union as speedily as possible, and the bill will pass in that form, or substantially in that form, or it will not pass at all.

The admission of the Territories is the legitimate work of the Republican party and it will be done by the Republican party. The Democratic party will take back seats in this work of enlarging the domain of the magnificent empire of freedom and Republicanism. [Applause.]

Oklahoma.

I will consent to the disposition of no foot of the public domain for any purpose on earth outside of the necessities of the Government for its own use, except for free homes under the homestead laws.

SPEECH

OF

HON. CHARLES H. GROSVENOR,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, January 30, 1889.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 9614) to organize the Territory of Oklahoma, and for other purposes—

Mr. GROSVENOR said:

Mr. CHAIRMAN: Before commencing my remarks I will ask unanimous consent to be permitted to proceed for ten minutes without interruption, as it will be more satisfactory to me to know at this time that my time is to be extended than to have to depend upon the uncertainties at the end of the five-minute speech.

The CHAIRMAN. The Chair hears no objection to the request of the gentleman from Ohio.

Mr. GROSVENOR. Mr. Chairman, I do not address the committee as a Grand Army man, although I have had the honor to be a member of that organization for a great many years; but I deny, sir, that any man has the right to come here and attempt to represent that organization upon the floor of this House and to use his position therein to push to successful issue interests wholly foreign to the purposes and aims of that great body of patriotic citizens. I am here as a representative of the people, and am trying to do what is right and just be-

tween and for all the interests involved here. Of course I am like others; I may be mistaken in my judgment, but my purpose is to do the best I can for all the great interests which seem to be in conflict in the bill under consideration.

Now, Mr. Chairman, we have before us for the first time in a good many years a splendid opportunity for the representatives of the people in Congress to make good some of their profuse and oft-repeated pledges to the soldiers of the country—pledges which have been made in many an election contest only to be broken when success has crowned the efforts of the party making the promise.

Mr. SYMES. Will the gentleman allow an interruption?

Mr. GROSVENOR. Only that the time I have is very brief I should not object.

Mr. SYMES. I understand that, and I dislike to interrupt the gentleman for that reason.

Mr. GROSVENOR. I will yield for a question.

Mr. SYMES. I was going to suggest that I had pointed out the fact that during ten years past there had been many such opportunties of which the gentlemen had not availed themselves.

Mr. GROSVENOR. Well, the gentleman's speech has been accurately reported, I presume, and it was certainly delivered with great effect and it will show for itself. I may remark, however, that the failures of duty in the past will not condone for a failure now. Now is the accepted time, and now is the last day of salvation to the great soldier interests for which we have so often professed affection. Very often the parties in this country have said to the soldiers that they were in favor of donating to them the public lands of the country, and nine out of every ten of the soldiers, survivors of the late war, to-day understand and believe that when they entered the service they were promised 160 acres of land.

There has not been an important gathering of soldiers in the United States for twenty years where a majority or a very respectable minority have reported and sustained resolutions demanding of Congress that they make good what they claim to have been a pledge to the soldiers. Their claim is and has been that they were to have given to them 160 acres of land outright and without terms or conditions. It is true that I have never so understood the situation, and it is true that I have never advocated the outright giving of 160 acres by land warrant to the soldiers of the country, for I feared the transfer of those warrants to monopolists, and rings, and combinations in the country, but these promises of politicians and these platforms of political parties have become as sounding brass and tinkling cymbals, and have been the subject-matter of a hundred thousand broken promises by the men who have been elected to Congress representing or pretending to represent the soldiers.

Mr. KERR. Can the gentleman mention a platform that it has been mentioned in?

Mr. GROSVENOR. Hundreds of them have said so.

Mr. KERR. Mention one.

Mr. GROSVENOR. The gentleman certainly is not in the highest good faith. It has been done over and over again, pledging the party to give to the soldiers 160 acres of the public lands. I have not at my command here at my desk any political platform, and if the gentleman should ask me a hundred questions upon the subject of party platforms I might not be able to designate one of them, but the fact remains. And now, Mr. Chairman, as time has gone on, the soldier has at last found himself remitted under the favor which Congress has given him to the right to locate upon the public lands as a homesteader and have the benefit of the time he served in the Army counting to make up the term of his occupation in order to secure him a title. But to-day, sir, if he desires to carry out and enjoy that condition of affairs, he finds himself driven to the fractions of broken up and substantially valueless lands along the lines of the great railroad companies.

The best lands are occupied, and thousands of soldiers have been unwilling to go to the colder climates of the Northwest to locate, and have waited hopefully and patiently for the opening up of this beautiful territory farther south, in the more genial climate of the Indian Territory, with the hope that they may be allowed to go there upon such terms as would indicate the generosity of the Government, and make for themselves homes, and erect for themselves roof-trees, and leave for their posterity the alluvial lands of that favored climate. They have looked forward to it with confidence, and the petitions from soldiers and Knights of Labor with which we have been favored in this Congress have been forwarded to us, in my judgment, ninety-nine times out of a hundred, upon the theory that the opening of this territory was to afford to the soldiers of the country an opportunity to secure homes. Not only so, but the laboring men of the country have saved a small sum of money equal to the expense of a removal to that country and the building of a house and the procurement of agricultural implements, and have believed and understood that the organization of the Oklahoma Territory was to be a provision for the occupation by actual settlers under the homestead laws of the country of the land in controversy. And now the opportunity is presented to Congress to carry out this beneficent idea.

The amendment proposed by the gentleman from Illinois [Mr. PAYSON] proposes that the Congress of the United States will not discriminate against the soldier and will leave him to stand just exactly where he does now with relation to the public lands. That is all we ask. We say, acquire this land by purchase, by treaty, by any other way short of larceny, and when it is acquired by the Government give it to actual settlers; and if you refuse to give it to the settlers at least, I stand here and say, give it in homestead lots to my comrades of the battle-field. Could there be a better nucleus for a growing State than the presence in the Territory of the loyal hearts and brawny arms and the intelligent and patriotic posterity of the men who saved the Union, made that Territory valuable, and made it possible for the United States Government to donate this pitiful sum of $1.25 an acre to establish a magnificent State? Let us send a grand column of the old soldiers and the sons of veterans, too, down into that Territory, lying as it does, surrounded by Arkansas and Texas and the other States and Territories surrounding it, and, Mr. Chairman, there will be one grand assurance to the people of the country, there will be a loyal constituency, a loyal nucleus, a rock of patriotism against which the waves of vagabondism and the tide of disloyalty may set and break in vain. The claims of pure patriotism will be erected in the form of a State edifice, a State within the meaning of the word "State" as used in our political literature.

What constitutes a State?
Not high-raised battlements or labored mound,
Thick wall or moated gate,
Not cities proud, with spires and turrets crowned,
Not bays and broad-armed ports
Where laughing at the storm rich navies ride;
Not starred and spangled courts,
Where low-browed baseness wafts perfume to pride;
No! Men, high-minded men,
With powers as far above dull brutes endued,
In forest, brake, or glen,
As beasts excel cold rocks and brambles rude;
Men who their duties know,
But know their rights; and knowing dare maintain,
* * * * * * *
These constitute a State.

But it is said, Mr. Chairman, by the gentleman from Colorado that this land does not become the property in law, in equity, of the Government of the United States, but that it is taken in trust by the Government, the Government being the trustee and somebody else the *cestui que* trust. It is a fiction to say that this land becomes a trust in the hands of the Government. There is nothing of it. It is a pure, unqualified, ingenious invention. Has the gentleman from Colorado read this language of the bill?

That whenever Indian lands are purchased by the United States with the consent of the Indians and upon the settlement of said territory.

And so it runs all through the bill. A proposition only to put the land in the hands of the Government as a trustee; it is not to create a trust; it is not to transform this land into a trust fund; but the proposition is to put the money received from the sale of the land into the hands of the Government, and the trust character, if there is a trust, adheres to the fund and not to the property itself.

The land becomes the property of the United States Government just as much as do the other and all other lands acquired by treaty or purchase or by any other process by which the Government can obtain public lands. Why, Mr. Chairman, follow out the suggestion of the gentleman from Colorado. After the Indian title is extinguished in the land what claims have they upon the land? Who then is the *cestui que* trust? For whom does the United States Government hold the land? It is the land of the Government, subject to such disposition as the Government may see fit to make, and limited by no consideration of the source from which the Government derived the title.

Mr. SYMES. Will my friend pardon me here for mentioning that an amendment has been adopted by the committee removing all doubt upon that, to the effect that no land shall become railroad land under the claim of vested rights, and it is provided that it shall not become public land under any circumstances?

Mr. GROSVENOR. I am informed that no such amendment has been adopted, and notice has just been served that such an amendment will be offered by the gentleman from Indiana [Mr. HOLMAN].

Mr. SYMES. If the gentleman will pardon me, I will state that it is the Committee on Territories, not the Committee of the Whole, as he seems to understand.

Mr. GROSVENOR. I hope the gentleman will not interrupt me. I am saying that no lawyer will say that in this act lying before me the land does become a trust in the hands of the Government, nor does it purport to do so. It simply proposes that the Government shall acquire title to the land and then it stands on all fours with all other public lands. What court would entertain a bill in equity by the Indians after parting with the title, seeking to control the action of the Government as a trustee? To whom would the Government be amenable as a trustee for any failures of duty? The whole theory is a fallacy.

Now, Mr. Chairman, what we appeal for to this committee is to give the soldiers of the country who are willing to go to Oklahoma and settle there the right to go and settle on this public land, to acquire the title of 160 acres of this magnificent soil by the usual processes of homestead entry, and giving the credit to the soldier for all the time

which he served in the Army, not exceeding four years, as against the five years of occupation requiring him to obtain a title.

It is said that that is too much money to invest in the soldier, and gentlemen coolly sit here professing to be the representatives *par excellence* of the soldiers of the country and say 160 acres of land, costing the Government $1.25 an acre, is too much money to lavish upon the soldiers.

The gentleman from Colorado says in one breath that that is his position, that it is an extravagant expenditure of money, and in the next breath he inveighs against the dereliction of certain parties on this floor because the dependent pension-bill, which was vetoed by the President, has not been passed over that veto.

The dependent pension-bill would give to every soldier the value of this $200 in a year and a quarter all his life at $12 a month; but, sir, here is an opportunity to give to everys oldier 160 acres of land upon the mere occupation, it being but $1.25 an acre. It will save many a poor soldier from the poor-house. There is more in it to this country than in the dependent-pension bill. There is more in it for the benefit of the soldier to-day and his posterity in the future than any bill that has been pending in this House since I became a member of it. It gives to these soldiers, the men who are anxious to go into this Territory, an opportunity to go there and locate their homes and erect their rooftrees and build up that State, which in my judgment will soon become one of the brightest stars which surround the diadem of this Republic. The Government will make money by it. The States will make money by it. The aggregate possibilities of the future generations of the descendants of soldiers will be benefited to an extent that can not be computed in money.

I demand, therefore that there shall be no longer doubt and hesitation upon this subject, and let us have a vote, Mr. Chairman, and let us know what in the future we may depend upon. Let us know who they are upon this floor who are more anxious for the hordes under the command of "Pawnee Bill" than they are for the soldier and his children. Let the lines be strictly drawn. Let there be no evasion. The issue was never more clearly presented upon any question in this House than upon this one, and the soldier of the country, with that intelligence which has never failed him, will look upon this record and say, "He that is not with me is against me, and he that gathereth not with me scattereth." And, Mr. Chairman, at the next Grand Army meeting, when a resolution is presented demanding 160 acres of land, let our friends here who voted against this amendment be ready and able to rise and explain why it was that they were unwilling to give 160 acres of this land, which is to cost the Government under circumstances $200, to the soldier and his family.

Mr. PERKINS. Will the gentleman permit me to ask him a question here?

Mr. GROSVENOR. Certainly.

Mr. PERKINS. I would like to ask the gentleman if he is in favor of this bill?

Mr. GROSVENOR. If that provision is to be in this bill I will vote for it.

Mr. PERKINS. I am glad of that.

Mr. GROSVENOR. But, Mr. Chairman, without it I will never vote for it. I will stand where I have ever stood, opposed to the transfer of one acre of the public domain to any other purpose than that of free homesteads to actual settlers. It makes no difference to me what the rights, what the interests of certain great corporations may be in this land. Gentlemen tell us that the bill is so guarded that there must be actual settlement in order that title can be acquired under this bill. Actual settlement, Mr. Chairman, is the fraudulent rock upon which the lands of this Government have been shivered into pieces in so far as the rights of homesteaders have been concerned, and it is the fatal delusion by which the Congresses of the United States have been beguiled into handing over to syndicates and corporations and combinations of individuals the fairest portions of this heritage of ours.

Mr. Chairman, the policy of homesteads for actual settlers is the policy of the Republican party. The first bill for its attainment was vetoed by a Democratic President; the first bill that finally settled the question in favor of homesteads was signed by a Republican President, and to-day it is the settled policy of the Republican party. Millions of acres of this land have been deflected. Land grants to railroads was a policy supported by both political parties, and I do not complain of it. By far the greatest advantage that has ever come to this country from the use of the public lands has come from the policy of subsidizing the trans-continental lines. I know that. No man to-day is a wise statesman who inveighs against the original grants by the Government in this behalf, but the time has come when we ought to look about us and reclaim every foot of land that has not been justly earned, reassigning it to the public domain, and guard it with all the jealous care that patriotic duty enjoins and parcel it out only to men who desire it for actual homestead purposes.

My career in Congress, Mr. Chairman, may be short. Life is uncertain and political tenure can not be counted upon, but while I am here, with charity to all men who differ, I will consent to the disposition of no foot of the public domain for any purpose on earth outside of the necessities of the Government for ordinary public purposes of the Government excepting to give to the people of this country homes. I would foster the American home, and I would foster it upon land the fee-simple title to which is in the holder of the home. A man is a better citizen, more independent, more willing to risk something for the Government when he owns the roof over his head.

And in conclusion, let me say there is no class of men on earth to whom the general public of the United States can so well afford to be generous as to the men who conquered this territory, made it a part of the priceless estates of the Republic, and made it possible for the Treasury of the United States to buy this Indian title at this nominal sum; and on their behalf, and on behalf of their children and their children's children, and on behalf of the best interests of the great Republic I demand the adoption of this amendment. [Applause.]

Maritime Canal Company of Nicaragua.

SPEECH

OF

HON. JAMES E. COBB,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 5, 1889.

The House having under consideration the report of the committee of conference on the bill (S. 1305) to incorporate the Maritime Canal Company of Nicaragua—

Mr. COBB said:

Mr. SPEAKER: My purpose is to oppose this conference report, and I believe that the House owes it to itself to reject it. It seems to me that the demand for such action follows from a consideration of the proceedings in the House taken on the pending bill when it was under consideration on a former day. It will be remembered that, while the bill was on its passage, certain amendments were incorporated in it by a yea-and-nay vote, and by a very decided majority. These amendments, some of them at least, which were adopted by the House in this deliberate and decided manner, were stricken out by the conference committee; and when we examine their report we find that the amendments which they have thus dealt with are those which are peculiarly obnoxious to the promoters of this enterprise.

The Holman amendment, for instance, which provides that the Government of the United States shall be in no way, pecuniarily or otherwise, responsible for the obligations incurred by the proposed corporation is, it is true, allowed to remain; but that part of the amendment, the purpose and effect of which is to advise the world of the action of the Congress of the United States in this regard, has been stricken out by the conference committee, and we are confronted with the remarkable fact that neither the committee nor the chairman in charge of the report deigns to give us any reason for this action.

Mr. RAYNER. We will give you the reason at the proper time.

Mr. COBB. Well, I would like to have it now.

Mr. RAYNER. The reason was simply this—you refer now to the amendment which provides that upon every certificate of stock a provision had to be printed declaring that the Government of the United States was not responsible—is that it?

Mr. COBB. That is it.

Mr. RAYNER. Well, the reason is this: We did not see a particle of sense in an amendment of that character, after considering and reflecting upon it, that a corporation should go to work with a provision in its charter that the Government of the United States should not be held responsible in any way for the acts of the incorporators, and then insert the same provisions upon every paper of every character issued by the company, for the reason that if you did not bind the Government in the charter itself it would not be responsible any way. If there was not a word in the charter declaring that the Government was not responsible, you could not hold it responsible; and in view of that we did not think it proper to put the stock upon the markets of the world with the clause printed upon it that the Government of the United States should not be responsible when it was not responsible by the legislative enactment incorporating the company, and when there is an express provision in the charter that it should not be responsible. And the reason we came to that conclusion was this, that such a provision was put in with the object of intimidating and frightening the people from buying stock with the design of breaking up the company and defeating the enterprise.

Mr. DUNN. There is no more reason for it than printing the Ten Commandments on the stock.

Mr. RAYNER. There never was a certificate of stock issued by any corporation in the world which contained such a provision.

Mr. FARQUHAR. Never in the world.

Mr. O'NEILL, of Pennsylvania. I will state in addition——

Mr. COBB. I believe I have the floor, Mr. Speaker.

Mr. O'NEILL, of Pennsylvania. I wish to state, in addition to what my colleague on the committee has said——

Mr. HOLMAN. I demand the regular order. The gentleman from Alabama is entitled to the floor.

The SPEAKER *pro tempore* (Mr. HATCH in the chair). The gentleman from Alabama is entitled to the floor, and the gentleman from Pennsylvania is out of order.

Mr. O'NEILL, of Pennsylvania. I think the gentleman will yield to me for a moment.

Mr. COBB. I do not desire to consume much time, and I do not want this interruption to be taken out of my time. What is the gentleman's suggestion?

Mr. O'NEILL, of Pennsylvania. I was only going to add——

The SPEAKER *pro tempore*. The gentleman from Alabama is entitled to the floor and the gentleman from Pennsylvania is out of order.

Mr. O'NEILL, of Pennsylvania. The gentleman from Alabama has yielded to me. I do not want to be out of order, Mr. Speaker, and would not interrupt the gentleman without his consent.

Mr. COBB. I do not yield for a speech.

Mr. O'NEILL, of Pennsylvania. I only want to add to what has been said by my colleague on the conference committee, just a word, that no one involved in this great enterprise by subscribing to the stock but would familiarize himself with the charter of the company, and understand the obligations of the company; and hence, there would be no necessity for printing on the back of every certificate this condition.

Mr. COBB. Well, I have said I did not yield for a speech.

The SPEAKER *pro tempore*. The Chair has endeavored to protect the gentleman in his right to the floor.

Mr. O'NEILL, of Pennsylvania. I have got through. [Laughter.]

Mr. COBB. Mr. Speaker, the answers which I received to the criticisms I have been disposed to make of the committee because of the fact that they have refused or failed to advise us of the reason of certain action taken by them when the rules of the House absolutely require them to give us the reasons, are but in line with the pretense of reasons which have already been given in debate. When we recur to the statement made by the conferees at this point, and a very important point it seems to me, we find this:

> The striking out of the words in the latter part of the amendment relieves the company from the necessity of printing on every bond, on every contract, and on every certificate of stock, and on any other obligation, the words of the amendment.

The gentleman ought to obtain a patent for discovering that sort of an answer to the requirements of a rule of this House. Rule XXIX of the House says——

Mr. CLARDY. The rule says the effect shall be stated.

Mr. COBB. Exactly.

Mr. CLARDY. Is that not a statement of the effect?

Mr. COBB. I think not, Mr. Speaker. Let us see.

Mr. CLARDY. Are you demurring to the statement?

Mr. COBB. I hope the gentleman will allow me a few moments to prosecute my argument. Every intelligent man of this House understands perfectly the meaning of Rule XXIX. This rule, in speaking of conference reports, says:

> And there shall accompany every such report a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions will have upon the measure to which they relate.

Now, the chairman of the conference committee says he has given us the effect mentioned in the rule, by stating that striking out a portion of the amendment to the bill will relieve the company of a little extra printing. The intention of the rule is that the House shall be advised of the effect of the action of the conference committee upon the "measure to which it relates;" that is, on the law, if the bill becomes a law.

The committee answer the demand of the rule by stating simply that the corporation will be relieved of a little extra printing. To call that a compliance with Rule XXIX is simply—begging the gentleman's pardon—absurd. Now, the gentleman from Missouri [Mr. CLARDY], who is in charge of this bill, seemed to suppose on yesterday that I was attempting to obstruct its consideration. In this he was mistaken. I was entirely willing that the consideration should proceed as speedily as might be; but I did desire to have from the conference committee a statement embodying their views of the effect of their action on the law proposed to be enacted. They have been tender-footed at this point from first to last; and when called upon now to tell us why they struck off a part of the Holman amendment what is the answer? Why, the distinguished gentleman from Maryland [Mr. RAYNER] says it was absurd to put it there; and that is his reason. The House of Representatives, by a yea-and-nay vote deliberately taken, put it on this bill with a majority of one hundred in its favor; and yet the gentleman—a member of the conference committee—says it was perfectly absurd for the House of Representatives to act in such a manner, and therefore such action of the House was not worthy their consideration.

The chairman of the committee says it is a unique provision, and that is his answer. Is it more "unique" than the spectacle we have presented to us to-day of a private business corporation appealing to the Congress of the United States for a charter? And while we are on the question of uniqueness let us consider for a moment what this conference committee saw proper to allow to remain upon this bill—that is, the amendment introduced by the gentleman from New York [Mr. BAKER], providing that this corporation shall report annually to the Secretary of the Interior. Now, let us see about that for "uniqueness." A private corporation, a corporation erected only for private business purposes and to protect private business interests, called upon to report annually to one of the Departments of the Government of the United States! How is that for the "unique?"

Mr. RAYNER. A public corporation.

Mr. COBB. A public corporation, is it?

Mr. RAYNER. It certainly has nothing which defines it to be a private corporation. It is a quasi-public corporation.

Mr. COBB. I would like the gentleman to name any authority by which a report, even from a quasi-public corporation, should be filed with the Secretary of the Interior.

Mr. RAYNER. I do not think there is any State in the United States in which private corporations are not required to file reports of this character. They certainly are in my State.

Mr. COBB. There is no analogy between what a State may require in this particular and what the United States should require; but I will assert there is not on the statute-books of any of the States a provision like the one incorporated upon this bill by the Baker amendment.

Mr. RAYNER. There is hardly a State in the Union in which life and fire insurance companies are not required to render reports to the proper officers of the State every year, and the reports that they are compelled to make are always open to public inspection. The law in my own State requires banks and other corporations of the State to file a report so that the public can see and the stockholders and creditors can know all about their condition.

Mr. COBB. There are provisions in State laws, I am aware, which require private corporations, or some of them, to make reports to certain designated State officers of their financial standing, to show their assets and liabilities, so that the world may be advised as to their solvency. There are such provisions of law in reference to peculiar corporations, principally those of life insurance; but here you have a provision giving authority to the Secretary of the Interior to prescribe any rule he pleases in respect to calling on this company to make their report. It is absolutely in his discretion.

Now, Mr. Speaker, if a greater stride than this can be made towards centralization, I should like to know what it is. Think of it! Hold up this amendment and look at it in a clear light and with unobscured vision, and what does it mean? It means that the Government of the United States, through its Interior Department, shall gather to its supervision, at least, the private business interests of citizens of the United States. It means that and nothing more; for, let it be understood, it is not claimed that this annual report is required because the corporation is to be a Government agent; and yet this is not "unique!" The committee could not have reported anything more "unique;" and let me here express the hope that this law, if enacted, will long remain on the statute-books solitary in its "uniqueness."

But, Mr. Speaker, I think there is a reason for striking out the amendment, and I think it is a reason that these gentlemen do not care to have brought to the light of an open investigation. I am not impeaching their good faith, of course. They believe this scheme to be right; they believe that we have the authority to pass the bill, and these are matters for their determination. So I suppose it is with these other gentlemen who have made haste to go into the public prints of the country to criticise harshly men who in the exercise of their honest judgments have seen proper to oppose this legislation. I pause here long enough to say that the cause, whatever it may be, which seeks its promotion in an appeal to the instrumentalities of misrepresentation and slander can not be just, and that the men who deliberately use such agencies are not to be trusted.

Mr. KERR. Will the gentleman yield for a question?

Mr. COBB. If it will not take too much time.

Mr. KERR. Is it not proper, in the interests of those outside of this corporation, that the corporation should be required to file reports showing the condition of its affairs?

Mr. COBB. I will deal with that further on. I do not care to stop to discuss it now, because my time is limited.

Now, Mr. Speaker, what is the true object and purpose of these gentlemen prompting them to come to Congress to be incorporated? Is it in order that they shall be erected into a body corporate? Is it simply that and nothing more? That was proclaimed upon this floor to be their object when the bill was under consideration the other day, but is it true? If so, why should we act in the premises? It is a known fact, an admitted fact on all hands, that the very men who are seeking this charter of incorporation from the Congress of the United States are already a body corporate. In an interview published only a few days ago of one of the principal managers of the company, he says that they applied to the Legislature of the State of Vermont for a charter of incorporation and received it; and further, that they had organized under the charter granted by the State of Vermont; and still further, that they proposed to construct the canal under that charter if the Congress of the United States should refuse their request as made in this bill. Here is another little matter of the "unique;" a body corporate, men already erected into a corporation, and working under the charter

granted them, coming to the Congress of the United States to ask it to incorporate them again, when everybody knows, who knows anything about our system of government, that every State in the American Union has the same right and the same power over this matter, regarding it as a private concern, that the Congress of the United States has—even if the Congress have any power over it at all, which I shall deny.

It can not be, then, that these gentlemen came here merely in order to be erected into a body corporate and without any ulterior designs. What else can be their purpose? Is it that the world may know that, inasmuch as this corporation is composed in part of citizens of the United States, therefore the Government will extend its protecting care over them wherever they go? Is that it? We had an answer to this question on yesterday in the remarks of the distinguished chairman [Mr. CLARDY], who has charge of the bill. You heard his eloquence, and, by the way, in his zeal he went a little farther than perhaps most of us would be willing to follow him. "Once an American, always an American," was his enthusiastic language. If I read history aright we had a little fuss some years ago, growing out of our assertion of the contrary doctrine. But let that pass. The chairman says in effect—I do not quote his language; I have not time to refer to it in the RECORD—the world knows that everywhere an American citizen goes the strong arm of our Government goes with him for the protection of his person and his property. He admits that. Then this charter of incorporation is not required in order to secure to these American citizens the protection of the American Government abroad. I am glad the world does know it. I am glad that it is true that we protect our citizens abroad. It is not necessary to proclaim our purpose in this regard by granting a charter of incorporation. The world knows it already, and every American citizen who goes into this enterprise, whether incorporated or unincorporated, goes with the assurance that over his person and over his property is extended the protecting ægis of the Government of the United States against improper and illegal menaces.

What, then, is this charter needed for? Is it that hereafter when financial embarrassments come to this company there shall exist a basis of moral appeal, at least, to the Congress of the United Stares for relief; that the corporation may be in condition to say to this Government with plausibility, "You granted our charter, you made us a quasi—to quote my friend from Maryland [Mr. RAYNER]—public institution with which the United States is directly connected, and therefore should see to it that our enterprise is sustained?" Is that the object?

Mr. RAYNER. Why, certainly not.

Mr. COBB. The gentleman from Maryland says, "Why, certainly not." He denies that. Then what is the object? One answer and one alone can be given; that is, that by this mere act of incorporation we put it into the power of these gentlemen to go into foreign countries and secure sale for their bonds and stock upon the idea that they are backed by the Government of the United States.

This is a private corporation, mark you, Mr. Speaker, which it is proposed we shall create. We must never lose sight of the fact that this is a private enterprise, undertaken by private citizens—a private business interest, which is seeking to be promoted by the moral influence of the Government of the United States. Shall we in this day enter upon that kind of legislation? Shall we take this stride toward centralization—consolidation of the General Government? Shall we make this precedent of the interference of the General Government in private business interests? These are grave questions which address themselves to members of this House in considering the propriety of passing this bill.

Mr. SCOTT. Will the gentleman allow me a question—a short one?

Mr. COBB. Yes, sir.

Mr. SCOTT. As the gentleman has said that this is a "private corporation," I wish to call his attention to the fact that the Clayton-Bulwer treaty between the United States and Great Britain relates entirely or mainly to the construction of this canal; and if this canal is simply a "private enterprise" in the sense in which the gentleman speaks of it, what was the necessity of our Government entering into a treaty such as the Clayton-Bulwer treaty for the purpose of controlling and regulating the construction of this canal in the future and the manner in which it was to be operated?

Mr. COBB. Mr. Speaker, if my time is sufficient I propose to answer the gentleman in the line of my argument when I come to deal with that part of this question relating to the powers of the General Government under the treaty-making clause of the Constitution. I have not reached that point yet; I fear I shall not have time to discuss it; but if I have I shall deal with the question suggested by the gentleman from Pennsylvania.

But, Mr. Speaker, I was about to urge that it is not fitting, it is not in accord with the dignity of a great government like that of the United States, to put in the hands of any man, or any set of men, the power to go abroad and get money upon false pretenses; that is, to enable the corporation to secure in the money markets of the world the prompt sale of its stock and its bonds upon the idea that the Government of the United States, with its vast power and wealth, will see to it that the enterprise shall become a success. Is nothing of this sort in contemplation? If not, how is to be explained the inconsistency of the deliberate utterances of the friends of this bill, made on this floor and through the public press? They object to having a negation of Government responsibility indorsed on the bonds of the company. They tell us this is a "unique provision," a "useless requirement," for the reason that everybody in the world must take notice of the provision inserted in the act of incorporation, that the United States is not to be responsible for the obligations of the company. And yet, in the next breath, they assert that if such indorsement is required to be made, the value of the franchise will be thereby destroyed.

But, Mr. Speaker, I must hasten on. I am considering this as a private enterprise. Heretofore the claim has been on the part of all those who have advocated the measure that it is a private enterprise; that this is to be simply a private corporation. Now, Mr. Speaker, if that be true, or even if it suits gentlemen to term it a quasi public corporation, then we have no constitutional right to pass this bill. There is nothing more clearly established (at least to my apprehension) by judicial decisions, both of State courts and of the Supreme Court of the United States, than that the Congress of the United States has no constitutional right to erect a private business corporation for merely private business purposes. This was clearly decided in the case in which Chief-Justice Marshall delivered that magnificent opinion, which has been quoted perhaps oftener than any other opinion that ever emanated from that great judge, who was *primus inter pares* of American lawyers—the case of McCulloch *vs.* The State of Maryland.

This opinion contains a learned and lucid exposition of the power of Congress in the matter of erecting corporations. It will be remembered that the Bank of the United States, incorporated by Congress, had established a branch bank in the State of Maryland. Shortly thereafter the Legislature of that State enacted a law requiring all banks doing business in the State, and not incorporated by itself, to pay a license tax. The payment of the tax was resisted by the Bank of the United States on the grounds that it was rightfully incorporated by the United States, and that no State could impose a tax on the business of a corporation thus created. The case thus arising went to the Supreme Court of the United States, and was there ably argued.

The opinion of the court is before me, and I ask attention to one or two extracts which I will read. Let me first, however, call attention to an expression in the brief of Mr. Pinkney, who represented the bank. It is significant, to show the current opinion of the legal leading minds of that day touching the limitations of the Constitution in the matter in question and to show the progressiveness of more modern ideas.

Mr. Pinkney says:

> An express authority to erect corporations generally would have been perilous, since it might have been constructively extended to the creation of corporations entirely unnecessary to carry into effect the other powers granted. We do not claim an authority in this respect beyond the sphere of the specific powers.

Such is the guarded language of the eminent lawyer whose duty was to sustain the power of Congress in giving life to his client, the Bank of the United States.

In delivering the opinion of the court Chief-Justice Marshall discusses with great clearness and force the distinction between express and implied powers contained in the Constitution, and shows that the latter exist only when they are means necessary to be used in the execution of express grants. Coming to the particular of the erection of corporations by Congress and the influence of the Constitution on the exercise of such authority, he says:

> Nor does it prohibit the creation of a corporation if the existence of such a being be essential to the beneficial exercise of those powers—

Meaning by "those powers" the powers expressly granted. Further on he says:

> The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war or levying taxes or of regulating commerce, a great substantive and independent power, which can not be implied as incidental to other powers, or used as a means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accomplished.

Again he says:

> No sufficient reason is therefore perceived why it may not pass as incidental to those powers which are expressly given, if it be a direct mode of executing them.

And yet further:

> Had it been intended to grant this power as one which should be distinct and independent, to be exercised in any case whatever, it would have found a place among the enumerated powers of the Government. Being considered merely as a means to be employed only for the purpose of carrying into execution the given powers there could be no motive for particularly mentioning it.

Following this line of reasoning is the announcement of this principle:

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited but consist with the letter and spirit of the Constitution are constitutional.

I have read these extracts from this able opinion to show that the creation of a corporation is not a substantive power conferred on Congress either expressly or by implication, but is only a means to be used in the execution of a granted power, and further to show that the "legitimate end" of Congressional legislation is to be found in some one or more of the expressed powers contained in the Constitution, and nowhere else.

Therefore, I say, Mr. Speaker, that if by this bill it is sought to

create a body-politic for private purposes solely, and not that it may be used as a means by which some express power may be executed, we have no constitutional authority in the premises, unless, indeed, we accept the doctrine announced by my colleague [Mr. OATES]. I admit that if he is right we need talk no more about constitutional prohibitions or limitations. By one bold stroke he has destroyed them all; and this Government is a nation uncontrolled and unfettered by constitutional restrictions when it is acting in affairs not pertaining to our domestic relations. Here is his language:

The powers delegated to the United States to make treaties, regulate commerce, etc., with foreign nations, meant upon the part of the States that they renounced these sovereign and unlimited powers and transferred them in all their original plenitude to the National Government.

The Constitution created a national government with limited powers over, among, and between the States who created it, but with unlimited powers toward all other nations and peoples. Each of the parties to its creation was before its adoption a sovereign and independent State or nation, and was so acknowledged by Great Britain at the peace. Each possessed the right to make treaties and regulate commerce with foreign nations without limit until they delegated or granted that right to the United States, and ever since they have had no power over either.

If the States had these powers without limit, all that they possessed passed by the grant, and it follows as a logical sequence that the United States, in dealing with foreign powers, is not restrained by constitutional limitations nor restricted to affirmative grants. Other nations do not recognize New York or Georgia as sovereignties. They do not recognize any State or any number of States as having any right to deal with them in any respect whatever. They deal with the United States as a single sovereignty, as one of the nations of the earth. They take no note of any limitation of its power or want of power. They know nothing of the Constitution and its restraints, and care less. And when the United States make treaties, regulate commerce, or transact any other business, they act as though they were but one State—a solid body—as though Congress and the President were sovereign or empowered without limit, save their own discretion, which is in fact no limit at all, except that their policy may be condemned by the people at the next election.

This idea is not altogether new; it did not originate with me. I have seen that it was advanced in debate as far back as 1848 by Mr. Calhoun, when he was called upon to cite constitutional power or authority for the appropriation which was proposed for the relief of the starving Irish people, and he said that there was no constitutional question involved, because the powers of this Government as to foreign nations were not restricted to constitutional grants; and I think he was right.

I can not discuss at length the views here presented. When I examine carefully the language of the Constitution, and when I study in connection the history of its formation and adoption, I am constrained to dissent from these views.

My colleague thinks that he is in accord with the sentiments of Mr. Calhoun. I must beg again to dissent. I do not read the great Carolinian aright if he ever conceived the idea of tracing any of the powers of Congress to other source than the grants contained in the Constitution.

It is true that in 1847, I believe it was, when the question of sending supplies to Ireland was under discussion in Congress he had somewhat to say, and is thus reported in the Congressional Globe:

Mr. Calhoun made some remarks in so low a tone that he was very indistinctly heard in the gallery. He was, however, understood to say that he was as happy as any gentleman on that floor to co-operate in measures of relief for the suffering people of Ireland, but he wished very much that they had more time at their disposal to give it consideration.

* * * * * * *

He suggested that a national vessel should be sent to Great Britain and to France to carry the bounty of this country; and he was understood to say that no constitutional difficulty interfered to prevent it. He drew a distinction between the foreign and domestic policy of this Government.

That is all; and how slight it is as a foundation for the belief that this eminent statesman entertained the views now advanced by my colleague, that there exist in this Government powers outside of and beyond the grants in the Constitution contained. Mr. Calhoun was understood to say he drew a distinction between the foreign and domestic policy of the Government; but what distinction is not stated, nor how derived.

Mr. OATES. Will my colleague allow me to interrupt him for a moment?

Mr. COBB. Certainly.

Mr. OATES. I would like my colleague to state what limitation there is under the Constitution for the war-making power of this Government, for the treaty-making power, or the power of this Government to regulate commerce with foreign nations. I beg him to state what good purpose could possibly be subserved by the limitation of the power of the Government when it goes outside of the States which formed it in dealing with foreign nations.

Mr. COBB. I will answer every question if the House will give me the opportunity to do so. Every one of these question I will deal with because they are in the line of my argument, if I can get time for that purpose.

Against the declaration of my colleague I put not only the language of Chief-Justice Marshall in McCulloch *vs.* Maryland, but the not less emphatic utterance of Justice Story in the case of Martin's Heir *vs.* Martin's Lessee, reported in 1 Wheaton:

The Government, then, of the United States can claim no powers which are not granted to it by the Constitution; and the powers actually granted must be such as are expressly given or given by necessary implication.

And, further, I put the language of a jurist of later times, whose niche in the temple of fame is hard by that of Marshall himself. I refer to the opinion of Chief-Justice Chase in the causes known as the legal-tender cases.

Mr. OATES. My colleague will remember the question in the legal-tender cases was one of domestic policy, and not one of dealing with foreign nations.

Mr. COBB. It was a national question.

Mr. OATES. Oh, national; but not international.

Mr. COBB. And the authorities go to the effect that in all questions of national import, and of which Congress may rightfully take cognizance, no distinction is recognized between foreign and domestic affairs. The Supreme Court of the United States so pronounced in a dozen different decisions. Here is the language of Chief-Justice Chase, which I was about to quote, and his language is not restricted. He does not limit his constitutional views in this behalf to matters of internal concern, as a cautious judge would if he intended his views to have such restricted application:

It is unnecessary to say that we reject wholly the doctrine advanced for the first time, we believe, in this court by the present majority that the Legislature has any "power under the Constitution which grows out of the aggregate of powers conferred upon the Government or out of the sovereignty instituted by it." If this proposition be admitted, and it be also admitted that the Legislature is the sole judge of the necessity for the exercise of such powers, the Government becomes practically absolute and unlimited.

A MEMBER. Where do you quote from?

Mr. COBB. I quote from 12 Wallace, page 582, in the legal-tender cases.

Mr. OATES. He was speaking for the minority.

Mr. COBB. He was speaking for the minority of the court, but in speaking for the minority he was reiterating in substance what the majority had said when the same question was before the court in the case of Hepburn *vs.* Griswold.

It is true that the language here quoted is in a dissenting opinion; but the same doctrine is advanced which was enunciated by the court before that change in its *personnel*, which is so well remembered; and the question is now, which opinion will my colleague take? Will he stand by the opinions of Chase and Nelson and Fields and Clifford and Grier, and which I know are in accord with his life-long convictions, or will he go over to the majority of the court as it was constituted when changed by new appointments?

Mr. OATES. If my colleague will permit me to interrupt him I will say that I think they were all right on the domestic question, but not where it had reference to foreign matters.

Mr. COBB. Well, I deny the distinction drawn by my colleague, and still insist that, if it has rightful existence, it would have been noticed by such careful jurists as those from whom I have quoted, when they were making solemn expositions of the Constitution from the bench.

Now, Mr. Speaker, I have been turned aside from the line of thought I intended to pursue, and my time, rapidly expiring, is not sufficient to permit recurrence to it.

Let me say briefly that I proposed to discuss at greater length the expediency of the proposed measure and to show that, harmless as it appears on the surface, it contains elements of most dangerous character. I proposed to show, by reference to the concessions granted by the Government of Nicaragua to the gentlemen here desiring to be incorporated, that that Government granted the concession to them as individuals and with a view to the prosecution and accomplishment of a private business enterprise; and that the restricted nature of these concessions precludes the possibility of security being given by the corporation to the United States for such aid as I apprehend will be sought in the not distant future.

I proposed to emphasize the danger of this new departure in legislation by which our General Government, limited in its powers, restricted in its purposes and sphere of operation, is not only to become the foster-mother of private commercial ventures, but is to carry this fostering care beyond its jurisdiction and within the dominions of independent foreign powers.

Interesting and important as these lines of thought and inquiry are, I am constrained to leave them that I may give attention to the suggestion of the gentleman from Pennsylvania [Mr. SCOTT] and my colleague [Mr. OATES] as to the express grants in the Constitution under which this legislation is justified. These gentlemen would lead me into abstractions. I have based my argument as to the legal view of this bill on the want of power in Congress to erect a corporation for private purposes solely, and have attempted to show that in no sense is this legislation sought for the purpose of creating a Government agency. But I do not fear to enter the field to which I am invited. If, then, we seek in the Constitution for the power whose exercise is now invoked we must find it, if at all, under one of three grants, the war clause, the treaty-making clause, or the commerce clause.

Mr. OATES. Before my colleague leaves the other branch of the subject, will he permit an interruption?

Mr. COBB. Certainly.

Mr. OATES. I only wish to interrupt the gentleman to ask if he does not convict Mr. Calhoun of inconsistency when he voted for sending supplies to the starving Irish and to the sufferers by the earthquake at Caracas in violation of the Constitution unless he drew the distinction which I have endeavored to call to the attention of my colleague as regards the construction to be placed upon that instrument?

Mr. COBB. We are left in doubt as to Mr. Calhoun's reasons for his support of the measures referred to by my colleague. Had he given

them, I am quite confident they would have been based on his construction of some clause in the Constitution. It is not impossible that his failure to present his views in argument may have been the result of his inability to square his convictions with his generous and tender regard for the distressed.

Be this as it may, we are not confined in the argument of the pending bill to the acceptance of Mr. Calhoun's views on a case so exceptional as the extending of relief to starving thousands. If we are to rely on him, I prefer to take his deliverances carefully made and the conclusions in support of which he brings the reasonings of his master mind.

Mr. OATES. If my colleague will permit another question I will not again interrupt him.

Mr. COBB. Certainly.

Mr. OATES. Will my colleague point out any case of dealing between the United States and any foreign government in which the Constitution puts a limitation upon the power of the United States? If there is such a limitation in the Constitution I would like to see it.

Mr. COBB. My colleague is too good a lawyer to believe that the Constitution of the United States is in its essential features a limitation upon power. He would not, I am sure, take that position in this House. The Constitution of the United States is a grant of power, and no power not granted expressly or by implication exists in any department of the Government. True, it contains certain words and clauses of limitation; but my meaning is, that distinct and definite powers are not to be presumed to exist in the Government because the exercise of them is not in terms prohibited. I referred a moment ago to the case of Hepburn vs. Griswold. I will quote from the opinion delivered in that case:

> But the Constitution is the fundamental law of the United States. By it the people have created a government, defined it powers, prescribed their limits, distributed them among the different departments, and directed in general the manner of their exercise. No department of the Government has any other powers than those thus delegated to it by the people. All the legislative power granted by the Constitution belongs to Congress; but it has no legislative power which is not thus granted. And the same observation is equally true in its application to the executive and judicial powers granted respectively to the President and the courts. All these powers differ in kind but not in source or limitation. They all arise from the Constitution and are limited by its terms.

Mr. OATES. I will change the question, since my colleague is so critical, and put it in this form: Is there any emergency or has such an occasion ever arisen between the United States Government and any other power where the United States is wanting in power or has not power under the Constitution to deal with the question?

Mr. COBB. The United States is not wanting in power to deal with each and every question which legitimately belongs to the Government under its Constitution. Power enough exists to meet every emergency and to accomplish all proper purposes of national character. The war power is broad; the treaty-making power is broad; the commercial power is broad, and these have thus far been sufficient to enable the Government to meet the exigencies of its foreign relations.

But I can not prosecute this line of general discussion, as I find my time is going very rapidly. Let me say that no one who has yet spoken upon this measure has sought for authority to pass it beyond the grants in the Constitution except my friend and colleague [Mr. OATES] and I can not go with him. He is good authority, I admit, and I believe this is the first time in our lives that we have separated upon a constitutional question.

Mr. OATES. We would not now, but you are not broad enough.

Mr. COBB. I claim to be as broad as the limitations of the Constitution will permit. I believe that I am bound by these limitations, and I believe that to conscientiously respect them is to the greatest interests of the people of the whole country.

Mr. OATES. You speak of the limitations of the Constitution. I thought you said there were no limitations.

Mr. COBB. When I use the word "limitation" I mean the absence of granted power. That is limitation. I thought I had made myself plain on this point when I announced my unequivocal adherence to the doctrine of Marshall and Story and Chase as judicially declared, that all authority in the Government is to be derived from the express powers of the Constitution, or from the right to use the means necessary to carry into execution the enumerated powers.

Now, Mr. Speaker, to return from this extended digression into which I have been seduced, let me again attempt to prosecute brief inquiries concerning the nature and extent of the constitutional powers which are thought to have bearing on the measure before the House.

I have mentioned the three powers from which alone can be derived authority to pass this bill; and my purpose is to show, if I can, that the authority can be found under neither of them.

It can not be found under the power to declare war, for the reason that thus to derive it is to presuppose the constitutionality of a war of conquest. The power to declare war is conferred on Congress in general terms; but it is unnecessary, I apprehend, to frame arguments to prove that to undertake a war solely for the acquisition of territory, does not consist with the spirit of the Constitution nor the genius of our Government.

We are at peace with Nicaragua; no cause for quarrel with that power exists, and we can enter its territory peaceably only by its consent. That consent can be had only by treaty, and hence to the treaty-making power, or to the power to regulate commerce, or to both combined, we must look for authority to pass this bill.

Indeed, I may say that every acquisition of territory made by the United States, whether by purchase or as the result of war, has been sustained as constitutional only by virtue of the power to make treaties.

Mr. OATES. Suppose the United States Government has a treaty with Nicaragua in this case, is it not competent for the Congress of the United States to pass an act chartering this corporation for the purpose of carrying out the provisions of that treaty?

Mr. COBB. That is a question of grave doubt with me. But we need not discuss it as an abstract proposition, for such it is in the absence of a treaty.

Mr. OATES. Does the gentleman deny that there is a treaty with Nicaragua for the construction of this canal?

Mr. COBB. I do. There was a treaty of "friendship, commerce, and navigation" made between the United States and the Republic of Nicaragua in 1867, and which is, perhaps, still of force. But it contains no word which can be construed as conferring on the United States authority to construct, or authorize to be constructed, any canal. The only clause that can possibly bear in this direction is Article XXIX, which reads as follows:

> The Republic of Nicaragua grants to the United States and to their citizens and property the right of transit between the Atlantic and Pacific Oceans through the territory of that republic on any route of communication, natural or artificial, whether by land or water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both republics and their respective citizens; the Republic of Nicaragua, however, reserving the rights of sovereignty over the same.

There is no authority here given to the United States to construct a route of communication, and none has since been conferred. The United States and its citizens can claim, therefore, no other right under this clause of the treaty than the right of transit. Now, then, how can this Government confer an authority which it does not possess?

I have shown, I hope conclusively, that Congress can not erect a corporation except to be used as a means by which the Government may execute some enumerated power. Gentlemen point to the power to make treaties as one sufficient for present purposes. I answer that the treaty-making power, if broad enough, must first be exercised by the negotiation of a treaty before a means to execute it can be created.

It is absurd to say that we may create a means under a power that is dormant in order to execute something which may never exist. We may incorporate the Nicaragua Canal Company because we may in the future make a treaty which the company is to execute. Such is the reasoning. But if the treaty is not made when the corporation is erected what becomes of the corporate powers and privileges? The orporation must take whatever of life and authority it receives from Congress by pending legislation at the moment this bill is signed by the President. If it can take nothing then, it can take nothing because of after-occurrences. At that time or never it must receive the breath of life. Under the treaty clause of the Constitution, Congress can now give it no life, because there is no treaty.

But the gentleman from Pennsylvania [Mr. SCOTT] mentions the Clayton-Bulwer treaty. Waiving consideration of the question whether or not that treaty is of force, it is sufficient to say that a treaty between two independent powers can confer no authority on either to enter the territory of a third.

I pass, Mr. Speaker, to a consideration of the commerce clause of the Constitution. This is the clause invoked by the Committee on Commerce, who report this bill. Its language is:

> The Congress shall have power * * * to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

Before proceeding to an examination of its meaning, I call attention to the fact that it can have no effect to authorize the passage of the pending bill, in the absence of treaty stipulations with Nicaragua.

It is clear that the United States can not regulate commerce in its passage through foreign countries.

Be the commerce clause, then, ever so broad it can not of its own independent force authorize this Government to create a means to regulate commerce beyond the limits of its own sovereignty.

In this view the treaty and commerce clauses of the Constitution are so connected that they can scarcely be considered separately. But my objection goes deeper. I shall contend that the language of the Constitution just quoted conveys a meaning different from what the advocates of this bill ascribe to it.

In the report accompanying the bill the majority of the Committee on Commerce say:

> To facilitate commercial intercourse is to regulate it. To open a highway by water from the Atlantic to the Pacific across the center of the continent of America is an act that necessarily regulates commerce, because it creates a shorter way of navigation by thousands of miles between different parts of the earth and brings commerce under conditions that did not exist before. It affects the maritime traffic of the whole world by compelling it to abandon previous routes by water for a new and shorter one, thereby creating infinite regulations adapted to a different state of things.

On this reasoning are based the right and duty of Congress to grant the charter of incorporation asked for.

The Constitution contains a clause which reads as follows:

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

How does the reasoning of the committee tally with this constitutional prohibition? And yet their reasoning is the line of argument

pursued by all those who contend for the existence of power in Congress to construct channels of commerce.

To construct these channels is to facilitate commerce; to facilitate commercial intercourse is to regulate commerce. So smoothly runs the argument. What a pity it is that its course should be interrupted by such a trifle as a prohibitory clause of the Constitution! Still, to a plain mind it is difficult to see just how the Government can interpose to shorten the lines of commercial intercourse, especially of foreign commerce, without giving preference to the ports of one State over those of another. And then it must not be overlooked that Congress has the same power to regulate domestic as foreign commerce. So, as the wealth of the country increases, and the centers of wealth change, there is the ever-increasing demand for shorter lines of transportation, and Congress can construct them all, if the views of my friends are sound. Reasoning can not be accepted as sound that leads to such consequences.

I am reminded that there is now before Congress, and has been presented to preceding Congresses, a scheme in which my friend from Maryland is deeply interested.

Mr. RAYNER. I am not interested in any scheme.

Mr. COBB. Enterprise, then, if that is the better word. I refer to the proposition to construct a canal across Maryland to connect the waters of the Chesapeake with Delaware Bay.

Mr. HEARD. You mean that the gentleman from Maryland's constituents are interested in it.

Mr. COBB. Now, Mr. Speaker, I remember that my friend from Maryland urged that enterprise before the Committee on Railways and Canals upon the ground that, if we should dig that canal, it would shorten the line of travel from Chicago and the West to the ocean; and he argued that, inasmuch as it would shorten that line of travel, we ought to build the canal! That was his argument. Do not you see where it runs to? If "to regulate commerce" means to provide these facilities for commerce, then there is no end to our power in that direction.

But such is not the true doctrine. I will show that to regulate commerce is not to provide its channels, but to prescribe rules for its government while it is being carried on along the channels it provides for itself.

Mr. RAYNER. I would like to ask the gentleman whether he holds that digging dirt out of Mobile Bay is a "rule?"

Mr. COBB. No; that is not a rule and it does not necessarily come under the commerce clause.

Mr. RAYNER. It does not? What clause does it come under? There is no other clause to which you can refer it.

Mr. COBB. Well, perhaps not, but I have not time to deal with that question now. I could deal with it, satisfactorily to myself at least; but I have only a few minutes left, and the other question I deem more important than the one raised by the gentleman from Maryland.

I was entering on an inquiry as to the meaning of the clause in the Constitution known as the commerce clause, which I have just read. I called attention to the interpretation of it made by the Committee on Commerce in their report on this bill, and I have attempted to show the fallacy of their reasoning.

Mr. SCOTT. Will the gentleman from Alabama, under the construction of the Constitution as he applied it, say that Congress has the right to regulate the rates of transportation between the States or to establish rates?

Mr. COBB. The power, in the language of Chief-Justice Marshall, is to prescribe rules for the government of commerce.

Mr. SCOTT. And if there is a right to prescribe rules, then the right to construct a railroad or canal going so close together, so far as the canal and rates are concerned, how can you make a difference when you come to construe it?

Mr. COBB. "Close together!" They are as wide apart as the poles. How it can be said that the digging of a canal is to prescribe a rule passes my comprehension. The Supreme Court is emphatic that to regulate commerce is to prescribe rules. What sort of a rule is a canal? [Laughter.]

Mr. SCOTT. What sort of a rule is a rate?

Mr. COBB. That is a rule in the just and proper sense. To fix a rate is to establish a rule. The rate is a thing immaterial and intangible. It is something that may be prescribed, as all laws are prescribed, under the operation of which things material are controlled and governed and intercourse is regulated.

The rate over a road is something quite different from the road itself, and the right to prescribe the former is in no way analogous to the right to construct the latter.

By no proper speech can it be said we build a rate, or prescribe or enact a canal.

In addition to the views I have presented, that the position of the Committee on Commerce is untenable because it contravenes the express language of the Constitution, and because it leads to consequences which can not be supposed to have been in the contemplation of its framers or of the people who adopted it, I might appeal with confidence to the emphatic deliverances of the most learned and cautious of the eminent statesmen whose learning and patriotism illustrated the earlier history of our country. I will content myself, however, with another quotation from Chief-Justice Marshall, taken from the case of Gibbons vs. Ogden, reported in 9 Wheaton. After defining commerce as "intercourse," and saying:

> It describes the commercial intercourse between nations and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse;

and after showing that—

> Commerce, as the word is used in the Constitution, comprehends navigation,

he proceeds:

> We are now arrived at the inquiry, what is this power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed.

Now, this is a substantive, expressly granted power, and I am free to admit that Congress may do whatever is necessary to fully execute it. For the great judge further says:

> This power, like all others vested in Congress, is complete in itself, and may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

But the question is, what are the means necessary for the execution of the power to prescribe rules?

Surely it is a stress of language beyond its extremest limit to say that to enact a regulation—to prescribe a rule—it is necessary to construct a canal or railway; and as has been decided over and over again, the language of the Constitution is always to be taken in its plain, common-sense meaning.

Besides, if, as just shown, commerce includes navigation, why may Congress not build ships for commercial purposes with as much propriety as it can construct a canal? And, indeed, where is the limitation of power, if we enter this broad field of liberal construction, short of absolute dominion over all the instrumentalities of commercial intercourse, domestic and foreign?

We may take of the people's money freely and build at our own sweet will. We may construct lines of travel, by direct appropriation of the money of the tax-payers, from any commercial center to the furthest limits of our dominions, ay, and beyond; and we can change them to meet an ever-varying popular demand.

Sir, against this rising and growing sentiment, threatening, too surely, if carried to practical legislation, to endanger the best interests of the people—their right to local self-government, and to the management of their private affairs—I raise my voice, feeble as it is, in earnest protest.

The SPEAKER *pro tempore*. The time of the gentleman from Alabama has expired.

Mr. HOOKER. I ask unanimous consent that the gentleman from Alabama be allowed fifteen minutes in which to complete his argument. There was no objection, and it was so ordered.

Mr. COBB. I thank the gentleman from Mississippi [Mr. HOOKER] for asking, and the House for granting me, extension of time; and I will take advantage of the courtesy to the extent of presenting one or two additional suggestions which would properly have come when considering the expediency of passing this bill.

There is, however, one other legal proposition I desire to notice. In the instance of the Bank of the United States, the constitutionality of the act of incorporation was sustained, as I have stated, on the ground that the bank was a fiscal agent of the Government.

Now, this connection of the Government with the bank was disclosed on the face of the charter of incorporation. In his brief Mr. Pinkney, in order to show the purpose of Congress in incorporating the bank, and in that way sustain the constitutionality of the law, sums up the evidences of this connection in the following words:

> In the bank which is actually established and incorporated the United States are joint stockholders and appoint joint directors; the Secretary of the Treasury has a supervising authority over its affairs; it is bound upon his requisition to transfer the funds of the Government wherever they are wanted; it performs all the duties of commissioners of the loan office; it is bound to loan the Government a certain amount of money on demand; its notes are receivable in payment for public debts and duties; it is intimately connected, according to the usage of the whole word, with the power of borrowing money and with the financial operations of the Government.

There is no such connection shown in this bill between the Government and the "Maritime Canal Company of Nicaragua." The Baker amendment is not sufficient to disclose it; and, indeed, it will be remembered that the strongest advocates of the amendment disclaim all intention to have it so construed. And I have shown that the effect of the amendment is to bring under the supervision of the United States the private affairs of its citizens.

It will not do to say that the connection of the Government with the canal company as its agent may hereafter be formed, and that the act of incorporation is sought with such view. Gentlemen do not dare to so assert. In the present temper of this House such assertion would endanger the bill. Nor would the existence of such undisclosed purpose affect the legality of the present legislation. I have attempted to show in another connection that the constitutionality of this bill must be determined by the existing status.

Now, then, if there is nothing on the face of our proceedings to show the intention of Congress that this corporation is erected as a means, in part at least, to carry into execution some granted power, but much to negative such intent, how can constitutional warrant be claimed in support of this bill? As well might it be urged that Congress may create any kind of corporation for purely private purposes on the ground

that the corporation thus created may, in the future and in some undefined way, become useful as a Government agency. But I will not enlarge here.

Now, Mr. Speaker, we are told that this is a very harmless proceeding. Nothing is asked except that we give to certain responsible and distinguished gentlemen the little, innocent boon of being a body politic; and in return, it is said, they are to accomplish wonders in extending abroad the power and glory and influence of the American Government.

I can not eliminate from the proposed legislation, if it is constitutional, the idea of government responsibility. I do not mean legal liability, against which we seem careful to guard. But when we consider the whole situation; when we reflect that if we have authority to pass this bill, it is because the corporation is to be a means by which a power granted in the Constitution is to be executed; when we further reflect that the operations of this Government instrumentality are to be carried on in a foreign country, and that the necessary capital is to be gathered abroad, and when, too, the United States is to be the immediate beneficiary of the grand results, it seems to me not befitting the dignity of a great government to deny responsibility.

The friends of the bill say the corporation is in no sense to be a Government agent; and, taking them at their word, I have advocated that this fact be printed in the law and on the bonds of the company that the world may readily know it. If the principle settled in the case of McCulloch and Maryland is too old-fashioned for the present day, and the corporate existence can be sustained on the assumption that the United States have the unlimited power of the States to create corporations, well and good. Take your corporate privileges, gentlemen, in that view, and with the distinct understanding that the credit and Treasury of the Government are forever barred against you.

But I do not accept the new departure in constitutional construction. I decline to follow the lead of those who advocate it. I believe this bill is wholly without constitutional warrant to support it; and that to pass it will be otherwise ill-advised and dangerous legislation. Hence, I shall vote against it. But my point here is, that when Congress shall deliberately enter on legislation with the purpose of creating a means, whether by the erection of a corporation or otherwise, by which a constitutional grant is to be executed in foreign territory, there should be no evasion of responsibility of any character; but that the means selected—the agency created—should be sent to its mission with the power of the Government to sustain it at any cost, to any extent, and in any way which the necessities of the case may demand.

Government agency and Government responsibility should be blended in indissoluble union. You say in this bill no Government responsibility; you hence put a negative on the idea of Government agency; and by so doing stamp the whole proceeding with the brand of unconstitutionality.

One other thought and I am done.

If the "Maritime Canal Company of Nicaragua," as a private company, to carry on private business solely, can be and is constitutionally created a corporation by Congress, then it will enjoy immunities not possessed by corporations of like character created by the individual States.

It was settled in the case of McCulloch *vs.* Maryland that a State can not control the operations of a company incorporated by Congress, nor impose a tax on its business. During the running debate I have had since I took the floor, stress has been laid by some of my friends on the power of the States over corporations. I have avoided as much as possible being led into discussion along this line, because it seems to me that the difference between the attitude of the Legislatures of the States and of Congress in this regard lies on the surface.

The power of a State to erect private business corporations is well-nigh unlimited. The State exercises this power, not to create a means for executing a constitutional grant, but that by the formation of these artificial beings the convenience and interests and prosperity of its citizens may be promoted. The constitutional idea, so to speak, as applied to the government of the States and of the United States, is distinct and different, for while the United States can exercise no power not granted, the States can exercise all power not withheld. Hence the importance of the preservation of State control over corporations in restraining them within the privileges and authority given them, and this importance increases with the growth of corporate wealth and strength.

This control is exercised in various ways. The taxing power residing in the States may reach the business of corporations; and especially is it not unusual for a State Legislature to impose a license tax on corporations not created by itself for the privilege of doing business in the State.

Every State in the Union, so far as I am advised, discriminates in this way between home and foreign corporations. The Legislatures of the different States say to foreign corporations, "Before you can come within the limits of our sovereignty and do business you must pay a tax upon your business, a license tax for the privilege which we grant you to do business within the State."

Mr. HEARD. That is not general throughout the States?

Mr. COBB. I think it is very general. It is so to some extent in Alabama; it is so in some of the other States; I think it is so in New York. I will not assert it absolutely. But if it is not so it may be so. The Legislature of the State of New York may at any time adopt the idea that they ought to put this tax upon the operation of foreign corporations. Now, here is a foreign corporation, a corporation erected by a power other than the Legislature of New York, a corporation having its headquarters in New York, doing business from New York, operating this canal from New York, because the charter gives the power not only to construct but to operate; yet when the law of New York says to this corporation, "You must pay us a license tax for this privilege," they may say, "You can not demand it of us because we have been erected a corporation by the Congress of the United States."

Mr. HEARD. Does the gentleman know that the Supreme Court has decided that the incorporation of a company by Congress does not exempt it from the operation of the laws of any State in which it seeks to exercise such corporate rights as Congress may have given it?

Mr. COBB. No, sir; I do not.

Mr. HEARD. Well, I will inform the gentleman that in a case in which the Atlantic and Pacific Railroad Company, in the State of Missouri, pleaded exemption from the statute of the State of Missouri subjecting them to double liability for the killing of live-stock, etc., it was held that the corporation was not exempted from the operation of that law of the State. And I think that is now accepted as the law.

Mr. COBB. I see the gentleman's point. The corporation was not exempt from the operation of that law, because the law did not operate to enforce the taxing power or power of general control, but was in the nature of a police regulation.

Mr. COX. The gentleman from Alabama will also allow me to say that as early, I think, as 1818 the Supreme Court of the United States sustained the taxation of the State of Ohio upon the branch bank of the Bank of the United States, and that tax was enforced by execution.

Mr. COBB. The gentleman from New York [Mr. COX] is entirely mistaken. There is no such decision in the books. I will tell my friend what the courts have decided, what was decided in the Ohio case, what was decided in the McCulloch case. They decided that the State had the right to tax the property of United States banks within the borders of the State. The State may tax the real and personal property of the corporation; but when it comes to putting a tax upon its business operations, such as a license tax, the States must keep their hands off. That was the decision in the case of McCulloch *vs.* The State of Maryland. If the gentleman has not refreshed his mind lately in reading it, I commend to him the opinion of Chief-Justice Marshall in that case. In that opinion the court says that the State of Maryland may tax the property of the bank; but the State of Maryland undertook to exercise the power which it constitutionally has with respect to all other corporations except those erected by the Congress of the United States; it undertook to put a license tax upon this bank, and it was restrained from so doing by the Supreme Court of the United States.

Mr. Speaker, if we follow to their logical results the various lines of thought connected directly and indirectly with the pending measure, we will be led to startling consequences, which the rhetorical pyrotechnics and sentimental extravagances of my eloquent friends can not obscure. Some enthusiastic gentlemen, looking alone at the vast possibilities, as they think, opening to us by the construction of a water way from ocean to ocean, are impatient at the suggestion of constitutional obstacles to the passage of this bill. They refuse to consider these. The people, they say, want the bill to pass; some one has pronounced it constitutional; and they feel no further concern in this direction.

If I may be pardoned, I will make an observation here in parenthesis, premising that it has no application to the distinguished gentlemen who have engaged with me in this debate, and disclaiming intention of harsh criticism of any one. It is this: Whether we are always as solicitous to make close investigation of questions of constitutional construction, that we may redeem intelligently and faithfully the obligation required of us when we enter this House, as we are to know the views of our constituent?

Mr. HEARD. Let me ask the gentleman from Alabama if he does not regard it as the duty of a representative to inquire what his constituents want, and then inquire whether there is authority under the Constitution to do it?

Mr. COBB. No, sir; or rather I would reverse your rule in its application, at least to pending measures. As to these, the first duty of a representative, both to himself and his constituents, is to know whether he has authority conferred by the Constitution to do an act—if its constitutionality is questionable. Having decided that in the negative, he need not go further. He can not go further with the view of determining his course, if he is an honest man. But having decided the measure in question to be constitutional, it is his right and duty to consult his constituents as far as he may as to how the measure will meet their wishes or affect their interests. That is what I hold.

I recognize in full measure our responsibility to our constituents. Their views, their wishes, their interests, especially, it should be our constant care to ascertain and promote. At the same time, we are something more than mere agents. We are representatives, chosen because we are supposed to possess intelligence and honesty enough to form convictions on great questions continually arising, and to possess the courage of our convictions. Intelligent constituents expect their representative to be diligent in inquiry and investigation, and prompt and strong

to advance the right and resist the encroachments of the wrong, whether open or insidious.

They recognize our superior opportunities, because we are set apart for the work, to understand the relation and bearing of legislation, and they expect us to cry aloud and spare not when they are being misled by the selfish and designing, or when measures of seeming present advantage to them, but of far-reaching consequences of evil, are being pressed. Woe be to our country, a country under representative government, when the high relationship of mutual confidence and respect between constituents and representatives shall be destroyed.

He best conserves and promotes the interests of his constituents who is diligent to ascertain and faithful to discharge the duties which his situation imposes. In this instance I am glad to believe that in opposing the bill I am subserving the best interests of my constituents. For while I am fully alive to the advantages to accrue to the Gulf States from interoceanic water communication; while I am far from seeking to put the slightest barrier in the way of its proper prosecution, I do not believe that its accomplishment is dependent on such legislation as is now sought, nor if it did, that we can safely purchase present advantages at the price of a violated Constitution.

But the departure, if such the passage of the bill is, from strict observance of the Constitution is so slight, it is said in some quarters, what can the harm be? I have attempted to show the harm to some extent. It should not be forgotten that no departure of this kind can be a matter of light concern; for while the Constitution of the United States can not be changed in its true intent and meaning by vicious construction, as statutes sometimes are, yet every such construction becomes an excuse for enlarging Congressional power without regard to the limitations which the nature of our system and the language of the Constitution impose on Congressional action.

These considerations are of vital concern to the people of every section of the Union; but to those of the Gulf States, some of whom are blinded by the glamour thrown around the pending measure, most of all. The South is the weaker section, and unfortunately for her, and unfortunately, I hesitate not to say for the whole country, she has enemies who menace her with the strong hand of Federal control.

Her security from unjust and illegal interference with her domestic affairs; her safety from threatened wrongs; the full realization of the promises now hers of material, social, and intellectual advancement, can come to her only under the protection of the Constitution of our fathers as interpreted by the fathers.

Sir, I have been drawn into a broader field of discussion than I had proposed to enter. The real question before us lies in narrower limits. It is whether or not the bill as now presented by the conference committee should be enacted. The broader questions, whether the United States have constitutional power and whether Congress should exercise it to construct a canal across the Isthmus, do not arise.

I have not undertaken to say that such power does not exist; nor will I now affirm that it should not in proper manner be exercised. When these propositions are fairly presented I will gladly consider them; and I will be found, I hope, in strict accord with those who in sentiment and action are for the promotion of the dignity and power and glory of the United States.

Smalls vs. Elliott.

SPEECH

OF

HON. WILLIAM E. MASON,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 9, 1889.

The House being in Committee of the Whole, and having under consideration the bill (H. R. 12490) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1890—

Mr. MASON said:

Mr. CHAIRMAN: There are some reasons why this bill should not become a law. I propose to address myself in the time allotted to two reasons: First, the effect it will have upon the service in the Chicago post-office; but more generally to the effect it will have upon the Seventh Congressional district of South Carolina. There is a contest pending before this House that has been pending for two years nearly, between the sitting member from the Seventh district and the colored gentleman (Mr. Smalls) who sits here beside me, which has been delayed from time to time, and the old adage exemplified, that "justice delayed is justice denied." The fact that this contest comes from South Carolina naturally excites the suspicion of every honest man who is familiar with the history of that State; and an examination of the record of this case is conclusive that the most gigantic fraud and the most outrageous and disgusting scheme to rob the Republicans of a Representative in the Fiftieth Congress ever known to modern politics has been practiced in that district. That is my charge and this is my proof.

In the first place the laws of South Carolina were framed for the express purpose of allowing the Democrats to cheat Republicans at the polls. I charge that they are so framed and passed, and I will quote from the laws of that State so as to convince any disinterested, fair-minded man. The present governor of that State, a worthy executive of a corrupt law, in a communication to the people within the State of South Carolina, furnishes the evidence to substantiate that charge. Four years ago the contestant in this case (Mr. Smalls) had the temerity to ask him to give a Republican judge in each precinct in the district known as the "Black district," and his response was a brilliant flash of silence. This time the Republican executive committee asked the governor of the State to give them a fair election by appointing at least one supervisor and to give one judge or clerk of election in each precinct, and this is his response. He absolutely declined to do so. This is the request:

COLUMBIA, S. C., *September* 27, 1888.

SIR: At a meeting of the executive committee of the Republican party of South Carolina, held in the city of Columbia on the above date, this committee was appointed to wait on you in person and present for your consideration and action the following preamble and resolutions:

Whereas a general election will be held on the 6th of November, at which time candidates for electors and Congress will be voted for by the people; and

Whereas the whole election machinery, commissioners of election, managers, clerks, etc. (with the exception of Georgetown County), being entirely in the hands of the dominant party of South Carolina, has been productive of the suppression of a free vote and honest count; and

Whereas, by virtue of a vastly preponderating number, we think it would be but an act of simple justice and in the interest of a fair, full, and honest election that representation be granted to the Republican party: Therefore,

Be it resolved, That it is the sense of this committee that his excellency John P. Richardson, governor of South Carolina, be waited on and requested to appoint at least one Republican commissioner of election in each county and through them one Republican manager at each of the voting precincts for electors and Congressmen throughout the State.

And whereas in the Seventh Congressional district of South Carolina (known as the Black district) which was set apart by Democratic legislation for the Republicans, but which has been invaded by the Democrats and an almost solemnly implied pledge broken, and the free will of the electors sifted by the partisan actions of boards of election officers composed entirely of Democrats:

Therefore, we respectfully and earnestly appeal to your excellency in the interest of fair play and an honest election, and in the name of 150,000 Republican voters representing over 700,000 people, to accord us representation in the management of the approaching elections.

Resolved, That we ask this as American citizens and representatives of one of the great parties of the Republic, believing that we are entitled to it as an act of simple justice.

E. M. BRAYTON,
STEPHEN A. SWAILS,
THOMAS E. MILLER.
THOS. A. SAXON.
G. E. HERRIOTT.

To his Excellency JOHN P. RICHARDSON,
Governor of South Carolina.

And the governor's reply thereto, which is in the following words:

STATE OF SOUTH CAROLINA, EXECUTIVE CHAMBER,
Columbia, September 29, 1888.

To E. M. BRAYTON, THOS. E. MILLER, STEPHEN A. SWAILS, THOMAS A. SAXON, G. E. HERRIOTT, *Committee on the part of the Executive Committee of the Republican party:*

GENTLEMEN: I have carefully considered the preamble and resolutions which in behalf, as you claim, of the Republican party of South Carolina, you yesterday presented for my consideration and action, as well as the remarks made by Mr. Thomas E. Miller, a member of your committee, in advocacy of the same.

In announcing to you the conclusion at which I have arrived, it would answer no good purpose that I can perceive to expose what must be so evident to those thoroughly acquainted with the condition of parties in the State, the fallacious statements of the one and the unsound reasonings of the other. It will be sufficient simply to say that in my judgment a departure from the wisely established methods and principles upon which these appointments are made would endanger the continuance of the perfectly free, fair, and peaceful elections—the professed object of your desire—that are the proud boast and the highest achievement of Democratic rule in this State.

It may with great truth be said that honest elections are the true test of pure government, and constitute the only faithful expression of the popular will, which it is their sole mission to elicit. No machinery, however perfect, can accomplish a result so essential to representative government without the instrumentality of agents both intelligent enough to thoroughly understand the law and to carry out its provisions, and of that high probity of character that will command the confidence of the elector and be a sure guaranty against the evil and corrupt practices once so dominant in this State.

These disgraceful scenes and unscrupulous manipulators of elections, so confessedly prevalent during the days of Republican rule, are now, happily, things of the past, and can never return under the benignant sway of Democratic principles to curse and blight with their horrors the peaceful, prosperous course of all the people of South Carolina. To the eternal honor of our State and the Democratic party, it can now be said that our elections are the freest and fairest in the world, and that not a single citizen of hers, no matter what his rank, color, or condition, can, under her just and equal laws, impartially administered as they are, be, by any perversion or intimidation, debarred at the polls from the free and full exercise of his suffrage. There is not only perfect freedom in voting, but the amplest protection afforded the voter.

I shall therefore, with a deep sense of the responsibility resting upon me to preserve to the best of my ability the purity of the ballot so happily restored in this State, appoint to the important position of commissioners of election in the several counties men of such known intelligence, high character, and unquestioned patriotism as will give the people of South Carolina the confident assurance of having in the coming elections the fullest, freest, and fairest expression of their will. To the boards will be intrusted the designation of precinct managers, a duty that I am sure they will not only discharge faithfully, but the responsibilities of which they will justly appreciate.

I have thus frankly and succinctly stated the main consideration that will guide my action in the appointment of these election boards, but I can not re-

frain from bringing to your attention in this connection the fact that your committee can scarcely be said to represent an organized party, as the comatose condition of the remnants of the Republicans in this State for many years past would surely justify the non-recognition of alleged rights and consequences so urgently demanded and strongly asserted by you. I will only add that the whole people of South Carolina, every voter within her borders, can safely rest in the absolute assurance of having at the coming elections the fullest opportunity of expressing their will through the constitutional and American method of a perfectly free ballot and fair count.

Respectfully,

J. P. RICHARDSON, *Governor.*

Think of it, Mr. Chairman. He could not give one judge or clerk of election to promote an honest election, and refused an honest representation at the ballot-box. That is the sort of thing which invites the stuffing of ballot-boxes. If that is the "proudest achievement" of a South Carolina Democrat, then where this side of eternal, everlasting hell can you find a place to record the ordinary action of a South Carolina Democrat?

Why, in Illinois both Democratic and Republican clubs united in asking the Legislature to pass a law which would give the people a fair election—two Democrats and one Republican in one precinct, and in the next, two Republicans and one Democrat, the clerks being evenly divided; but the governor of South Carolina says another thing after his election.

I desire to call the attention of the committee to the difference in his inaugural address and the letter written by him before the election. This is the inaugural address. I shall not read it all, but I shall read enough to show the point I desire to illustrate. He stated before the election—

That they should have an honest ballot and a fair count.

That was the high achievement of the Democratic party in South Carolina, and he addressed that to the negroes, colored Republicans. This is what he says after he was elected. After discussing the tariff issue, which he considers as a minor affair as compared with the race question, he says:

To us of the South—

And I wish some of you gentlemen who are at all familiar with the fact would listen so that you may explain the action of the governor. He says:

To us of the South it must remain an unrealized dream—

That is, free trade—

until finally the question of race dominion shall be settled in the highest and truest interests of humanity. The laws of God—

Says he—

with the impress of inferiority which they have stamped upon the race, have decreed that the true interests of humanity demand, and the sacred memories of the past enjoin, and the high duty that we owe to posterity irresistibly impels, that we declare with a determination as fixed, as immovable as the stars of heaven, that never again shall any other than the Anglo-Saxon rule in this fair, beloved, and beautiful Southland of ours.

How does that remark suit you gentlemen who are going to talk about the Smalls case, if you ever get a chance to do so?—and I do not think you ever will unless you get in on an appropriation bill. How does that agree with your principles in regard to a free ballot and a fair count? How will it keep time with you who will claim that the negro has a fair chance to vote and have it counted in the South? Ah, he says that God Almighty has stamped the imprint of inferiority upon the black race, and that the Anglo-Saxon must rule in South Carolina.

I have been in South Carolina and have seen negroes, so called, who were as white as any man who sits upon the floor of this House. The father of the contestant here was as white as any man upon this floor. Who is going to analyze the Anglo-Saxon blood? If it is the Anglo-Saxon blood that votes, are you going to have blood-testers down there, so that when a man comes up and offers his vote, they can examine him and say, "Fifty per cent. negro, 50 per cent. Anglo-Saxon; two of you fellows can cast one vote?" [Laughter on the Republican side.] If those blood-testers are ever invented down there, you will find a corner on blood-testers, and every one of them in the hands of Democratic inspectors of election to insure "a free ballot and a fair count." [Laughter on the Republican side.] Can they tell how much is negro blood and how much is American or Anglo-Saxon blood, put there by the crimes and the lusts of the Anglo-Saxon race?

The governor of South Carolina is wrong or else the Constitution is wrong. It was not the law of God that put the imprint of inferiority upon the negro. It was the iron barbaric heel of the Anglo-Saxon, our fathers and our brothers, who for more than a hundred years held him in slavery, stooping below their own natural manhood to keep him there; but in this new birth of freedom, in this march of civilization that has shaken the shackles from the slave, which bound us as surely and as tightly as it bound him, there is no skin test of citizenship; there is no blood test of American manhood. The past is wiped out so far as that is concerned, and in the future, if honesty shall govern and if the Constitution shall be enforced, men will be measured by a different standard than the color of their skin; they will be measured by that better, higher standard—their personal worth and their honorable citizenship.

Mr. Chairman, I suppose a great many members of this committee have seen a map of the Seventh Congressional district of South Carolina. I wish you could all see it now. It would furnish a text for a splendid sermon on honest elections. While we do not contend that the shape of the Seventh district of South Carolina is absolute evidence of fraud, we do say any man or any party that will make a district like that ought to be watched, whether they are Republicans or Democrats. [Laughter.] I would like to set out here as an exhibit a map of the Seventh district of South Carolina.

I am not going to discuss the evidence in this case very long, because I want to get to the Chicago post-office. [Laughter.] But let me give you some examples in the matter of registration. Let me give you an example of the way they cheat colored men in that respect. A colored man comes up to vote, and this is what occurs: "Where do you live?" "I live on John Smith's place." "Well, John Smith is dead, isn't he?" "Yes; he is dead, but his son owns the place now." "Well, that isn't the place now that it used to be. Your registration certificate is void." "But I haven't moved." "That doesn't make any difference; the title of your place is changed. You don't live on John Smith's place now." [Laughter.] The evidence shows such a case as that.

The mere shifting of the title to the place on which a man lives destroys the identity of his residence! Another colored man comes to vote and is going to vote for a Democratic governor—for some reason or other, I do not know what; maybe a side of bacon and a bushel of grits—at all events he decides to vote for a Democratic governor and he does vote for him. Then, with the same certificate in his hand, he offers to vote for a Republican Congressman, and then the certificate is found defective! The certificate which permits a man to vote for a Democratic governor and Democratic county officers is not good enough to permit him to vote for a Republican Congressman! But why should we deal in petty larceny when the great field of grand larceny is open before us? I say "grand larceny" advisedly.

I know that some of my critics and some of my friends will say to me "You ought not to talk in that undignified way and call the matter of stealing a seat in Congress grand larceny." But, Mr. Chairman, I come from a district which did not hire me for this job on account of any superfluous amount of dignity that I ever had or hope to have. [Laughter.] I have come here to represent them, and I have never learned to call a spade "an agricultural implement." Larceny is larceny. A man who will steal a vote will steal a horse if he can get the chance, and the man who robs me of my franchise treats me as meanly and cowardly as the man who robs me of my horse or my pocket-book. For God's sake let us quit this artificial indirectness and get down and talk what we mean. It is time for some of you gentlemen on the other side to do that, and it is time for some of you gentlemen on this side to do that.

Men are murdered; there is one day's ripple of excitement, and then it is over. In regard to this district I had intended to say that if you would search all the annals of crime, you could not find a single one that the Democracy of the Seventh district of South Carolina has not resorted to to deprive this negro of his seat in the House. I should have stated that, if the people of Arkansas had not furnished an additional crime and an invitation to the Seventh district of South Carolina to look out in the future and murder—murder, if necessary—to give them a majority in this House.

Let some one older and more experienced—some man who stands more prominently before the people than I do, on either side of the House—not a new man or a young man—speak on this subject. For God's sake speak; and let the people know what they are doing there. Our peers are murdered; all honest people of all parties stand aghast. In the community where it occurred public sentiment is not above it. The crimes go unpunished, and the bloody stain of crime is upon the fair garments of the country we love. An officer taking evidence in the case, with the ballot-box in his possession—an officer of this Congress attempting to open the ballot-box, is absolutely bulldozed out of it; and it is taken away from him by force. And the evidence in this case shows that while he had possession of that as an officer of this body, the attorney for Mr. Elliott—an honest gentleman, as far as I know—and I make no personal charge against any man—gentlemen seem to smile at that; I said I made no charge against any man; I am not assuring anybody that they can not be made successfully; if that is any comfort to you you are welcome to it—the officer in charge of this box is assaulted by the attorney of the contestee in this case, and the box is taken forcibly from him.

If I had my way I would adopt the rule that is adopted in all courts of justice. He should purge himself of that contempt before he was allowed to take his seat here or even be heard. I say that one box was taken by force from an officer of the law furnishing the information to this House; and until the attorney of Mr. Elliott returns the stolen propefty, he should stand in contempt before the bar of this House, and not be permitted to open his mouth in his own defense until he has purged himself and his attorneys and agents of that contempt.

Now, briefly upon one other branch of this case. There are a large number of precincts, Mr. Chairman, in which they adopted this gentle, unsuspecting plan. Remember, they were all Democratic judges, all Democratic clerks of election—not a Republican officer there. With 400 or 500 Republicans in line waiting to vote, they get timid; oh, they get so frightened! They are intimidated, Mr. Chairman! They are

afraid of those negroes and they refuse to hold an election! The governor of South Carolina refuses to give them a Republican board or any Republican member of the board; and then the Democratic board assembled within a mile or two of the precinct, and for no other purpose under God's heaven than to disfranchise four or five hundred voters at a time they declined to hold an election, because they were afraid—intimidated!

This was done in Biggin's Church precinct, Richland County. Four hundred voters assembled to vote for Smalls; the managers were all Democrats, all sworn to produce books, boxes, etc., for election, yet none were provided, and 400 Republican voters disfranchised.

In Gadsden precinct, same county, the same trick was attempted, but at 10 o'clock, seeing the managers would not serve, the Federal supervisors swore in three managers, who conducted the election in all ways in accordance with the law, and contestant received 451 votes and contestee none. This box was also thrown out.

This precinct has been discussed fully. No unprejudiced man can read the evidence of these shambling, shiftless scoundrels without being convinced of the utter falsity of their pretense of fear.

Intimidation—think of it! Did you ever see a canary bird intimidate a snake? Did you ever see a bootblack intimidate a policeman? Did you ever see a hungry, blood-thirsty lamb go roaring into a den of defenseless lions? Did you? If you have then you have seen a South Carolina Democrat intimidated by a negro. [Laughter and applause on the Republican side.]

Now, when they could not keep the Republicans from voting on registration and when they could not do anything else, they resorted to stealing the box. Now, we have had men steal boxes in Illinois—two of them, both good Democrats and both doing time at Joliet, our favorite resort for gentlemen of that kind. [Laughter.]

But in this whole district, the Seventh district of South Carolina, reeking with fraud, where all the constitutional rights of the citizen are trampled upon—that very Constitution that rolls like a sweet morsel under the tongue of most of you gentlemen from South Carolina—with all this violation of these constitutional rights, not one man has been arrested, not one man put upon trial. The governor is in favor of this sort of a deal. He shows it by his message; and there is not public sentiment enough in your State to convict a man who is known to be guilty.

"Well, what are you going to do about it?" That is what you gentlemen who sit smiling over there seem to ask. I do not know. I have not been long in this business. I will tell you what I should do about it if I had my way. If I live to take my seat in the next Congress, and I am feeling reasonably well now, I would put a stop to it; I would teach you gentlemen that we understand you; I would quote to you, to start with, the leading editorial in the Columbia Register. Some of you gentlemen may have read it. I am not saying, you understand, that there are no honest men in South Carolina. I know some of the members of Congress that seem to be mighty nice, honest gentlemen. I see by reading these papers that some editors down there are honest. But after I read the evidence in the Smalls case I wonder, if there are any honest men in South Carolina, why in the name of God you can not get an honest man to act as a judge once in awhile in an election.

This is what the Register, a good Democratic paper, says:

> We have carried this sort of thing as far as it can possibly go; and the result is that we are fast getting to be a set of rascals, if we have not got there already.

[Laughter.]

It goes on:

> The Register means every word it says, and what it wants is simply a plain recognition of the facts of the case and an honest desire to meet them in a way that will have done with the sharpers' tricks and the political swindling which are ruining the men of our own race and lowering every standard of proper manhood.

So the Columbia Register wants a stop put to it. You members from South Carolina all want it stopped, and if I had my way I would stop it. Believing that right to be the most sacred guarantied by the Constitution, I would have a fair ballot and a fair count in South Carolina if it took a regiment of blue-coats in every one of your counties and every dollar in the United States Treasury to do it. [Applause on the Republican side.]

That is what I would do. We can not trust you. You know we can not trust you. You know the people believe you are fast becoming a set of rascals.

If you will be frank about it, if you will be honest about it, you will say, we do not want the negro to vote; then offer an amendment to the Constitution and we will discuss it with you; but do not pretend to be friends of the Constitution while you are all the time trying to count out the negro vote in the South.

We now come to the discussion of one of the practices of the South Carolina Democrats in the matter of stealing ballot-boxes. [Laughter and applause on the Republican side.] I can not stop to describe every ballot-box that was stolen; the field is too full; but take the one known as Adams Run. There they were all Democrats; every one of the managers was a Democrat. There was 130 majority for Mr. Smalls. The returns were completed and signed by all but one man with an unpronounceable name. I have it written down here, but can not read it. There was 130 majority for Smalls there. They left the box at some store, naturally. [Laughter.] It was never heard of again; but that is what was expected.

The vote was not counted by the commissioners, and Mr. Smalls does not get the benefit of it. That is one hundred and thirty violations of the Constitution in one spot.

That is one of the methods of a South Carolina Democratic returning board—the box stolen, and no vote counted by the returning board of South Carolina.

With all respect I have for gentlemen on this committee, the Democratic members of the committee, I can not understand for the life of me how this committee can return 130 votes against Mr. Smalls or not count them when every Democrat there certifies to 130 majority for Smalls.

Another box was known as Fort Motte box; that is the box I have spoken of. That was the box forcibly taken away from the officer of this Congress, who was proceeding to return it to this House.

When by way of diversion they did not think it was perfectly easy to steal a box they would do what is ordinarily known as stuffing a box. They have a simple process of stuffing a box and then of purging it. They have some sort of a medicine when administered to a ballot-box the purgative powers of which removes all the Republican votes. [Laughter and applause on the Republican side.] And in this place all the managers were Democrats, every one of them.

I will give you a sample of some of the purgative qualities of South Carolina law, what they call purging the boxes. Here is one case. This is the Providence box, and it will give some of the gentlemen on the other side of the House an idea of the simplicity and beauty of what is called in South Carolina the purging process. [Laughter.]

At the Providence box there were 119 votes cast in all—119. But when they came to count these votes—and remember, they were all Democrats, Democratic judges, Democratic managers, and Democratic clerks—when they came to count the poll there they found 199 votes, and the box had 90 too many in it. How did they get there? Who put them in? Some Republican who was not near the box? Let somebody answer that conundrum when he gets a chance. I would like to know. Now, under the law, when they found they had more votes in the box than were voters registered as voting it was their duty to draw the surplus by chance. They put the Smalls vote in one pile and the Elliott vote in another pile. This, you will understand, is the "purging" process. [Laughter.]

They had 90 votes too many there, and they had to throw out 90 for some reason. So they put Mr. Elliott's votes (by mere chance) in the very bottom of the box and Mr. Smalls's votes at the top of the box. Then either a blindfolded boy or some entirely disinterested person, just like the blindfolded goddess, inserted his hand and drew out from that box every one of Mr. Smalls's votes. [Laughter and applause.] Why, Mr. Chairman, the boy who drew out those votes could beat anybody at "drawing" that I ever heard of in my life. If Mr. Schenck could meet him he would be tempted to move into some other country. [Laughter.] By this purging process, by which they succeeded in putting all of Mr. Elliott's votes in the bottom of the box and Mr. Smalls's votes on top, an innocent child was able to make a "draw" which would paralyze any poker-player on the face of the earth. [Renewed laughter.] Now see the predicament you are in. There is not a single Republican voter in that precinct, and yet you admit there has been ballot-box stuffing going on down there. Your own testimony shows it.

Who did it, then? There was no Republican vote. There was not one cast according to your returns. You do not return a single vote for Smalls. There was not a single Republican as a judge or officer of election, and, therefore, I hope that some of you good guessers of conundrums will tell me who stuffed that box. [Renewed laughter.]

Now, let me show you where they threw out three or four hundred at one lump, and I can not give you the exact number without referring to the papers—267, to be exact, at the Brick Episcopal Church precinct.

At this point Mr. Elliott received 3 votes. He does not seem to have been particularly popular in that precinct. [Laughter.] But there was such a majority against him there that it furnished a substantial reason for throwing out the whole box, and that is the reason that no votes were counted. They could only find 3 for Elliott against 267 for Smalls.

Berkeley County is in the Seventh district, all except one little corner, I think a town known as Mount Pleasant. Some gentleman, who, like myself, has been preparing upon this question for the last two years, can probably correct me if I am wrong. We have only had two years to think over the subject and study it up, but I want to be exact.

Mr. WHITE, of New York. The doubt arises from the infirmities of old age.

Mr. MASON. Yes; the case is a pretty old one, as I have been preparing for it for two years. Now the Mount Pleasant precinct is placed in one corner of the county and in one corner of the voting precinct, and there are two voting places in that precinct. They go up to Mount Pleasant to vote for county officers or State officers, but if you wish to indulge

in the American franchise of voting for a Congressman and you are determined to vote for a Republican Congressman, which is usually discouraged there, you can by walking 6 miles, a little distance in that country, a delightful walk, cast your vote in the same precinct for Congressman. [Laughter.] They are presumably arranged in that manner so that the negro will not injure or surfeit himself with too much voting in one day, and undoubtedly also for the purpose of encouraging the healthy exercise of pedestrianism in that country. [Laughter.]

Nobody ought to attempt to vote down there without he has practiced pedestrianism, and I take it that anybody who will attempt there to exercise the privileges of an American citizen would have to imitate O'Leary for awhile. [Laughter.] Now, sir, in that precinct, the two voting places in that one precinct—one for State officers, the other for a member of Congress—as I have said, are fixed just 6 miles apart. You can not locate there and exercise your right as an American citizen by voting for both without exercising the further privilege of walking or riding 12 miles for that privilege, the polls being just 6 miles apart.

Well, the Democratic managers living at Mount Pleasant had the boxes, and the judges at the other place in the same precinct did not send the poll-books which were kept at the other precinct, and every man who voted had to produce a certificate; every man before being allowed to vote produced it, and there were cast at that poll 267 votes for Smalls.

And yet, when they found that by taking that away from Smalls it would leave Mr. Elliott just enough votes to warm a Congressional chair for two years, they decided, because the Democratic judge did not send the poll-book to the precinct, that therefore there was an irregularity and it could not be counted. That is what I call grand larceny. It is stealing by wholesale. It is easier than stealing under the registration plan.

There is a large amount of the majority report against Smalls in this case. They tell you how he was convicted of a crime; and then tell you that the negroes are too ignorant to understand that fact; yet, notwithstanding their ignorance, they voted for him. I have not time to go into that case, but I know this: He was charged with a crime and convicted of it—I believe convicted by a jury selected for the purpose of convicting him, and employed to convict him—and when he attempted to prosecute his appeal before the proper tribunal the Democratic governor of South Carolina denied him that privilege of appeal by granting him a free and unconditional pardon.

I know that while you fellows were trying to destroy this country, or most of you—and that is all forgotten and washed out, you are back now, but it is not your fault you are here [laughter]—I know while you were trying to destroy the Government this colored man, Smalls, was trying to save it. I know he stands here to-day unconditionally pardoned by a Democratic governor. I do not know what his object was. That he did it is sufficient for me. You complain in your report bitterly because you caught two or three negroes down there committing perjury. Why, they are great imitators, these colored people. [Laughter.] They learn a lesson. You call it intelligence down there. You say that intelligence must govern. You show your intelligence by stuffing ballot-boxes and in stealing them, or in committing murder, if it is necessary to win, and then say that is "intelligence," and "intelligence must govern." Did you ever think that with so large intelligence if it was a little mixed by putting a little more honesty into it and a little less intelligence it would be a considerable improvement? When we catch a man up North committing perjury, we call it a crime; but you call it intelligence down there in a political way.

This is a question, Mr. Chairman, that has got to be settled some time or another. It is one of the relics of slavery; it is one of the things the people of the country have got to get rid of, and I say it with no animosity to gentlemen on the other side; you have got to settle the question, and you know, if you know anything of the history of the world, that a question is never settled until it is settled right. I care not what your religious belief may be. There is no vicarious atonement for a political crime. We pointed with pride at the wealth piled up in this country by slaves, but history has taught us that the first touch of his unsandaled foot was a curse to the American soil. The plaintive song of the slave destroyed the harmony of the national music for a century. No picture could be painted of the genius of America in which the whipping-post and the slave-pen did not rear their hideous heads. We boasted of our liberty-loving country and the other countries of the world pointed their fingers at our slaves and proved us to be a nation of liars.

It was a violation of the law of nature. The law of compensation demanded settlement. The slave-pen will not furnish material to fence our cemeteries, nor will the auction-block make headboards for our graves. The prophecy of Lincoln was fulfilled; every drop of blood drawn by the lash was repaid by one drawn by the sword, and the wealth piled up by the unrequited toil of the slave under the providence of a just God is scattered to the four corners of the earth.

You can help settle this question if you will. I will admit that they are what you have made them. They are not residents of this country by their own free will. Their fathers were brought here by the Anglo-Saxon race, and I desire to call your attention to this fact: You know there is American blood in their veins. You know that they have begun to taste the sweets of liberty; you know that they have learned to whistle the "Star-Spangled Banner," and their Fourth of July will come to them some time. I hope and pray it will come peaceably. The record in this case shows one continued persecution and abuse. But if blood shall flow and houses burn the responsibility will rest upon you. You will not admit it now, but history will so write it, and your children who come after will so read and so understand it.

If I have offended any gentleman I am sorry. I have no apology to make for it, however, unless they can show that I have gone outside of the record in this case. You have it in your power, gentlemen, to settle this matter.

Mr. WASHINGTON. Nobody gets mad when a dog bays the moon.

Mr. MASON. I did not understand what the gentleman said.

Mr. WHITE, of New York. He says that nobody gets mad with a dog that bays the moon.

Mr. MASON. I thought I heard a beer-bung start. I did not know what there was in it.

Now, Mr. Chairman, I say this: While I have no apology to make for what I have said unless some gentleman will convince me I have gone outside of the record in this case, you gentlemen have the power to say to these ignorant colored people, "Hereafter we will give you a fair ballot." Put in an educational clause if you want to; put in a property clause as a qualification; do what you will, but be honest with them if you want to help them. If you are offended at what I have said here to-day, take it out of me some time when you get a good chance, but do not take it out of my poor colored friend here (Mr. Smalls), who has been waiting two years for his seat, kept out of it by the "intelligent" action of the Committee on Elections. That is a fine species of intelligence.

If 276 men can be disfranchised by the "intelligent" action of one man, then the committee which can keep a man who is elected out of his seat for two years is more than intelligent; it rises to the rank of genius [laughter], and if the Democratic party keeps on growing in intelligence in this way it will be composed of intellectual giants; it will ultimately reach the heights of unlimited intelligence and everlasting power. [Laughter.] But, gentlemen, your time is short. I have heard it said that even a bad man when he comes to die will do a good action. Is it so with a party? [Laughter on the Republican side.] You are on your last legs. The 4th of March will see the Democratic party marching out for the last time to its everlasting resting place. [Laughter on the Republican side.] We approach your death-bed, as it were, and we ask you for justice for a poor man elected in a district which you intended to be Republican. Do it as your last act, and let the last act of the Democratic party differ from all its previous acts by being an act of justice. [Laughter on the Republican side.] I appeal to you for the sake of the peace and comfort of this country, I appeal to you in behalf of our children who shall inherit this country after we are gone and whose grandest heritage is their citizenship. Rise above party lines and look at the evidence in this case. Rise above the color line. Ay, gentlemen, rise above everything but the upholding of the law and the doing of even and exact justice. [Prolonged applause on the Republican side.]

Road to National Cemetery at Dover, Tenn.

SPEECH
OF
HON. JOSEPH E. WASHINGTON,
OF TENNESSEE,
IN THE HOUSE OF REPRESENTATIVES,
Tuesday, February 19, 1889,

On the bill (H. R. 11694) to construct a road to the national cemetery at Dover, Tenn.

The SPEAKER *pro tempore*. The Chair will recognize the gentleman from Pennsylvania.

Mr. FELIX CAMPBELL. What has become of my motion to take a recess?

The SPEAKER *pro tempore*. It will be in order when the gentleman is recognized. The Chair has recognized the gentleman from Pennsylvania [Mr. MAISH] to call up a bill.

Mr. MAISH. I call up the bill (H. R. 11694) to construct a road to the national cemetery at Dover, Tenn.

The bill was read, as follows:

Be it enacted, etc., That the sum of $10,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of constructing, under the direction of the Secretary of War, a macadamized road from the river landing or its vicinity, in the town of Dover, Tenn., to the national cemetery near old Fort Donelson: *Provided*, That the right of way, not less than 50 feet in width, shall first be secured to the United States to any part of the ground over which said road shall run, not now owned by the United States.

Mr. FELIX CAMPBELL. Now, Mr. Speaker, I ask to be recognized for my motion.

The SPEAKER *pro tempore* (Mr. SPRINGER). The gentleman from Pennsylvania [Mr. MAISH] has the floor.

Mr. MAISH. Now, Mr. Speaker, I yield to my friend from Tennessee [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, I will not take up the time of the House by having the report which accompanies the bill read, but I wish to make a brief statement. This bill proposes to provide for the construction of a road only 1 mile in length, from the river landing at the town of Dover to the historic battle-field of Fort Donelson, which is now used as a national cemetery. Around that silent city of the dead cluster a thousand glorious memories. On those lofty heights sleep hundreds of heroes in their final resting place.

The story of how bravely they fought, how nobly they died, will forever illumine one of the most thrilling pages of American history, and will fill with pride the hearts of our youth long after we are gone. This battle was one of the turning points in the great struggle between the States. Here the immortal Grant won his first great laurels. Well do I remember the bleak day in February when it was said "There is a battle raging at Fort Donelson." I was a little boy, and the dull, sullen thud of the cannon, which reached my ears and jarred the window-sash, filled me with a vague, indefinable dread. I was not old enough to understand fully what war and battle meant, but by the anxious look on the faces of those about me I knew that some dread calamity impended.

A few days afterwards the straggling bands of unarmed soldiers who had escaped in the night passed our home on their retreat to Nashville. Their hunger and thirst, their soiled and tattered garments told more plainly than words their condition. Recently I visited that fateful field. At every turn marks of the conflict are still to be seen. Here and there great pits yawn with open mouths. These, I was told, were the graves into which, after the fight, without coffin or shroud, the dead had been thrown, a dozen or more together, and from which the remains were later removed to the neighboring cemetery. The shattered trunks of trees whose tops had been riven and carried away as if by the fierce lightning of heaven showed where the cannon shot had done its terrible work. The bosom of the earth still bore the scars where it had been plowed by the missiles of death, and the occasional minie-ball which I picked up in the bed of some little gully bore mute testimony to the leaden hail of death that had rained around. Nature, rejuvenescent nature, however, had been at work as if striving to obliterate the remaining traces of that bitter day. The green grass had sodded over the rampart and the rifle-pit; the young growth of the forest, thick and tangled like the jungle, was springing up to hide the places where contending lines had advanced and receded, and advanced again only to be mowed down by the fire of death.

On the highest point commanding for miles a view of the winding river and its wide, fertile valley, on the site of the old fort, is this cemetery. The waters of the Cumberland as they pass sing a silent requiem to the dead. The breeze softly sighing across the hills, musically rustling the leaves of the neighboring forest, seems to gently caress the flag of the Union as it floats above the white monuments and grassy mounds. There they lie.

> On Fame's eternal camping-ground
> Their silent tents are spread,
> And glory guards, with solemn round,
> The bivouac of the dead.

In the thicket, in the fields, on the hillsides, almost where they fell, lie unmarked the bones of those who wore the gray. The sentinel trees stand guard above them, and every autumn when the rude kiss of the frost king makes their foliage blush with the myriad hues of the brilliant rainbow they gently drop a covering over the nameless graves. The mocking-bird soaring skyward and dropping back on graceful wing in his weird, varied, and shrill but musical notes sings his lullaby to them in their eternal sleep.

Barely clay enough was hastily thrown upon them to hide their blanched faces from the light of day, and after a torrent of rainfall, a fresh, broken wash, on some declivity, frequently lays bare the bones of some brave boy who never returned to the empty, waiting arms of an anxious, loving mother.

The only way to reach this historic spot is by boat on the Cumberland River. It is many miles remote from the nearest railroad. Those attracted thither, whether as tourists or to do homage at the shrine of glory and to fitly commemorate the valor of the dead, must follow a rough and rugged way from the river to the fort.

This bill proposes to authorize the Secretary of War to construct a macadamized road from the river landing to the cemetery, a distance of 1 mile, and appropriates $10,000 for that purpose.

The county court of Stewart County, in January last, unanimously passed a resolution and had it recorded and properly certified by the clerk, giving the United States the right of way and absolute control over the ground, and all the easements necessary to construct and maintain this highway. I have already transmitted that resolution to the Quartermaster-General, who has it on file in his Department.

Now, as this is a local bill for my people, and at the same time is for the benefit of all the people of the Union, I appeal to the gentleman from New York [Mr. FELIX CAMPBELL] not to obstruct the passage of this little measure. To obstruct it will not facilitate the passage of his bill to erect a monument to the memory of the victims of the prison-ships in the Revolutionary war. The passage of this bill will not do any injustice to his constituents. It will not set back his measure, but it will do justice to the dead, the sacred dead, the nation's dead, in whose behalf I make this appeal here to-night. A survey for the road has been made by the War Department. All the necessary expenses have been estimated. Everything is in order; everything is in form. I have in my desk a map showing the route of the proposed road, and I appeal to my friend from New York [Mr. FELIX CAMPBELL] and to my friend from Texas [Mr. KILGORE], both of whom I know are "loaded" with objections, to let this bill pass.

We are all aware that there is no quorum here to-night, but that is not the fault of those of us who are here; and it is true that any gentleman exercising a right which every member has under the rules of the House to call for a quorum on the final passage of a bill can defeat any measure, no matter how meritorious, at one of these night sessions.

As the days of this Congress are already numbered and are rapidly drawing to a close, as this is the last opportunity I shall have to call up this bill, I appeal again to the gentleman from New York not to visit his wrath on this meritorious and unoffending measure. [Applause and cries of "Vote!" "Vote!"]

Mr. HOLMES. I understand the gentleman from Tennessee to say that the county has released the right to the Government.

Mr. WASHINGTON. Yes, sir.

Mr. HOLMES. Does the gentleman understand that the county can release such a right?

Mr. WASHINGTON. In Tennessee it can give such a right, and there is also a bill pending before the Legislature of Tennessee to further confer and secure the right of way for this road.

Mr. HOLMES. I understood the gentleman's statement to apply to the ground on which the cemetery stands.

Mr. WASHINGTON. Oh, no; I meant the right of way for the road. The Government owns the cemetery in fee.

Mr. Speaker, I shall append to my remarks the report made on this bill by the gentleman from Pennsylvania [Mr. MAISH], and who has so kindly yielded me his time to consider it to-night.

The SPEAKER *pro tempore* (having put the question on the amendment reported by the committee) said: The ayes seem to have it.

Mr. FELIX CAMPBELL. I call for a division.

The question being again taken, there were—ayes 43, noes 1.

Mr. FELIX CAMPBELL. No quorum.

Mr. MAISH. I withdraw the bill from the consideration of the House at this time.

The following is the report:

The Committee on Military Affairs, to whom was referred the bill (H. R. 11694) for the construction of a road to the national cemetery at Dover, Tenn., submit the following report:

The national cemetery near Dover, Tenn., occupies the site of Fort Donelson, on a beautiful hill overlooking the winding Cumberland River. This historic spot, having been the scene of one of the most decisive battles of the war, is annually visited by hundreds of travelers drawn thither no less by the desire to view this memorable battle-field than to do honor to the nation's dead. The only way to reach this cemetery is by boat to Dover, a little village of about 300 inhabitants, and from the river landing to the cemetery, a distance of 1 mile, there is no thoroughfare, except a rough country road, after passing a few hundred yards along one of the village streets.

Your committee attach to this report a letter from the Quartermaster-General's Office, giving a full and detailed statement of the cost and construction of this road, and recommend the passage of the bill with the following amendment:

Strike out the word "ten," in third line of the bill, and insert "seven," making the amount to be appropriated $7,000 instead of $10,000.

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., December 15, 1888.

COLONEL: In accordance with your instructions of the 21st ultimo I have made a preliminary survey for the proposed Government road from the Cumberland River, at Dover, Tenn., to the Fort Donelson National Cemetery, and have the honor to report as follows:

The best, and indeed the only practicable route, is by the present traveled road through the village of Dover, which follows the crest-line of a ridge and is therefore drained at small cost.

The distance by this route from the landing to the inner cemetery gate is exactly 1 mile.

Stone for macadam and masonry is abundant and cheap, as is also gravel.

I recommend a metaled roadway 30 feet wide and 12 inches deep, one-half stone, one-half gravel.

As large numbers of people visiting the cemetery come by boat and have to walk, I recommend one line of curb and a graveled sidewalk.

The citizens of Dover will probably put in another curb and sidewalk on the opposite side.

I submit below an estimate of cost.

Estimate of cost.

3,500 cubic yards earthwork, at 25 cents	$875
2,800 cubic yards broken stone, foundation, at $1.50	4,200
4,700 cubic yards gravel in roadway and sidewalk, at 50 cents	2,350
4,000 linear feet stone curb, 4 by 16 inches, set, at 30 cents	1,200
90 cubic yards dry rubble-stone masonry in culvert, at $4	360
100 cubic yards dry rubble-stone masonry, retaining wall, at $3	300
180 linear feet 8-inch terra-cotta pipe, laid, at 40 cents	72
110 linear feet 12-inch terra-cotta pipe, laid, at 60 cents	66
2,000 bricks, at $15	30
Engineering	547
Total	10,000

It is very desirable to add $1,500 more for 7,000 linear feet of stone-paved gutters.

As there are places on the route where a greater width than 50 feet can not be obtained without interfering with buildings and with a citizens' cemetery, and that width is sufficient for a good roadway, I recommend that width for the road.

Dover is not incorporated. It is a small village of 200 or 300 inhabitants, and is not in a prosperous condition.

There is no way (except private subscription) by which money can be raised to keep this road in proper repair unless it is kept up by the Government. Very little work is done on county roads, and I do not think the county officials could be depended upon in this case. Fort Donelson is a point of great historical interest, visited by thousands of people from all parts of the Union. It is not only desirable, therefore, that a good road should be built by the Government from the river to the cemetery, but that reliable provision be made for keeping it in repair. The cost will not be great. If neglected the road will soon be destroyed.

I submit map and profile herewith.

Very respectfully, your obedient servant,

W. H. OWEN, *C. E., Q. M. D.*

Lieut. Col. G. B. DANDY,
Deputy Quartermaster-General, U. S. A.

The Nicaragua Canal.

REMARKS

OF

WILLIAM S. HOLMAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, December 7, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration Senate bill No. 1305, entitled "A bill to incorporate the Maritime Canal Company of Nicaragua"—

Mr. HOLMAN said:

Mr. CHAIRMAN: I submit the following proviso, to be added to the first section of the bill:

Provided, however, That nothing in this act shall be so construed as to commit the United States to any liability whatever for or on account of said company; nor shall the United States be held in any wise liable or responsible in any form or by any implication for any debt or liability in any form which said company may incur, nor be held as guarantying any engagement or contract of said company, or as having assumed, by virtue of this act or otherwise, any responsibility for the acts or proceedings of said company in any foreign country, or contracts or engagements entered into in the United States.

The pending bill proposes to incorporate a company to construct a canal through the territory of Nicaragua, and perhaps Costa Rica, in Central America, to unite the waters of the Atlantic and Pacific Oceans. The corporators are to be in part citizens of the United States and in part citizens of other nations. The capital stock of the corporation is fixed at $100,000,000, but may be increased to $200,000,000 at the discretion of the corporation. It may issue bonds absolutely without limit, and execute on its property of all kinds and franchises a mortgage to secure their payment. The following is the provision which confers this unlimited power:

And to aid in the construction of said canal and to carry out the purposes of this act, the said Maritime Canal Company of Nicaragua is hereby authorized to issue its bonds, and to secure the same by mortgage on its property and rights of property of all kinds and descriptions, real, personal, and mixed, including its franchise to be a corporation.

The "property of all kinds, real, personal, and mixed," which this corporation is to be authorized to mortgage under an act of Congress, will be property situated in a foreign government, in the main real estate in a foreign nation, and "franchises" only in part granted by our Government, but mainly by a foreign government, and subject to the regulation and control of a foreign power.

The bill, except that it deals with foreign land titles and franchises, reads like the grants of lands and bonds and franchises made by Congress to corporations twenty-five years ago and authorizing them to mortgage their property and franchises, opening up opportunities for the enormous frauds which humiliated the nation, yet enabled the unscrupulous corporators to amass colossal fortunes.

But by this extraordinary bill we are proposing to confer on some enterprising gentlemen the opportunity to employ these methods of acquiring fortune in a foreign country where responsibilities may fall upon our Government vastly greater than those which we encountered in granting special privileges and great opportunities for fortune in our country.

The extraordinary grants made by Congress here at home were matters of our own; they were within our own jurisdiction and under our control. We could declare forfeitures, regulate assets, and protect the rights of citizens against the rapacity of incorporated power without hindrance or embarrassment. We could determine for ourselves the extent of the liability of Government on account of such grants and give our own interpretation to them, and no power beyond that of the great Departments of our Government could have a voice in any question that could arise.

The advent of our Republic into the family of nations, it was believed by our fathers, began a new era in the history of the world, the presence of a nation in the family of nations, where the avowed and only purpose of government was the equal promotion of the interests of the whole people, where the great powers of government should not be employed to promote the interests of favored classes or to open up special opportunities to acquire fortune to the favored few—the special mission of all former governments—but a government "wise and frugal," resting upon the natural equality of mankind, which, in the language of one of its most illustrious founders—

shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government.

Before the founding of this Republic the powers of government from the beginning had been employed in advancing the fortunes of the favored few, the privileged classes, and this, too, under the ever-present, plausible pretense of promoting the public good. In the condition of the world in the eighteenth century it is obvious that if our portion of the North American continent had been within the reach of European domination a perfect example of republican government and of the nobility and strength of free institutions could never have occurred in the settlement of our globe.

If this portion of North America had ever been brought within the dominion of the policies of Europe, when the petty ambitions of reigning families, fostered by the centuries of the feudal age, furnished a pretext for enslaving the masses of mankind, the agonies of successive revolutions could only have broken the iron despotism of tradition. The struggles of France for free institutions through a century illustrate the overmastering force in the policies of Europe of the old ideas of government where the prosperity and happiness of the people is made subordinate to the glory and power of the state.

In organizing our Republic our fathers, exulting in the opportunity which a beneficent Providence had offered, cut loose from Europe and its state-craft of feudalism and organized a government for the people and for their benefit, and not for the power and glory of the nation. The power and glory of the nation, which had made Europe a land of lords and serfs, was the principle in feudalism our fathers cut loose from; the petty ambitions of kings and the wretched rivalry of nations, in which the people only suffer, was to be left to Europe and other quarters of the globe, while the United States entered upon its grand career with but one purpose in view, the happiness and prosperity of its people.

I think Washington was greater in statesmanship than in arms. In the inauguration of the Government there was the greatest peril of our Republic being complicated with European affairs. No influence less powerful than that of Washington could have prevented it. France, indulging the presumption that her valuable aid in the Revolutionary war entitled her to interfere in the affairs of the feeble nation she had sheltered, sought to involve us in the political affairs of Europe, but the earnest words of Washington kept the infant Republic true to the new departure in statesmanship—government for the well-being of the whole people, not for the rivalry and ambition of nations.

In the Farewell Address of Washington he expresses a sentiment which in other forms he had often expressed:

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

This reference to former "engagements" of course refers to our engagements with France in the Revolutionary struggle. "Fulfill these," but "here let us stop," are the words of the greatest statesman of the Republic. From this sprang up the maxim "Commercial relations with all nations, entangling alliances with none."

From the days of Washington down to the present period the foreign policy of this Government has remained unchanged. While by honorable purchase of contiguous territory from France, Spain, and Mexico the territorial limits of our country have been enlarged to their present grand proportions, every effort of personal ambition, every scheme for individual aggrandizement, which has been organized seeking to involve the nation in foreign affairs by the possession or control of foreign possessions has signally failed to receive the approval of the American people.

We have refused opportunities which a monarchy would have grasped at, even if it involved the most hopeless impoverishment of its people. Years ago such opportunities were presented. Hayti, Samoa, and the Hawaiian Islands are examples—feeble powers which might well seek the shelter and beneficent protection of a government which only sought to secure the happiness of its people. If this nation had been a monarchy, inspired by the mean ambition which has controlled monarchies from the beginning, and had reached the power and greatness this Republic has attained—if such a thing could have been possible, its hopeless and impoverished people would already have seen its iron heel on every state of this continent, like Ireland under the dominion of the British power, and its lords and barons rioting on its extended and poverty-stricken dominions.

The distinctive glory of this Republic is that it has employed its powers in promoting the happiness and prosperity of its people and scorned the petty ambition of extending its dominion over feebler states, and thus opening up in America the old highway of fortune to the fortunate few and poverty to the many—the story of the Old World repeated.

I think, considering the natural tendency of great power, whether it be in government or in any form of incorporated wealth, to enter upon enterprises where the benefit and fortune of the few only are considered, without regard to their effects on the multitudes of men who are to bear the burden, that the early admonitions of the founders of the Republic have up to this time, through more than a century, except at least as to enterprises within our own limits supposed to involve public interests, kept the prow of the ship of state—the object of government—steady to one point, the prosperity and happiness of the whole people.

There is no century in all history where a government has been so true to the whole of its people as ours has been during the past hundred years. No wretched clamor that the Republic should assert its power among the nations, no plausible pretense that we were lagging behind in the progress and glory of the nations in failing to seize upon great opportunities for prominence in the affairs of the world, have as yet caused a departure from the high policy of our fathers, a government for the happiness of the people, not for the ambition and fortune of a few.

Admitting the importance of a canal across the Isthmus from the Atlantic to the Pacific Ocean through Nicaragua and Costa Rica, equally important to Europe as to America, if this body of gentlemen who propose to enter upon that enterprise wish simply and in good faith an act of incorporation to enable them to prosecute their enterprise, they have already obtained from the State of Vermont, where no constitutional objection exists, for the constitution of a State only imposes a limitation on the powers of its Legislature, and no limitation such as this exists in the constitution of any State—they have not only obtained a charter from that State in the exact terms of the bill before us as it came from the Senate, but it is said have already issued bonds under that corporate organization to the extent of $1,000,000 to inaugurate their enterprise.

In applying to Congress for an act of incorporation of so extraordinary a character as this, conferring unlimited power of issuing bonds, with stock at the beginning at $100,000,000, to be enlarged at discretion of the corporation to $200,000,000, it must be obvious that the object is to involve our Government directly in this enterprise. What other object could there be?

It is admitted that even as to the capital stock of this corporation it will in the main be a foreign enterprise. Judge Daly, of New York, one of these gentlemen, addressed the Senate committee as follows:

Now, it is necessary that there should be certain provisions in the act of incorporation that will satisfy persons abroad, from whom a large part of the money should be raised. There is nothing more difficult in enterprises of this kind than to get money. It is the hardest thing to get, and it is obtained only upon a thorough security.

"A thorough security." The State of Vermont can grant the charter, but it possesses no power to operate outside of its territorial limits; its resources would not be sufficient to meet the coming emergency; therefore the resources and power of the United States must be invoked!

It is not the necessary corporate power these gentlemen are seeking for; they have that already. It is to obtain at once the moral and ultimately the financial and political resources and power of the United States that these enterprising gentlemen are aiming at—the old story repeated, the power and resources of government employed to enrich the few at the expense of the many.

Let us consider for a moment the proportions this enterprise is likely to assume which the United States are sought to be made responsible for in their first venture to open up commercial highways in a foreign country. To begin with, $100,000,000 of capital stock, which these gentlemen may increase and water at their pleasure to $200,000,000, and then under the almost unlimited corporate powers granted by this bill these gentlemen can issue their bonds absolutely without limit. Let us see how their operations are to be carried on.

Judge Daly, of New York, one of these gentlemen, and the agent of the so-called "Maritime Canal Company of Nicaragua," expressed the object fully as to how this canal would be constructed before the Senate Committee on Foreign Relations on January 25, 1888, when this bill was pending in the Senate. Judge Daly's statement appears in the report of that committee, No. 221, first session Fiftieth Congress, made to the Senate on the 9th day of February, 1888:

The way it is done in enterprises of this kind, and I know of no exception—enterprises that involve a large amount of money—is to issue bonds in the nature of mortgage bonds. They are a security upon the work as it is finished, and are paid only as the work progresses, and not otherwise. They are not paid in advance; and as a compensation for the risk, in addition to the interest on the loan, a certain amount of the stock will have to be given. That is the way it has invariably been done. That has been the way with our great Western undertakings to the Pacific. One of the first questions they will ask will be whether we have lawful authority to issue bonds as a corporation. If we should tell them what our laws are, they would answer at once, "We know nothing about your laws," and it is to guard against this that we have incorporated in the charter the right to issue bonds.

The next question would be whether the stock issued for the work as it progresses would be regarded as paid-up stock, and for that reason a provision to that effect is made in the bill.

Those are the only two important provisions we have inserted in the bill. We can then say there is the charter which authorizes us to issue bonds, and also authorizes stock to be issued for property and work done. Now, those are the two essential things to put in the charter. Beyond that we ask nothing but the recognition which is implied by the granting the charter.

And further on Judge Daly says:

Judge DALY. There is one consideration in that point of view; our association will be large stockholders by virtue of the concession made to us by Nicaragua, and the State of Nicaragua will also be a large stockholder by virtue of the concession. If a large proportion of the bonds is taken up in Europe, the amount of stock given to the foreign bondholders will be comparatively small. Practically, as a general result, they might have control, but that would only be in co-operation with American holders. I presume that would be the case here.

And such, gentlemen, is the enterprise this Government, through a corporation created by it, is to engage in in a foreign country. So, sir, the stock, $200,000,000, if the corporation so determines—and, of course, it will so determine—is to be given to the bondholders "as a compensation for the risk in addition to interest on the loan." And this enterprising gentleman tells us above that "that has been the way with our great Western undertakings to the Pacific." And such is to be the character of this enterprise from the beginning, openly avowed.

Is this a pleasant remembrance? Was the Crédit Mobilier, which defrauded this Government out of millions of dollars, overwhelmed this House with dishonor, and drove from this Hall never to return members once highly honored, so pleasant an incident in our history that Congress shall authorize its repetition under its sanction in a foreign country? And so Nicaragua is to be a large stockholder of paid-up stock, and the suggestion is made that a large portion of the bonds are to be taken in Europe. And the people of the United States are by this bill called upon to stand behind and be prepared to bolster up an enterprise for the benefit of both European and American capitalists and adventurers and officials of Nicaragua in possible sums of such magnitude as to dwarf into a trifle the enormous sums involved in the frauds of the Crédit Mobilier and the Union Pacific corporation.

During our past history Congress, legislating on subjects within our own exclusive jurisdiction, could determine what remedy was proper for frauds committed under color of its enactments, or restrain the attempt to commit fraud, and could determine in such case what justice demanded in behalf of the United States or its citizens with no power to interfere. But, by this bill, if it becomes a law, you invite in express terms capitalists of all nations to become the holders of stocks and bonds issued by a corporation you have created, operating in a foreign country and beyond your jurisdiction. When $200,000,000 of stock shall have been issued and bonds without limit held by citizens of Germany, France, England, and the other nations of Europe, and questions shall arise, as they will arise, how far the United States is responsible, they will not, as in all former years, be able to determine the questions as those of internal policy, for the rights of citizens of other nations will be involved in the enterprise we have authorized. Thus the United States, leaving the old path of safety, will become involved in foreign affairs, and lose the impregnable position of neutrality in foreign conflicts which has been the foundation of our safety from the beginning.

Besides all this, Nicaragua and Costa Rica, through whose territory this canal will pass in its course from the Atlantic to the Pacific, are feeble governments, not controlled by an intelligent people, already mixed up by treaty and otherwise with the European governments; and gentlemen will readily see from the nature of the concessions alleged to have been made to this "maritime canal company," and the nature of the rights those governments have retained, that within a few years the United States will have to employ its powers in protecting this corporation in the rights it claims, a corporation in fact more foreign than domestic; and yet the United States, having granted these corporate powers, will be compelled to maintain them.

The probabilities are that the United States will be compelled at an early day to occupy the country with land forces and a naval force on each border. No one can say that this will occur, but it can be readily seen that such will almost certainly be the result, and if it does this Republic will become as completely involved in the wretched contests and still more wretched methods of government which have impoverished the many and enriched the few as if it had been a part of the European system. If this Government once leaves its impregnable position of fostering only the well-being of its own people, which resulted in its present greatness, who shall predict, in the light of history, its effect on our free institutions?

If this enterprise shall be successful under the policy of this bill, these enterprising corporators and others will reap a rich harvest and amass wealth; if disaster shall befall it, such as all enterprises of magnitude and all others are exposed to, these corporators of Europe and America and others connected with them will amass fortunes out of the stocks and bonds you authorize this corporation to issue, for when you enter upon this work in the manner and form proposed by this bill you can not escape the inevitable consequences. The judgment of the nations whose citizens you invite to invest their capital in this enterprise will demand that this Government shall be held responsible for

a great foreign work it has authorized to be constructed by a corporation composed of citizens of all nations, implying support and protection of this Government.

Besides all this, with the national honor involved, and the great capitalists of this country who have become the holders of the stocks and bonds of this corporation demanding, on the many plausible pretenses that will be suggested, amongst others, that this Government having induced capitalists of all nations to engage in the enterprise, and that unexpected obstacles had been met, as in the case of the Panama Canal, the Government ought, in common honesty and in respect to national honor, to furnish proper relief, will Congress be able to resist their demands? I answer, no; and if this bill becomes a law the early future will confirm my statement.

And thus, sir, this canal will be, even if this corporation shall fail, completed. Another great brood of ingenious and skillful financiers who live off of the labor of other men will amass kingly fortunes through the employment of Government in the old method, at the expense of the toiling millions. And yet the hundreds of millions of dollars which will be drawn in taxation from the mass of men of our own country will not add one cent to the value of their daily labor or in any possible degree ameliorate the hard fortune to which labor is subjected by these methods which have centralized the wealth of the world and consigned the great multitude of men to poverty. If the capitalists of Europe and America wish to construct this canal let them do so, for it will greatly foster the capital interests of both continents; but I protest against the purpose which this bill aims to accomplish, to cast the ultimate burden on the labor of this country while the benefits and profits will inure to capital of Europe and America.

It is manifest this bill will become a law. It is easy to disguise such an enterprise and hold out delusive hopes to the laboring men who constitute the great mass of our people and of the world, but I will attempt in the best way I can to prevent this stock-jobbing enterprise from being made a source of fortune to these corporators of Europe and America at the expense of the laboring men of this country, even if the greater evil of this measure can not be averted. I will press the amendment which I have already named:

Provided, however, That nothing in this act contained shall be so construed as to commit the United States to any liability whatever for or on account of said company; nor shall the United States be held in any wise liable or responsible in any form or by any implication for any debt or liability in any form which said company may incur, nor be held as guarantying any engagement or contract of said company, or as having assumed, by virtue of this act or otherwise, any responsibility for the acts or proceedings of said company in any foreign country, or contracts or engagements entered into in the United States.

I freely admit that in an enterprise of this magnitude, authorized by the United States in a foreign country, involving the commercial enterprises and the great capital interests of the world, the restriction which I have proposed may be almost as feeble as the spider's web; I admit this. The force of this movement, the struggle of the great interests and great capitals that will be involved in this enterprise will, if our former experiences are considered, render such a restriction or declaration of little avail, and yet, hoping for the best, I offer this amendment. It may possibly meet some wily argument that from the nature of the unlimited powers conferred on this corporation the United States in the beginning intended to assume, financially and otherwise, responsibility for this foreign enterprise and guaranty the investments of the skillful financiers and enterprising capitalists of all nations, who are seeking to use the power and resources of the United States, for their own aggrandizement.

If it is adopted it will at least stand as a protest of this present House of Representatives against the claim that will be made that the United States intended such guaranty. The times that are coming can only determine the strength of such a declaration as to the purpose of the United States in granting such an extraordinary charter when the corridors of this Hall shall be crowded with a powerful lobby demanding that the United States Treasury shall uphold and validate the hundreds of millions of dollars in stocks and bonds which its corporation shall have issued for the enrichment of the financial adventurers of Europe and America. I at least hope that the amendment I have suggested will be adopted.

But, independent of these questions of policy, I deny that Congress, under the Constitution, has the power to grant such incorporate powers. There is no precedent for this. In our history of more than a century Congress has never dared to assume such power. What provision of the Constitution confers such power on Congress?

It is claimed by some gentlemen under section 8, clause 3, of the Constitution—

To regulate commerce with foreign nations and among the several States and with the Indian tribes.

"To regulate commerce." Can Congress, or the executive department, or the Supreme Court of the United States declare that under this general power "to regulate commerce" the United States, directly or by a corporation deriving power from them, might enter a foreign nation and engage in constructing in such nation works of local improvement, canals or railroads? I deny that any decision of the Supreme Court of the United States in relation to the commerce between the States could have any relation to "foreign nations," especially and in view of the fact that from the beginning Washington and his great associates, whose counsels for at least a third of a century directly guided the affairs of this nation, with unwavering firmness resisted any entangling relations whatever between our Government and foreign nations. Would these great statesmen have conferred a power on Congress which from the very beginning they were determined should not be employed?

I deny that the United States can, under the Federal Constitution, go beyond the States and Territories and District of Columbia and exercise its powers, except in protecting it citizens and its commerce, and, under the power to make war, assailing their enemies for national defense,

This Government—a new departure in the history of the world—was designed for the purposes expressed in the preamble of the Constitution:

To form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Not one word of this grand declaration of our Constitution indicates a purpose of the authors of the Constitution that this nation should imitate the ambitious policy of the then nations of the world in the fields of foreign enterprise, the policy which had even then reduced Europe to a land of palaces and huts, the very policy from which our fathers sought to cut loose forever.

I protest against this bill as in direct conflict with the policy under which our nation has grown and prospered without any example in history for more than a century, and because this departure from the policy of our fathers imperils our now impregnable standing as a republic and the untrammeled power of our people to control the affairs of the Republic. This power when our Government becomes complicated with the affairs of other nations is gone.

NOTE.—Mr. HOLMAN'S amendment was adopted, and the bill passed.

Naval Appropriation Bill.

SPEECH

OF

HON. PRESTON B. PLUMB,

OF KANSAS,

IN THE SENATE OF THE UNITED STATES,

Tuesday, February 12, 1889.

The Senate having under consideration the bill (H. R. 12329) making appropriations for the naval service for the fiscal year ending June 30, 1890, and for other purposes—

Mr. PLUMB said:

Mr. PRESIDENT: The general idea which the Senator from Colorado has spoken upon was recognized in the fortification bill of last year, in the following paragraph:

The board is authorized—

That is, the Board of Ordnance and Fortifications created by that act—

The board is authorized to make all needful and proper purchases, investigations, experiments, and tests, to ascertain with a view to their utilization by the Government, the most effective guns, including multicharge guns and the conversion of Parrott and other guns on hand, small-arms, cartridges, projectiles, fuses, explosives, torpedoes, armor-plates, and other implements and engines of war; and the Secretary of War is hereby authorized to purchase or cause to be manufactured, such guns, carriages, armor-plates, and other war materials and articles as may, in the judgment of said board, be necessary in the proper discharge of the duty herein devolved upon them: *Provided*, That the amount expended and the liabilities incurred in such purchases, investigations, experiments, and tests shall not exceed $500,000, which sum is hereby appropriated.

The Senator from Colorado asks me if that became a law. It did.

Mr. HALE. What was the amount carried by that?

Mr. PLUMB. A half million dollars; and that was the result of very considerable investigation on the part of the Appropriations Committee in relation to the general question of what was due to private inventors, not as persons, but with reference to the encouragement of the inventive genius of our people in the matter of armament and munitions of war, and I have been told that under this provision the inventor of the Hurst gun, of whom the Senator from Colorado has spoken so eloquently and effectively, is about to enter upon a series of experiments under the direction of the Board of Ordnance and Fortifications, whereby he expects to be able to convince that board that it should avail itself of the opportunity provided in that appropriation for the purchase of some of his guns for the use of the Army, and also of the larger ones for the purpose of coast defense.

Mr. HALE. I wish the Senator would state right there what the committee did in the construction of this board in amplifying its *personnel*, so that it might not be subject to the complaints that had been made that merely Army circles were inclined to reject the claims of meritorious inventors.

Mr. PLUMB. That was a subject that went through very considerable investigation at the hands of the Appropriations Committee, with the result that this board was formed consisting of the commanding general of the Army and a member each of the Ordnance, the Artillery, and the Engineer Corps, all acting under the direction and supervision of the Secretary of War, with a view of getting away from that obstructive condition of things existing in the Ordnance Bureau of the Army, which has been so much complained of by inventors and others.

I am not prepared to say, in view of the present light I have on the subject, that we have got quite as far away from those influences as we ought to have done; but there is this trouble: The inventors of this country are legion, and they have invented ingenious machines covering every form and entering into every domain of human activity, and if the Government were to take up and experiment with every invention of improved gun or missile or engine of war or other thing designed to protect or to destroy we should use up the entire amount of our appropriations and still be without armament or munitions. The line must therefore be drawn somewhere. Discrimination is necessary, and it has been deemed advisable heretofore to submit the entire question of experiments, of purchase, and of construction to the Ordnance Bureaus of the Army and Navy, respectively, in the belief that those bureaus would be found sufficiently receptive, and that they would choose that which was on the whole best calculated to meet the situation without involving themselves in unnecessary experiments, and with due regard to the rights of inventors.

It became apparent, however, that the Army Ordnance Bureau did not meet the situation properly. It discouraged inventors and inquiry and acted as a close corporation, spending considerable sums of money without practical result, and so it was thought advisable to put offensive and defensive preparations under control of a board consisting of the General of the Army and one officer from each of the great subdivisions of the Army, the Engineers, the Artillery, and the Ordnance, all under the general direction of the Secretary of War. This it was thought would be a great improvement on existing conditions. It may be too early to say that these expectations will not be wholly met, but up to date it seems evident that the board has yielded too much to the control and methods of the Army Ordnance Board, and that it may prove necessary to add some members from civil life.

It seemed to have been demonstrated by the recent investigation by the Committee on Appropriations or by a subcommittee of that committee that there was a determination on the part of the Ordnance Bureau of the Army to deprive inventors of the rights due to them as such by denying them the use of their inventions, at the same time making use of them in the shape of modifications and alleged improvements on the ideas which they had developed in such a way as to obtain credit for bureau and other officers of the Army. It seemed to have been demonstrated, for instance, in regard to wire-wound guns, that after the inventor of this gun had brought his invention in all its details to the attention of the Ordnance Bureau, and Congress had provided an appropriation for the purpose of manufacturing and testing the gun, the officers in charge of that bureau determined to go outside of the inventor and to make a gun of their own, modeled upon the principle and plan of the inventor, possibly somewhat improved, which would illustrate their superiority and give them the credit due to another.

It seemed also to have been practically demonstrated in the case of the Hurst gun that the very estimable gentleman at the head of the Ordnance Bureau of the Navy Department had predetermined that this inventor should have no advantage through Government sources on account of his invention, and that he would interpose all possible obstacles to the demonstration of the value of the invention, and has seemed intent upon preventing its adoption by the Government by copying its central idea and entering upon the production of a similar gun himself.

The Army and Navy each constitutes a very close corporation, not only unreceptive, but wholly determined to recognize no process, suggestion, or invention which comes from outside. What they do not originate is not worth considering.

In order to get the best results we shall manifestly have to get away from these influences. We have done something in that direction by the creation of the board I have mentioned, but more remains to be done.

I do not agree with the Senator from Colorado that we have got no small-arm that is worthy of the name, and that on account thereof we should be at a great disadvantage in the case of a war, because I have the testimony of General Sheridan and numerous other competent Army officers to the effect that the Springfield rifle now carried by the United States troops is one of the best weapons carried by the troops of any nation; not the longest range, nor for rapid firing, but for all purposes as a practical weapon, a weapon not easily disarranged, and one which has advantages which measurably compensate for its disadvantages.

There has always been a difference of opinion among army men as to whether the best small-arm should be a magazine or an ordinary breech-loader. A Springfield rifle is at least a fair compromise among all these different kinds of weapons, and by means of it the United States Army is at least fairly provided for the needs of modern warfare.

I do not feel especially put out because Mr. Hotchkiss and Mr. Maxim went abroad to find purchasers for their patents. The business of foreign governments is warfare to a much greater extent than ours is. We can well afford to let our ingenious citizens go abroad with their inventions. We know perfectly well if we should need in an extremity to use them we can do so. In time of war, I take it, we should not respect the rights of the patentee or of the purchaser of a patent in the person of a foreign government. Therefore, if these patents are developed abroad, it is for the benefit of ourselves among others, and while we may not be able to make as immediate use of it as other governments do, we should still have it if we needed it. And meanwhile we have the benefit growing out of the prosperity of our inventors. National wealth is nothing more or less than the aggregate of the individual wealth of our people.

One objection to this amendment is that it names a particular weapon, and thereby forecloses inquiry and judgment and discretion on the part of the Secretary of the Navy, or of such board or instrumentalities as he may have at his command, for determining in what direction we should make investment in arms for naval purposes; and yet it may be desirable in this case to ignore these instrumentalities and to name the particular weapon, in view of the non-reciprocity of the Ordnance Bureau of the Navy Department, and compel the purchase, to a limited extent at least, although I imagine if we were to take this question up in that way at the demand of inventors who have apparently a very meritorious invention, we should soon have on hand an assortment of warlike instrumentalities which would be of varying degrees of merit, and probably very many of them entirely useless in view of new conditions.

I should prefer, therefore, instead of naming this particular weapon, that some of its characteristics should be mentioned, and that the Secretary of the Navy should be authorized to purchase after proper test weapons possessing those characteristics. Upon that point, however, I do not desire to make and shall not offer any amendment.

But, before taking my seat, I desire to say something on the general subject of the construction of the Navy as carried on during the past four years. It has been at once the fortune and the misfortune of the American people to have during the past fourteen years a Congress so divided politically that there could be no unanimity of action, and in place of confidence there has been mistrust. This has possibly prevented the doing of many improvident and improper things, but has likewise operated to prevent action upon important lines material to national defense.

The House of Representatives having alone the power, according to practice, to originate appropriation bills, was till recently at political variance not only with the Senate but with the Executive, and it chose for purposes of its own, well or ill, to say that the executive department could not be trusted to make the expenditures necessary to construct a navy designed to meet modern conditions. I remember very well when during the Hayes administration the eminent Senator from Kentucky [Mr. BECK], now absent, a member of the Committee on Appropriations, rose in his place and in support of the then pending naval appropriation bill said that he had great pleasure in saying that every item in that bill was just as proposed by the Secretary of the Navy, that it met with his concurrence, and he was glad to know that there was an officer at the head of that Department who could be trusted.

And yet, Mr. President, there was not in that naval bill one single dollar for new construction, but there were millions of dollars for ineffective repairs, it being the policy of those who controlled the initiative of these appropriation bills to give not millions of dollars for defense in the shape of the construction of modern ships of war, but millions of absolutely useless dollars for the repair of ships, which, when repaired, were of no use whatever; and the various Secretaries who estimated for funds for naval uses, as they could get no money for new ships, were constrained to ask for repairs to old ones so that the flag might be kept afloat and opportunity be afforded for the service and instruction of our naval forces.

Against this policy the Senate protested and contended in vain for years. When in the spring of 1885 the administration changed and the Executive and the House of Representatives were in harmony, the Senate then had a chance to get back at its political opponents by changing its policy and adopting the tactics of the House of Representatives, refusing to make appropriations for naval construction to be expended by a Democratic administration, but it did not do so.

It adhered to the policy which it had pursued from the beginning, of proceeding each year to do something upon the then best approved lines, not asserting that what was then known was the best ever to be had, but believing that what was best at the time was better than nothing, that it was time to begin to prepare for the inevitable—begin to instruct our mechanics, our people generally, and stimulate both capital and inventive genius to enter upon the great work of building an American Navy which should be worthy the American nation, going ahead gradually but steadily toward the provision of those means of offense and defense which are absolutely necessary for every first-class power.

It so happened that when the Democratic Administration came in the Democratic House of Representatives was pleased to say, in effect, that it had such confidence in that Administration that it would commit to it the expenditure of sums of money for the purpose of constructing a Navy, which it had denied to Republican administrations, in every respect as worthy as the present Democratic one, and the Senate met the House not only half way, but went farther than the House was willing to go. It adhered to the policy which it had before announced. Where the House proposed to build two ships the Senate, following its old policy, proposed to build four, and insisted so strenuously that the House yielded, and there was given to the Democratic Secretary of the Navy twice more than even his own political associates were willing to give.

I am bound to say that this money was given into good hands. Omitting mention now of some of those things which I felt called upon to criticise in the early period of the administration of the Navy Department by the present head of it, I am glad to say in the closing hours of Mr. Whitney's administration that the affairs of that Department have been well administered. They have not only been well administered, in the sense that everything has been honestly and faithfully done, but there has been a stimulus given so far as it could be done by executive direction to the production of the best types of ships and of the highest form of manufacture, and more than all that, to the encouragement of the inventive genius of our people and to the performance of all possible work, not in navy-yards, where they might be most surely made the instrument of political strength, but in private ship-yards and manufactories, to the effect that we have got to-day enlisted in this great work of building an American Navy not only the Navy Department backed by Congress, but we have got the keen competition of American manufacturers and the inventive genius of all our people, so that we may confidently expect not only the best results, but great improvement each year.

I am glad to say that during the past four years the Navy Department has been administered in a practical, level-headed, judicious way, and the result is such that, quoting a remark made to me by the Senator from Maine [Mr. HALE], and after a careful examination of the reports of the Secretary of the Navy as to what has been done, I am prepared to believe and to say that within ten years we shall have the best navy in the world—not the navy with the most ships, not the navy with perhaps the greatest variety of ships, but the navy which will have the most ships of modern and useful type, the ships which will not only constitute a formidable fleet for offense and defense, but which by reason of their speed will make them the greatest menace to the commerce of such power as we may happen to be at war with—a fleet worthy to carry the national ensign and to be manned, guided, and fought by the worthy succession of the American Navy in its best estate heretofore.

Mr. President, if this work could have been undertaken under any one, perhaps, of the Secretaries who preceded the present Secretary of the Navy, under the same generous auspices we might have had the same or a similar result long since. But fortunately no serious result has grown out of the delay, and it is one of the satisfactory results of the past four years' administration of the Navy Department, not only that we have made a good start toward a navy, but that a unity of sentiment upon this great question has been brought about which makes the future as secure as the past. Henceforth there will be no party divisions to hinder adequate appropriations—not to do all that remains in one year, but something and the best each year, availing ourselves of what is best, until within a reasonable period we shall have a navy equal to all demands upon it and in every respect worthy of the greatest people in the world.

Pension to Widow of General Sheridan.

SPEECH

OF

HON. JOSEPH B. CHEADLE,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 22, 1889,

On the bill (S. 3423) granting a pension to Irene Rucker Sheridan, widow of General P. H. Sheridan.

Mr. CHEADLE said:

Mr. SPEAKER: I realize the fact that my opposition to the pending bill will be misrepresented, that I shall be charged by those who are dwarfed and warped in their reasoning with opposition because the beneficiary is the widow of an officer and not the widow of an enlisted man. It may be asserted that in opposing it I am reflecting upon the name and fame of one of earth's most brilliant military men, or at least that I do not properly appreciate the services rendered the Government by General Philip H. Sheridan. That can not be true, because I, too, was an humble comrade in that great war which developed in him those marvelous qualities of leadership which have made his name immortal.

In that contest I, a private soldier, tried to do the work given me faithfully and well, while he, having been educated and prepared for such an emergency, by virtue of his ability and this education and preparation, achieved for himself and his country a fame which shall endure so long as the history of that war shall be recorded. Philip H. Sheridan was born sole heir to poverty. Under the influences of this incomparable American system, which in its purity grants to the sons of poverty an equal chance in the race of life with the sons of the rich, he was enabled to break away from his environments.

He was tested in a crucible of fire, and he emerged therefrom purified and strengthened, so that in every emergency he was master of the situation, and I would not if I could and could not if I would detract one jot or tittle from his world-wide fame. In the presence of such a character I stand uncovered to pay my humble tribute of respect to his worth and genius, and I desire to concur in advance in all that may be said by my colleague, Mr. KERR, of Iowa, in reference to the achievements made and the honors that are due General Sheridan. They are a part of the heritage of that great contest, and as one of the survivors of it, I rejoice in and am honored by the laurels conferred upon Sheridan.

We are not considering to-day, Mr. Speaker, the question of Sheridan's name and fame in history, of his marvelous march from obscure poverty to fame immortal. That is not the question. Upon that question there could be no division. We are in perfect accord upon that. The question we are to consider to-day is a plain one. It is a simple question. It is so plain and direct and simple that even a child can fully comprehend and solve it. The question is, Was the victory of that contest from 1861 to 1865 a real one? We entered it and fought it to a finish to secure for every citizen of the Government liberty and equality before the law, and now the question is, is there equality before the law here in America? Not social equality, not mental equality—no sane man will contend for that—but is there equality before the law, equality in the right of recognition for services rendered and of the right to receive equal remuneration for equal sacrifices? I shall not be led aside to discuss any other question.

If there be equality before the law, then in that event every widow of our dead heroes is entitled to so much pension, and not one cent more than is authorized by the general pension laws of the United States. There is no escape from this conclusion. Thus it follows that instead of detracting in the least from the name or fame of any man who fought for the preservation of the Union, I am demanding that their sacrifices shall not have been made in vain. I seek to carry into complete execution the fullest possible fruits of their great victory.

I would emphasize, if possible, the fact that this is a Government by the people, for the people, and of the people, wherein there is guaranteed in the organic law of the Government absolute equality in all civil and political rights before the law, instead of special favors and benefits for the select few. I would also emphasize the fact that class legislation, of which the pending bill is a striking sample, is in my judgment the beginning of the end of this Government by, for, and of the people. Our only security lies in a rigid adherence to those fundamental principles upon which rests the whole theory of our Government. Any departure must be fatal, because in our political system precedents are followed closely, and if we shall set up precedent after precedent in this line we shall soon have fastened upon us a system that is at variance with every fundamental theory of our Government.

The pension system is now firmly established. The whole theory of pensions being predicated upon the idea that like disabilities must receive like or equal pensions. There has been established a system which, in the judgment of those who framed the laws, provided what was thought by them to be a just and equitable difference on account of the differences in their positions in the Army and Navy. Thus to the widow of a private soldier is given $12 per month; to the widow of all lieutenant-colonels and officers above that grade, $30 a month, or two and one-half times more than is given to the widow of an enlisted man.

I say, and no man can disprove the statement, that no man can formulate an argument upon any constitutional, legal, equitable, or moral ground to sustain this difference, and yet in the face of these facts the advocates of this measure propose to increase this difference from $12 a month to $3,500 a year. And why? Is the widow to be benefited homeless? Ah, no, Mr. Speaker; she lives in a more elegant home than can be found in the great district I have the honor to represent. Is she in want? No; the statements made by the friends of the measure show that she is far from being in want. Did her husband die in battle? No; the war was ended and his military fame was achieved before the relation of husband and wife was entered upon.

Have all other widows whose husbands either died in service or lost their health and have since died been granted the amount of pension authorized by the general laws? Oh, no! There are scores of thousands of them all over the North, homeless and in actual want of the absolute necessaries of life. Then why, Mr. Speaker and gentlemen of the House,

propose to give to one widow who has an elegant home and an abundance to live upon for years the princely pension of $3,500 a year, while you decline to relieve, under the provisions of the general laws, all these thousands of other equally meritorious widows who are homeless and penniless, subsisting upon the charity of the localities where they live?

I should like to read in cold type the answer to this inquiry. Says one, "My dear sir, your early education has been defective in this, that you forget that the widow of an officer who is accustomed to live in official style can not come down and live upon $30 a month." Notwithstanding the defects in my early education I reply, the Government of the United States does not propose to pension any one in order that they may live in official style; to do that would not be American. It would require that every principle of our whole theory of government be trampled into dust before that could be legally done.

I want to see every pension granted by a general law. I repeat, every pension. I want to see the necessity cease for grouping special bills in pairs—one Republican and one Democrat—in order that they may become laws. Such proceedings are not commendable, either in law or as precedents. I want to see the custom ended, once and forever, of filling the RECORD with statements that certain men who were educated, appointed, and commissioned as officers of the Army and Navy actually did their duty, because even the law presumes that every one of these men does his duty, while as a matter of fact it is the pride and boast of our Army and Navy that every man does his duty conscientiously and well, as his oath and honor admonish him to do. How could any honorable officer fail to do less than his whole duty?

I need not pause after so many years of pension legislation to argue the proposition that all pension laws should be general and uniform, granting in each and every case like pensions for like disabilities, for the reason that the proposition is so true and correct and just that, like an axiom in mathematics, its mere statement will demonstrate its absolute justice and correctness, not only as a constitutional and legal proposition, but also as a wise, honest, and impartial rule for the Government to pursue toward all those persons who are recipients of its bounty.

I hold, Mr. Speaker, and so must every one who desires his official actions to be in harmony with our theory of Government, and as the great mass of the people hold, that like disabilities should and must entitle the pensioner to receive like pensions. This, sir, and gentlemen of the House, is the inexorable logic upon which rests the whole fabric of our pension system, and this is the only just, ay, the only legal ground upon which we can demand that pensions be granted at all.

I am in favor of the most liberal pension policy. A pension for every honorably discharged veteran, and for every widow of our dead comrades; but, Mr. Speaker, I demand, as all the rank and file of my comrades and the great mass of the common people demand, that all of these pensions shall be granted by general pension laws uniform in their ratings and granting to all persons like pensions for like disabilities.

The letter and spirit of our written Constitution, the whole theory of our political system, demands the enactment of general laws which shall be of equal force and effect upon all the people; it therefore follows that if pensions are to be granted at all to the widows of the men who are in our military and naval forces that these laws be so framed that the widow of one soldier or sailor shall receive the same amount of pension that is paid to the widow of any officer of the Army and Navy, including the widow of the General of the Army.

Under our theory of government I deny, Mr. Speaker, that there can be any class or caste in widowhood. If our people are as we declare them to be, sovereign and equal before the law, then such a thing as classes or caste in widowhood is an impossibility in this land of equal rights. Mr. Speaker, I think this safe and patriotic and just ground upon which to stand. This is the safest possible ground upon which to predicate an argument. A position which is in perfect harmony with both the theory and letter of the written Constitution of our country; and one who is thus grounded in the letter and theory of the written law need have no fear about immediate results. Objections may be urged, fault may be found, but he at least is secure.

Upon this highest, this patriotic, this thoroughly American position, I have, Mr. Speaker, taken my stand, and from this vantage ground I desire to call a halt and urge upon my colleagues the imperative duty of ending at once and forever this class legislation, sustained in this position as I am by the written Constitution, and by the general theory of our whole system of government, and by the public opinion of the soldiers and other citizens of the district I have the honor to represent in this House.

I urge upon this Congress, representing as it does all the people, a body which exists by reason of the sacrifices and sufferings not of any one, or of any select few, but which exists by reason of the sacrifices of all the Union heroes who stood in line under the starry banner of the free until it was once more accepted as the emblem of our nationality. I repeat, I urge upon this Congress, to whom has been committed the high prerogative of enacting laws for the government of all the people, not to trample under foot the whole theory of our Government and the Constitution itself, made to protect the rights of the many, upon any plea of sentiment or for the benefit of the select few.

I protest here and now, in behalf of all the dead and living heroes, against all forms of class legislation, and, disguise the fact as we may, the bill under consideration is one of a class of similar bills in a series of most pernicious class legislation in this, that while the general law grants to the widows of Union heroes the sum of $144 a year, this bill proposes to give to the widow of another one of our Union heroes the princely sum of $3,500 a year, and this, Mr. Speaker, in a land the proudest boast of which is that all American citizens are sovereigns who are made by our theory of government absolutely equal before the law. It is against this granting of special aid that I protest.

The question of who is to be the recipient is of minor importance. The principle involved is the thing I want to strike until it shall never again rear its hydra head in Congress to insult all the widows of our enlisted men who, without regard to their condition, can only be granted $144 a year. There are widows of enlisted men who have given to the country one, two, three, four, and in one case six sons and husband too, to die in order that this temple of constitutional liberty might not perish. Has Congress granted any one of these the princely pension of $3,500 a year, or even $2,000, or $1,000 a year? No, no! Mr. Speaker, they are only of the common people. Their husbands did not ride to fame in that contest. They died on the lonely picket-post, in the fierce and terrible charge, or perchance in hospitals of pain or in prisons of torture which no words can portray, yet their sacrifices were much greater than any one of the claimants in any one of these special bills.

Why have not these widows and mothers been specially remembered? Let me tell why. Because we worship at the shrine of the world's so-called heroes instead of standing close by the shrine of principle; because the majority here takes for its heroes the men of renown and their loved ones, while I, Mr. Speaker, would take for mine the enlisted men and their loved ones. Rev. H. S. Taylor, of Illinois, has, in a poem of rare sweetness, set forth this sentiment in the following words:

I knew him! By all that is noble, I knew
This commonplace hero I name!
I encamped with him, marched with him, fought with him, too,
In the swirl of the fierce battle flame!
Laughed with him, cried with him, taken a part
Of his canteen and blanket, and known
That the throb of this chivalrous prairie boy's heart
Was an answering stroke of my own!
Your man is the man of the sword and the plume,
But the man of the musket is mine.

I knew him, I tell you! And also I knew
When he fell on the battle-swept ridge,
That the poor battered body that lay there in blue
Was only a plank in the bridge
Over which some should pass to a fame
That shall shine while the high stars shall shine!
Your hero is known by an echoing name,
But the man of the musket is mine.

I commend this sentiment to those of my colleagues who have been voting princely pensions only to the widows of the men of the "sword and plume." Let us hereafter take for our heroes all of those who are entitled to pensions, and here and now let us highly resolve that our patriot dead shall not have died in vain. That we to whom has been committed the duty of guarding the citadel of liberty and equality before the law will now stand as resolutely by the principles for which they contended as they did by the flag of freedom in that great contest.

I can not be made to think, Mr. Speaker, that the almshouse is a fit place for a Union veteran, his widow, or his children to live. The sacrifices made by these heroes entitle them to receive the gratitude and substantial aid of the nation their valor saved from destruction. Nor can I believe, Mr. Speaker, that the potter's field is a suitable burial place for these veterans, when at last life's march is ended and they are at rest. To care for all of these while living and to give them a soldier's burial when they die is the first duty of the Government, and I am in favor of doing our whole duty by them without regard at all to its cost. I shall oppose any and all material reduction of war taxes until all these veterans and their widows and children are provided for.

If it was necessary, I should not hesitate to resort to every known means of taxation in order to redeem our pledges to care for all these heroes, their widows and orphans. To-day the national Treasury is bursting beneath its weight of gold and silver, while scattered all over the North are thousands, yes, scores of thousands of these old soldiers, their widows and orphan children, in hovels of want or in the almshouses, who are not receiving one cent of pension, while there are scores of thousands of their widows living in need of the absolute necessaries of life, while their children cry for bread. All this in the land these heroes died to save and in the face of the most solemn obligations to care for all of them.

Mr. Speaker, so long as I retain my reason and have the courage of my convictions, and so long as all these comrades are unprovided for, and so long as so many thousands of the widows and children of my dead comrades are in want of the necessaries of life and are not pensioned at all, I shall, though I stand here in this tribune of the people alone, without the aid of one colleague, not only oppose, but shall vote against any proposition to pension the widow of any Union soldier at

the rate of $3,500 a year, in order that she may live in luxury and rear her children in ease and opulence, not even though that widow was my own mother.

I trust that I am as thoroughly imbued with Americanism as I am with love for my comrades. I trust that, in all the word can imply, I am an American. I detest with all the intensity of an ardent nature all forms of official class and caste. I hate official snobbery. If, Mr. Speaker, there shall be created an official pension class, who shall demand that they be pensioned at the public expense at such rates as will enable them to live here in the capital of the nation in luxuriant ease, amid the whirl of official society, other members must be responsible. I shall not vote for any of them. I shall oppose every measure of that kind. Such pension legislation would be an insidious encroachment upon the rights of the people. It would be at variance with the whole theory of our Government. It would be a direct insult to every widow of our dead heroes who is now living in poverty and knows by sad experience what actual want means. It would be, Mr. Speaker, an outrage infinite upon every child of poverty whose father died fighting for the perpetuity of the Union, and for these reasons I shall resist each and every attempt made to trample into the dust the essence and life of the principles for which all our heroes contended from Belmont to Appomattox.

Mr. Speaker, I ask in all candor, what right or by what authority do we, as representatives of all the people, take the people's money and appropriate it so that the children of one of the nation's defenders shall be reared in ease and splendor, while so many thousands of the children of other defenders of the Union, who are entitled by every known principle in our system of jurisprudence to the same aid and protection, are not pensioned at all, many of whom are crying for bread?

Can it be possible, Mr. Speaker, that in the land of Washington and of Lincoln, founded as it is upon the Declaration of Independence, wherein the doctrine of the equality of citizenship is fundamental, a nation that was saved by the most marvelous expenditure of blood in modern ages, and by the sacrifices endured by the grandest army that was ever marshaled in battle, composed, as it was, of men who did not fight for conquest nor for subjugation nor for military glory—an invincible host whose only battle cry was—

> We are coming, Father Abraham, six hundred thousand strong,
> Shouting the battle cry of freedom—

and of equality for every citizen of the Republic before the law. Can it be true, Mr. Speaker, that in this tribunal of all the people—with all these historic facts fresh in our memories, and with all these hallowed thoughts indelibly engraved upon head and heart—it will be contended for a single moment that the widow and children of one soldier of that grand army are entitled to privileges and protection from the Government which are not the absolute right of all the other widows and children of the soldiers who were his comrades. Are the widows and children of our dead comrades sovereigns of the Republic? If they are, then we must end at once and forever all this class legislation.

We must enact only general pension laws, and thereby secure equal protection to each and every pensioner and grant equal pensions for like disabilities. Let me emphasize this proposition by an experience in pension legislation of recent date. The general law grants a pension of $2 per month to the minor children of pensioners until they arrive at the age of sixteen years. The other evening a private pension bill was called up in the House, submitted by the unanimous report of a committee, to grant a pension of ten, not two, dollars a month, to the minor children of an officer in the Life-Saving Service until they should arrive at the age of twenty-one, not sixteen years. Such is special pension legislation. Can any member desire further investigation? Will any one ask for more evidence of the imperative duty of calling a halt? If this does not convince, then argument and facts will not avail.

Mr. Speaker, in conclusion I desire to say that in my judgment we can only hope to maintain and preserve the priceless boon of constitutional liberty by adhering strictly to those bed-rock principles upon which rests the whole theory of our Government. Ours is a government of consent. It is true that the majority rules, and it is equally true that the minority consents that it shall rule. In our system that minority is ever changing. To-day it is upon one side of this House; next month it will be upon the other side. These frequent changes make the necessity all the greater for the enactment only of just and equal laws which shall bear equally upon all the people, and no general law appeals more strongly to both head and heart for absolute justice and equality than the one which is to make provision to care for those who have risked life itself in defense of the Government.

No man can make a greater tender of devotion to country than to offer his life if need be. This supreme offering was made by all our Union heroes. They who died in battle, in hospital, or in prisons of torture made a common, an equal sacrifice; they who gave up health, life's choicest blessing, and are now racked by pain and disease, made an equal offering; they who are widows have made an equal sacrifice, sustained an equal loss. Their husbands were all heroes, comrades in a common cause, in behalf of liberty protected by law. Their right to be recognized and to receive aid from the Government is a common one. Then let us as representatives of all, not a few, of the people grant these widows pensions only by the enactment of general laws giving equal pensions to all who have sustained like disabilities.

We can not afford to make favorites of the select few. We can not afford to grant these large pensions only to the widows of men of renown. Let us not forget that in our Government all its soldiers were heroes. When they enlisted they were all sovereigns. While in the Army the enlisted men surrendered that sovereignty in order that military discipline might be enforced, and through organization and discipline win a victory. When the Army was disbanded the badge of equal sovereignty was restored to all, and here in this tribunal of the people there are no classes nor can there be casts. Here the people are equal and must be equal before the law. If we shall be true to those who send us here, we will not enact laws that will confer special favors upon the select few. I plead for justice to every pensioner, and for equal pensions for the widows of all our Union heroes, whether their husbands were officers or enlisted men.

Indebtedness of Pacific Railroads.

SPEECH

OF

HON. WILLIAM M. STEWART,

OF NEVADA,

IN THE SENATE OF THE UNITED STATES,

Saturday, February 9, 1889,

On the bill (S. 3401) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; also to amend an act approved July 2, 1864, and also an act approved May 7, 1878, both in amendment of said first-mentioned act; and to provide for a settlement of claims growing out of the issue of bonds to aid in the construction of certain of said railroads, and to secure to the United States the payment of all indebtedness of certain of the companies therein mentioned.

Mr. STEWART said:

Mr. PRESIDENT: The subject of the Pacific railroads has been so much discussed that I hardly feel authorized in occupying any considerable time; but inasmuch as all the propositions that have been made since the roads were constructed have had a tendency to impose additional burdens upon the people of my State and upon the people inhabiting the adjoining States and Territories, I think it well to examine briefly the origin of these roads and their objects, for the purpose of showing the very unequal burdens that must be borne by the people living along the line of these roads if any of these bills pass as proposed. In other words, if the debt is exacted from these roads it must be collected from the local traffic along their lines.

There are several other continental roads that are completed, so that none of these roads can make money to pay this debt or to pay their other debts by through business. That will be reduced to the minimum by competition necessarily, and consequently the money has to be paid by local traffic. Is that just? Is it just under all the circumstances to burden those localities in the way proposed?

If my proposition could be carried out and this indebtedness used in the construction of branch roads and in improving the main lines, and where there is no business now to create business by appropriating a portion of the money for hydraulic works for irrigation, so that the people can occupy the lands, great good would be accomplished, not only to the people there, but to the whole United States.

The Central Pacific Railroad has now an enormous debt, the first-mortgage bonds on 150 miles of it amounting to $48,000 a mile; the balance of it through my State $32,000 a mile. That is the first mortgage. The principal of Government claim is equal to the first mortgage. When the Government enforces its lien with the accumulated interest it not only doubles the debt, but increases it at least threefold, being an average debt on the whole line of something over $100,000 a mile, which, if exacted from the local trade, must necessarily prevent the development of Nevada and the interior part of the country. If used for the development of the country, building more branch railroads which shall be free from debt, with limitations by Congress so that they can carry cheap freights, that country can be developed and will prosper, but not otherwise.

Now, in order that the burden of this enterprise may not fall upon a few and to show that it ought to be borne generally by the country, I want to remind the Senate of the circumstances under which this road was built, for it is claimed that as early as 1834 the question of building a Pacific railroad was agitated—long before the Mexican war.

It was the dream of many enterprising men, rather enthusiastic, perhaps, that a railroad from New York to the mouth of the Columbia River would certainly be constructed. This was agitated from time to time. I need not go into the history of it in detail, but it finally at-

tracted the attention of Congress. In 1853 the first act of Congress looking to the construction of a Pacific railroad was passed, as follows:

SEC. 10. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to employ such portion of the corps of topographical engineers, and such other persons as he may deem necessary, to make such explorations and surveys as he may deem advisable, to ascertain the most practicable and economical route for a railroad from the Mississippi River to the Pacific Ocean, and that the sum of $150,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of such explorations and surveys.

In the deficiency bill which passed the next year the following provision was contained:

For deficiencies for the railroad surveys between the Mississippi River and the Pacific Ocean, $40,000.

In 1854 another appropriation was made in the following words:

For continuing the explorations and surveys to ascertain the best route for a railway to the Pacific, and for completing the reports of surveys already made, the sum of $150,000.

Under these appropriations five routes were surveyed, explored, and reported upon. The reports contain much valuable information and show great diligence and research. They are contained in thirteen quarto volumes about the size of the CONGRESSIONAL RECORD, in which each route is reported upon, and all the peculiarities of climate, soil, topography, etc., are set forth. When the surveys were completed, on the 27th of February, 1855, Mr. Jefferson Davis, then Secretary of War, transmitted a report to Congress of these surveys, together with the estimates of the cost of the various routes. The northern route, about the forty-seventh parallel, was the first route which was agitated and discussed, it having been considered prior to the Mexican war, as I before observed, with a view of having a railroad constructed from New York City to the mouth of the Columbia River. It is the first one mentioned in the report.

After stating in general terms what the report contains Mr. Davis says that the estimated cost by the engineers was $117,000,000. He then states that there must be added to that about 25 per cent. on account of additional cost over the construction of Eastern railroads between St. Paul, the starting point, and the Rocky Mountains, and that through the mountain regions it would be required to make an additional allowance of about 100 per cent. He therefore concludes that it would cost $140,000,000 to construct the road without equipment, but with the equipment, rolling-stock, etc., it would cost $10,000,000 more, making $150,000,000.

The central route is next considered, from Council Bluffs to Benicia. The engineers' estimate in the office, Mr. Davis said in this case, was $116,000,000. He did not state how much additional allowance should be made on account of its being more difficult to construct than in the Eastern country, but observed that it was more difficult than the northern route, because they could only build from the two ends, while on the northern route transportation on the Missouri and Columbia Rivers would enable the construction of this route to be advanced from different points; consequently the required additional allowance would certainly be as great on the central as on the northern route. It is true the estimate was $1,000,000 less than the northern route, but from the facts given by Mr. Davis it would certainly have been equal to the northern and perhaps greater; that is, $150,000,000 for the construction and equipment of this road.

The next route was from a point on the Missouri River at the mouth of the Kansas River, so as to make a comparatively straight line from St. Louis to San Francisco. The obstacles on this route were found so great that it was regarded as impracticable.

The next route was the thirty-fifth parallel. The estimate of the engineers of this route was $169,000,000; but Mr. Davis says that must be a mistake; that they overestimated it; but he does not say to what extent, and, as subsequent events showed, he was correct in disagreeing with their estimates on that route.

The fifth route was on the thirty-second parallel, to start from a point on the Gulf in Texas, at a place called Fulton, and running from there to San Francisco. The estimated cost of this route was $93,000,000, and the reasons are given at considerable length by Mr. Davis why it could be built cheaper on this route than any other. But it will be observed if it had been built on that route it would not have answered the purpose of commerce. It would have been a long way in getting around from New York and it would not have served the purposes desired.

These estimates were had before any act was seriously proposed for the construction of the Pacific railroad, but many speeches were made on it during the time of these appropriations when it was regarded as a military necessity. The two political parties, following up the explorations which had been made by the Government, declared from time to time that it was both a commercial and a political necessity and should be aided by the Government. The Democratic convention that was held in 1860 in Charleston so declared; the convention that was held in Chicago, which nominated Mr. Lincoln, so declared; and some seventeen or eighteen of the States, if I recollect aright, passed like resolutions. It was the general sentiment that the road should be constructed by the Government, and these estimates of cost were made for that purpose.

While I am speaking of these estimates of the cost I will anticipate a little and refer to what the roads did actually cost. The Government bonds issued in aid of the construction of the main line amounted, in round numbers, to $55,000,000. The roads were authorized to issue a like amount of first-mortgage bonds, making an aggregate from Council Bluffs to San Francisco of about $110,000,000.

The road was actually constructed under circumstances about which I shall hereafter speak, under the estimate of the War Department, after the Department had made a survey for the purpose of ascertaining the cost. The estimate of the War Department, or of Mr. Davis, at $150,000,000, which would be the same basis upon which he estimated the cost of the Northern Pacific, would make a saving in the actual construction of $30,000,000 below the estimate of the engineers of the War Department. I am thoroughly of opinion if it had been constructed by the Government under the charge of the engineers of the Army, and they had taken their usual time in doing it and had discharged their duties faithfully and deliberately, as they generally do, it would have cost the full amount that was estimated by the engineers. I have never known any work constructed by them to be done much more cheaply than the estimate. It generally exceeds the estimates. It must be remembered that this road was constructed not as anticipated, deliberately, when the engineers made their estimate, but it was constructed in a time of war, when prices were from two to three times as much as they were before the war, and when the discount on the paper that was used which was issued by the Government was about 30 per cent.

So it will be seen that the construction of the railroad was secured more cheaply than was anticipated by the Government and by Congress when the act was passed, because Congress had before it when the original acts were passed the estimates of its own officers as to the probable cost.

Much has been said about the extravagance of these appropriations, and we have investigations into little things that are very annoying and expensive as to how these roads were constructed and how the various expenditures were made. It seems to me in dealing with the grand result we have no time to consider all these details. We should take the situation as presented in a larger sense and see whether the result obtained was all that could have been reasonably anticipated. I think it was.

Not only that, but this road was constructed seven years before the time limited in the act for its construction. There are matters connected with that which would add very much to the cost. But the reasons for constructing the road at that time, as given by every man who addressed either House of Congress, were of a national character. The principal reason assigned was the urgent military necessity to enable the Government to protect the Pacific States and retain them. All the national advantages that were pictured during that discussion, to which I will call attention, have been fully realized. There is no question about that. An empire has been created west of the Mississippi, and between that and the Pacific coast, which will furnish many important States of this Union, the development of which was advanced for a generation by this appropriation. No man at the time this was done was able to picture anything like we now see. The expectations have been more than realized. If it is said that the roads could be built cheaper now after the country is developed and when there is business, we shall not deny it; but we must take into consideration the time when the contract was made, the circumstances under which it was made, not only of the Government, but of the parties who undertook the work, in coming to a conclusion whether there has been an unreasonable expenditure of money.

The fact that after the road was constructed the country commenced filling up was natural, both in California and at this end, and the road finally became a sufficient success to make the stock valuable, which nobody would take, to my certain knowledge, at the time it was done. I say the unexpected success of the enterprise was such that the stock became of some value, and consequently those engaged in the enterprise made money. But this was not anticipated by anybody. On the contrary, the projectors were regarded as fanatics for undertaking such a hazardous scheme.

Without going into detail in regard to the situation of my constituents, I suggest that they are not able to pay the enormous debt of the Central Pacific Railroad. They are not able to pay this money back to the Government, because if this company is forced to do it it never can or will build branch lines. Others can not without some aid go into the interior and build branch lines, because it is an unproductive country for the present. The result is that we must live in a great basin there, with high freights and without relief and be taxed during the next fifty, sixty, or one hundred years, to pay for this great national war measure, which has developed a vast region and added thousands of millions to the wealth of the nation and its taxable property and its resources and demonstrated the fact that a trans-continental road could be built, and induced others to engage in like enterprises. This and the other land-grant roads have caused the construction directly of about 20,000 miles of road, and indirectly, it is estimated, of as much more.

This expenditure of $55,000,000 having been paid by the Government for this national object, and it having accumulated now to $100,-

000,000 or more, it seems to me that the use of this $100,000,000 in building branch lines and constructing reservoirs and other hydraulic works for irrigation under such regulations as Congress shall hereafter prescribe would be better than eking it out of the people living along the line of these roads. It, I say, would give a better return than any money that we shall ultimately collect. It would yield more money to the Government in the way of taxable property, and it would furnish that region with roads and cheap transportation.

We have gone all wrong. We have not followed the spirit of the original act in our legislation. The original act provided that when the net proceeds of the road exceeded 10 per cent. of cost of construction Congress might reduce fares and freights. During all this agitation there has never been any effort made to reduce fares and freights, or to ascertain whether Congress had reached a point where it might do it; but there has been every effort made to further incumber the roads. The legislation has been in that direction.

The Thurman act was the most hostile measure to the people living along the road that could have been devised. It was not in the interest of the people nor of the Government. Under it there has been invested for these railroads in bonds $4,108,621.17, the price of the bonds at the time the investment was made. That is the cost of the bonds which were purchased. It was the market price at the time they were purchased. The market value of these bonds now is $3,820,902.50, a decrease in the value of the bonds by nearing the hour of maturity of $287,759.17, making a loss to the company of something like $969,-621 17.

Nobody has been benefited by it. It simply has increased the obligations of the company and made it more difficult for it to pay, and has not increased the chances of the Government to collect the balance, but has diminished the chances and made it necessary to tax the people still further.

There is no greater evil than to have a railroad running through a country which nobody has an interest in. If the Government is going to lay such burdens upon it that nobody has any interest to take care of it and nobody can build branch roads and keep along with the times, it is a very bad thing to have such a road in a State.

What we want is more branch roads, and we want those branch roads free from incumbrances, and we want Congress to make terms as to the rates of freight so that we can have cheap freights. That is what Nevada wants. That is what every one of the Territories wants. That is the legislation that ought to be had.

The idea of collecting this debt from the roads never entered into the head of any member of the Congress that passed the act otherwise than by services rendered by the roads to the Government. The only provision in the original act of 1862 for reimbursement was 5 per cent. of the net earnings and the amount of transportation and telegraphing to be performed for the Government. The compensation for that was to be deducted from the principal and interest, and it was figured up by various parties, as I shall show, that this provision would not only pay the interest, but it would pay the debt and redeem the bonds long before maturity.

Many inquiries were made during the debate as to how the bonds would be paid. The answer invariably was that the bonds would be paid in Government service, and the bill so provided.

The act of 1862 was not liberal enough in terms to induce parties to engage in the enterprise. The Central Pacific undertook it and built a short piece of road near Sacramento. The Union Pacific did not undertake it at all. They had organized, but did not undertake the work. In 1864 the act was amended and much more liberal provisions were inserted. It was provided that these roads might make a first mortgage equal to the bonds issued by the Government. It was provided also that instead of being required to build 40 miles the bonds should issue for the construction of every 20 miles. It was provided also that instead of retaining all of the freight and transportation only one-half of it should be retained and paid on bonds; and it was contended then that one-half of the freight and other Government service would pay the bonds before they were due. But the Government in all these acts insisted upon the Government service being done by the transportation of munitions of war and all other Government supplies and telegraphing. That was not changed in the later act, but it was required; and in the act of 1864 the Government agreed to pay half to the companies as they went along. Under this changed contract the road was constructed.

To show that it was not anticipated that this money should be paid by the local traffic on the roads I shall read some extracts from the debate. I want it paid as much as any one, but I want it paid in such a manner as that it shall develop the country and answer the original purpose. I do not want it paid by my State or by the other localities through which the road runs, for it can not be paid in that way. If you increase the obligations of the road no branches will be built, the freights can not be reduced, and the people of my State will continue to suffer. On the contrary, if the indebtedness of the Central Pacific to the Government, which now amounts in round numbers to about $50,000,000, is expended in building branch lines to be approved by the Government, in constructing reservoirs and other works for irrigation along those branch lines, so that the people can go there and there will be some business to sustain them—if that is done a great good will be accomplished.

I am not in favor of appropriating money from the Treasury to go into any extravagant schemes of development of that new country, but this is exceptional. The money has been loaned by the Government for a great national purpose. It never was expected to be returned in any way except in Government service. It has not been so returned, but it has saved the Government all that was expected in giving it good mail facilities and cheapening transportation. It has saved more than the debt over and over again.

That having been done and there being an obligation on the part of these roads, as we assume, to pay the whole of this debt, both companies appear willing to attempt to pay the debt, but the companies are not the only parties interested. A vast country between the Missouri River and San Francisco is interested. Its prosperity is involved in it, its development is dependent upon the correct policy to be pursued.

If this indebtedness is paid by requiring the companies to pay every dollar and put it into new roads that are freed from incumbrances, and into irrigation works, to furnish business for the roads they will be strong enough to pay it, because as the population increases there will be somebody there to bear the burden, and in that way we will be sure to get the debt paid. There will be no defalcation if you let our enterprising people have a place to make homes and develop our mines and develop the agricultural resources; the burdens will be easily borne by our people. The road can pay this debt to the Government in a way that will add more to the resources of the country and relieve the people more of taxation generally than any scheme of collecting it in long bonds. We should hardly feel the little driblets that would go into the Treasury in that way, besides every dollar that you drew would tend to depress business along the line and tend to impoverish that country; but if the money that the Government advanced to the railroads, with interest, can be put into new lines and into irrigation works then you will build up the country and have somebody to pay fares and freights to sustain it.

As I said before, the railroad land grants and these money subsidies directly secured the construction, in round numbers, of 20,000 miles of railroad, and indirectly of as much more, according to the estimates of the statisticians and persons engaged in collecting the facts upon the subject. That is the accomplishment of a great deal, and it only involved an expenditure of $55,000,000 on the part of the United States and the donation of land otherwise inaccessible.

The English Government, in dealing with India, found a similar problem to what we have, and they solved it by direct appropriation, or by Indian bonds indorsed by the Government of Great Britain. They have spent during the last thirty years about one thousand millions of dollars in railroads, irrigation works, and other internal improvements, and they report that so far from burdening the treasury it has relieved the treasury several millions each year, besides the great prosperity that it has given that country.

We are not in a condition to conduct business as they do. We have no strong despotic government to do that, but we have made a little experiment in making investments, and the whole nation appears to be endeavoring to get it back. We have made a little investment to secure internal improvements of this kind and the development of this great region which is entirely similar to India, and now we have the power of the Government trying to get back at all hazards the money and to collect the debt, and they have lost sight of the real objects and purposes for which the money was expended, for whose benefit it was expended, and how payment was to be made, and we are trying to make the people along this particular line pay the whole burden of this great national enterprise.

I will read just a paragraph from the "Finances and Public Works of India, 1869–1881." They have continued since 1881 quite as vigorously as before in expenditures, particularly with regard to expenditures for irrigation. The extract that I wish to read is as follows:

> The magnitude of the work that has been accomplished is extraordinary. The England of Queen Anne was hardly more different from the England of to-day than the India of Lord Ellenborough from the India of Lord Ripon. The country has been covered with roads, her almost impassable rivers have been bridged, 9,000 miles of railway and 20,000 miles of telegraph lines have been constructed, 8,000,000 acres of land have been irrigated, and we have spent on these works, in little more than twenty years, some £150,000,000.

That is about $750,000,000. In this work also they estimate that the railroads to be constructed will amount to 20,000 miles, and the amount of land to be irrigated to many millions of acres. When they first proposed to revive the old irrigation works and construct new ones to stop famines in India they had an estimate made. The first estimate was $115,000,000. They have expended much more than that already and they are going on with the work, and they report that it has improved the revenue and that the income is much greater than the interest on the outlay. The scheme is entirely satisfactory from the reports that they make from year to year.

It is not expected that this country will engage in expending like sums of money to redeem the 1,200,000 square miles of arid land of our country, which is as good as India, and exceeds British India in area about one-third. British India has 800,000 square miles and sustains a population of over two hundred millions. It is not expected that our

Government will imitate in all respects the example of Great Britain in India, but this money having already been expended for a great national purpose which has been attained, it seems to me that it would be reasonable to use the indebtedness of the companies in such a manner that it will not only carry out the great purpose for which it was originally designed, but develop the country through which it passes. I told my constituents that on the railroad question I would do that which I thought would be for the good of my State and the people generally, and I will be governed by those rules throughout. I shall not be moved by clamor against or partiality for the railroads, for I think that they are in a position where they can pay this money in the way I have indicated in this resolution.

For the purpose of showing that we are attempting now to realize a different consideration from what was anticipated by either party at the time this contract was entered into, I propose to read a few extracts from speeches that were made when the bill was under consideration in the two Houses of Congress. Mr. Campbell, in the House of Representatives, April 2, 1862, in discussing the question, said:

In a recent imminent peril of a collision with a naval and commercial rival, one that bears us no love, we ran the risk of losing, at least for a time, our golden possessions on the Pacific for want of proper land transportation.

Mr. Stevens, of Pennsylvania, in the same debate, said:

In case of war with a foreign maritime power the travel by the Gulf and Isthmus of Panama would be impracticable. Any such European power could throw troops and supplies into California much quicker than we could by the present overland route. The enormous cost of supplying our army in Utah may teach us that the whole wealth of the nation would not enable us to supply a large army on the Pacific coast. Our Western States must fall a prey to the enemy without a speedy way of transporting our troops.

Mr. Wilson, of Massachusetts, when the bill was pending in the Senate, said:

I have little confidence in the estimates made by Senators or Members of the House of Representatives as to the great profits which are to be made and the immense business to be done by this road. I give no grudging vote in giving away either money or land. I would sink $100,000,000 to build the road, and do it most cheerfully, and think I had done a great thing for my country if I could bring it about. What are seventy-five or a hundred millions in opening a railroad across the central regions of this continent, which will connect the people of the Pacific and the Atlantic and bind them together?

Again he said during the same debate:

As to the security—

And I want to call particular attention to this—

As to the security the United States takes on this road, I would not give the paper it is written on for the whole of it. I do not suppose it is ever to come back in any form except in doing on the road the business we need, carrying our mails and munitions of war. In my judgment we ought not to vote for the bill with the expectation or with the understanding that the money which we advance for this road is ever to come back into the Treasury of the United States. I vote for the bill with the expectation that all we get out of the road, and I think that is a great deal, will be the mail carrying and the carrying of munitions of war and such things as the Government needs, and I vote for it cheerfully with that view. I do not expect any of our money back. I believe no man can examine the subject and believe that it will come back in any other way than is provided for in this bill; and that provision is for the carrying of the mails and doing certain other work for the Government.

Mr. Clark, of New Hampshire, expressed his views upon this question and how he understood the effect of the bill, as follows:

The Senator from Massachusetts may be entirely right, that the Government may never receive back this money again; and it may be that we make the loan for the purpose of receiving the services. But it will be well to take a mortgage, to secure the building of the road through, and then to secure the performance of those services which we expect them to perform in the transmission of mails and munitions of war after the road is built. I think we had better adopt the amendment of the committee. It will make it safer for the Government; safer in this regard, that we shall have the road built and have the service performed.

Mr. Clark further remarked:

Whether I am right or not, I do not build the road because I think it is to be a paying road. I build it as a political necessity, to bind the country together and hold it together; and I do not care whether it is to pay or not. Here is the money of the Government to build it with. I want to hold a portion of the money until we get through, and then let them have it all.

He did not care whether it was to pay or not; we were going to have these other advantages. And now it is not proposed to make the people of the United States pay it, but to make the people who live on the line of the road pay it. The company is willing to pay it if we give them time enough, no matter what the consequences may be.

It seems to me that if this money is to be paid, and it can be easily paid if it is expended to build up the country and enable people to live there, there would be no difficulty about paying it in that way.

Mr. Ten Eyck, of New Jersey, expressed himself in this wise:

The great object of the Pacific railroad bill is to have a national means of communication across the continent. That is the idea which the public have entertained for years past, and the only idea; a great national measure to cement the Union, to bind with a belt of iron the Atlantic and Pacific. * * * This is the inducement which the old States have in doing what they believe will be for the benefit of the common country, to the prejudice of the Treasury, so to speak, yet the general returns may be beneficial in the long run.

Will anybody pretend to say that it was anticipated that the local business along this road should pay all this debt? Certainly not. It was anticipated that there would be through business, but not any particular local business. However, the through business is divided up among rival roads, also aided by the Government. The Northern Pacific, the Atlantic and Pacific, and now the Canadian Pacific, come in, dividing up the through business and bringing it down to the lowest possible point, so that there is no profit in it, and the payment has to come out of the local business.

I do not complain of the policy which subsidized the other lines. The Northern Pacific land subsidy was worth twice as much as all the subsidies given to the Central and Union roads, including bonds and land. I do not object to that. It has built up the country there and made States that we are about to admit into the Union. Dakota, Montana, and Washington are coming into the Union without a dissenting voice. It has created four great States on the line of the Northern road. I advocated that; but the direct effect of it was to draw its share of the business away from the other subsidized lines and throw the burden of paying the debt upon the people living along the line, which they can not bear.

The Union Pacific is better situated than the Central. It passes through a great deal of good country. But if you load the debt on the Union Pacific I predict that it will be a failing institution; that it can not compete with its rivals; that it will be impoverished; and carrying this load is going to be a tax and a burden upon the people living along that line that they ought not to bear.

The Central Pacific has no resources except the line in Nevada, and comparatively a short line in California. It is without branches in Nevada. The construction of the road was exceedingly expensive. It was regarded almost as impossible. Most engineers thought it was a wild scheme to attempt to build it at all.

Loaded with this great debt, any scheme to collect it without allowing the money to be used for the development of the country is an unequal and unfair distribution of the burdens of this Government, and was never anticipated when the law was passed.

Here is what Mr. Collamer, of Vermont, said. A clearer-headed man never was in the Senate. He was a fair-minded, judicial man. He was here when I first came to the Senate, and I learned to reverence him for his wisdom and candor and fair-mindedness. Mr. Collamer said in the course of this debate on the passage of the first bill:

This bill carries the idea, and in this section provides for the repayment of the loan, as gentlemen call it. In a subsequent section it is provided that the payment shall be made in the carrying of the mail, supplies, and military stores for the Government at fair prices, and also 5 per cent. of the net proceeds or sums to be set apart for the Government. That is all the provision there is in the bill for repayment.

Mr. Latham, of California, then remarked:

The loan of the public credit at 6 per cent. for thirty years is for sixty-five millions—

That was within the estimated cost. It turned out to be ten million less than was actually used—

with absolute security by lien, with stipulations by sinking fund from profits for the liquidation of the principal. Official reports and other authoritative data show that the average annual cost, even in times of peace, in transportation of troops, with munitions of war, subsistence and quartermaster supplies, may be set down as $7,300,000. The interest upon the credit loan of $65,000,000 will be annually $3,900,000, leaving a net excess of $3,400,000 over the present cost, appealing with great force to the economy of the measure, and showing, beyond cavil or controversy, that the Government will not have a dime to pay on account of its credit, nor risk a dollar by authorizing the construction of this work.

It was costing them over $7,000,000. I investigated that afterwards and made a report in which I showed how this expense came. Subsequently the service performed by the roads for the Government was ten times greater than what was formerly required, but the amount paid has been merely nominal. It has been performed at the same rates charged on Eastern roads. Besides, much of the Government business, and perhaps the larger part, has been diverted from this road to other continental roads, including the Canadian road.

The amount paid to the subsidized roads for this service has been a mere bagatelle. It did very little towards keeping down the interest, much less paying the principal, of the bonds. The Government saved all the money it anticipated, but it did not allow it to the railroads. In fact, it diverted freight from the roads and made a limited allowance, so that the carrying of mails and the service done for the Government did not pay off the bonds as was anticipated. That is the reason, not because the roads did not serve as good a purpose as the most sanguine ever anticipated.

Mr. McDougal, of California, a clear-headed lawyer and a man who understood what he was saying, made the following remarks:

As I have had occasion before to remark, the Government is now paying over seven millions per annum for the services which this road is bound to perform. That is about 100 per cent. more than the maximum interest upon the entire amount of bonds that will be issued by the United States when the road is completed. The Government is to-day on a peace establishment, without any war necessity, paying for the same services 100 per cent. more than the entire interest on the amount of bonds called for by the bill. Besides that, it is provided that 5 per cent. of the net proceeds shall be paid over to the Federal Government every year. Now, let me say if this road is to be built, it is to be built not merely with the money advanced by the Government, but by money out of the pockets of private individuals. * * *

It is proposed that the Government shall advance sixty millions, or rather their bonds at thirty years, as the road is completed, in the course of a series of years; that the interest at no time can be equal to the service to be rendered by the road as it progresses; and that the Government really requires no service except a compliance on the part of the company with the contract made. It was not intended that there should be a judgment of foreclosure and a sale of this road on a failure to pay. We wish it to be distinctly understood that the bill is not framed with the intention to have a foreclosure. * * * In case they failed to perform their contract, that is another thing. That is a stipulation; that is a forfeiture, in terms of law; a very different thing from a foreclosure for the non-payment of bonds. The calculation can be simply made that at the present amount of transportation over the road, supposing the Government did no more business, that that alone would pay the interest and the principal of the bonds in less than twenty years, making it a direct piece of economy if the Government had to pay for them all. However, I am not disposed to discuss this matter. I say it was not understood that the Government was to come in

as a creditor and seize the road on the non-payment of interest. It is the business of the Government to pay the interest because we furnish the transportation.

Mr. Sargent, of California, said:

When the road is fully completed and we are experiencing all the security and commercial advantages which it will afford, the annual interest will be less than four millions, and that sum will be but gradually reached year after year. The War Department has paid out, on an average, five millions per year for the last five years for transportation to the Pacific coast, and the mails cost $1,000,000 more at their present reduced rates. The saving to the Government will be two millions a year on these items alone.

The case has been before the courts and they have reviewed these laws and stated the manifest purpose of them. In 1 Otto, 91, Mr. Justice Davis, commenting upon this contract between the roads and the Government, said:

Many of the provisions in the original act of 1862 are outside of the usual course of legislative action concerning grants to railroads, and can not be properly construed without reference to the circumstances which existed when it was passed. The war of the rebellion was in progress, and, owing to complications with England, the country had become alarmed for the safety of our Pacific possessions. The loss of them was feared, in case those complications should result in an open rupture; but, even if this fear were groundless, it was quite apparent that we were unable to furnish that degree of protection to the people occupying them which every government owes to its citizens. It is true the threatened danger was happily averted, but wisdom pointed out the necessity of making suitable provision for the future. This could be done in no better way than by the construction of a railroad across the continent. Such a road would bind together the widely separated parts of our common country and furnish a cheap and expeditious mode for the transportation of troops and supplies. If it did nothing more than afford the required protection to the Pacific States, it was felt that the Government, in the performance of an imperative duty, could not justly withhold the aid necessary to build it; and so strong and pervading was this opinion that it was by no means certain that the people would not have justified Congress if it had departed from the then settled policy of the country regarding works of internal improvement, and charged the Government itself with the direct execution of the enterprise.

This enterprise was viewed as a national undertaking for national purposes; and the public mind was directed to the end in view, rather than to the particular means of securing it. Although this road was a military necessity, there were other reasons active at the time in producing an opinion for its completion, besides the protection of an exposed frontier. There was a vast unpeopled territory lying between the Missouri and Sacramento Rivers, which was practically worthless without the facilities afforded by a railroad for the transportation of persons and property. With its construction, the agricultural and mineral resources of this territory could be developed, settlements made where settlements were possible, and thereby the wealth and power of the United States largely increased; and there was also the pressing want, in time of peace even, of an improved and cheaper method for the transportation of the mails and of supplies for the Army and the Indians. It was in the presence of these facts that Congress undertook to deal with the subject of this railroad. The difficulties in the way of building it were great, and by many intelligent persons considered insurmountable. * * * Of necessity there were risks to be taken, in aiding with money or bonds an enterprise unparalleled in the history of any free people, the completion of which, if practicable at all, would require, as was supposed, twelve years; but these risks were common to both parties. Congress was obliged to assume its share and advance the bonds, or abandon the enterprise, for clearly the grant of lands, however valuable after the road was finished, could not be available as a resource for building it.

And again, Justice Miller, in the case of the United States against the Union Pacific Company, in 98 United States Reports, page 619, says:

There are many matters alleged in the bill in this case and many points ably presented in argument which have received our careful attention, but of which we can take no special notice in this opinion. We have devoted so much space to the more important matters that we can only say that under the view which we take of the scope of the enabling statute, they furnish no ground for relief in this suit. The liberal manner in which the Government has aided this company in money and land is much urged upon us as a reason why the rights of the United States should be liberally construed. This matter is fully considered in the opinion of the court, already cited in the case of the United States vs. The Union Pacific Railroad Company (91 U. S., 72), in which it is shown that it was a wise liberality, for which the Government has received all the advantages for which it bargained, and more than it expected. In the feeble infancy of this child of its creation, when its life and usefulness were very uncertain, the Government, fully alive to its importance, did all that it could to strengthen, to support, and to sustain it. Since it has grown to a vigorous manhood it may not have displayed the gratitude which so much care called for. If this be so, it is but another instance of the absence of human affections which is said to characterize all corporations. It must, however, be admitted that it has fulfilled the purpose of its creation and realized the hopes which were then cherished, and that the Government has found it a useful agent, enabling it to save vast sums of money in the transportation of troops, mails, and supplies, and in the use of the telegraph. A court of justice is called on to inquire, not into the balance of benefits and favors on each side of this controversy, but into the rights of the parties as established by law, as found in their contracts, as recognized by the settled principles of equity, and to decide accordingly.

Now, when it is so perfectly manifest that the whole United States has had the benefit of this expenditure, shall its payment be charged upon a particular locality, or shall the whole people bear their portion of the burdens and use this money which is owing to the United States for the benefit of the country through which this road passes? If this road was the only through line, if it made money out of its through business, if the Government transportation was anything near what was anticipated, this state of things would never have occurred, and Congress would not be called upon to act. They would have paid off the debt long ago. But the amount estimated to be paid for freights and Government service was not paid; it was saved and better service got without the expenditure of money. That having been done and the Government having received the benefit which it contracted for, that was to have the mails, etc., carried and not have anything charged for it, because it did not cost them much—it went on other roads—having got that and the debt still remains, why not allow this money to be expended, all of it, every dollar of it, in such works of internal improvement along the line of the roads and in that region as will enable them to build up that country? These roads are loaded down, and I think, if you pass this Union Pacific Railroad bill, they will be here every session to get further relief. You will have a difficult time in collecting it.

You may ultimately drive that road into insolvency with its million of people tributary to it. It has severe competition. Instead of loading the people down in this way give them the money and let them build more branches; let them build hydraulic works in the Rocky Mountains.

There is on the eastern slope of the Rocky Mountains an arid region which is an empire of itself. It is in length nearly a thousand miles from British Columbia to Mexico and in width about 300 miles. Vast streams head in this great range of mountains with flats and places for artificial lakes. We hardly know what may be done by irrigation.

The works of irrigation four thousand years ago were superior to any works constructed in modern times previous to English engineering in India during the last twenty-five years. We read of Egypt and its vast population, and we wonder at the prominent place it occupied in the world at the time of the Pharaohs. Recently English engineers have discovered a defile leading from the Nile, whether natural or artificial they can not tell, but across it there is a dyke constructed of masonry, with regulating gates, and they describe it as equal to if not surpassing any work of modern times. Below where this ends there is a basin of 250 square miles and of great depth. Evidences all around this basin show where the ancients resided. There is a vast country below this basin, which was once irrigated and sustained a large population. The English scheme is again to repair this work and utilize this basin, and reclaim a large part of Egypt which has been a desert for thousands of years.

By the way, this Egyptian work is pretty authentically ascertained to have been constructed eighteen hundred years before the commencement of the Christian era. By references to it by Greek writers and other evidences its age is pretty accurately ascertained.

In the little island of Ceylon we have authentic history of their works of irrigation for about five hundred years before the commencement of the Christian era, and for nearly fifteen centuries every ruler of that island vied with his predecessor and tried to surpass him in irrigating works and making lakes to save water, and they increased the population so that it rose to be between fifteen and twenty millions, and when these were destroyed, not having modern means of communication and means of supplying the inhabitants with food, the people died and were reduced to less than 2,000,000, which has been increased somewhat since the British rule, and is now about two and a half millions, largely supplied from India.

In India there are works of very ancient origin which show the highest state of engineering. The map of India shows a large portion of the surface covered with reservoirs and artificial lakes, which supported a vast population. In Palestine, Professor Marsh tells us, at every step you see ruins of hydraulic works that have been destroyed, and the people perished with them, showing it had once been densely populated.

So of Persia and parts of Southern Europe. More than half the people that have ever lived have subsisted by irrigation. I think that more than two-thirds of the people now living pursue that practice.

We are especially benefited, especially blessed here with an area larger than any other on the globe where there is sufficient rainfall to prosecute farming without the necessity for irrigation. Between the ninety-ninth parallel of west longitude and the Atlantic Ocean the country will generally produce crops without irrigation. West of that to the Pacific Ocean it requires irrigation. There is but a narrow strip that does not require it, the northwest corner of California and that portion of Oregon and the Territory of Washington that lie west of the Cascade Mountains. The arid region has an area of more than 1,200,000 square miles and is capable of sustaining, on any reasonable calculation, a population of 200,000,000 people, perhaps more. This railroad is in this region, and it has produced vast results. The people on their own account, without surveys by the Government adapted to it, without laws making it convenient, have already irrigated 6,500,000 acres.

Mr. COCKRELL. What States?

Mr. STEWART. In the United States, all the States put together. I have been examining that and had Professor Powell assist me, and I find there is an area approximating 6,500,000 acres under irrigation in the United States.

Mr. GEORGE. Is the soil of that irrigated area good?

Mr. STEWART. The best in the world. The country seems to be a barren desert, utterly worthless, where nothing but horned toads can subsist. You put water upon it and it will produce beyond anything you can comprehend. You have only seen the cultivation by rainfall.

Mr. CHANDLER. How about the sage-brush?

Mr. STEWART. Wherever you can find sage-brush you can rely upon fertile land. The land there is as productive as any other land in the United States. It is not leached to the same extent. There is a better combination of mineral matter that is washed down, and when you irrigate, if the irrigation is properly conducted, you fertilize the land. The water that washes from the mountains brings down silt and fertilizing material, which is just suited to produce large

crops, and you can irrigate land, if you do not drown it out and only put on what will properly evaporate from running streams that come from the mountains—you can irrigate and get crops for thousands of years without any other fertilizer. The valley of the Nile, that has been cultivated, according to history, more than four thousand years, is as rich to-day as it was when the first plant was cultivated. It renews it; it refreshes it; and there is no end to the fertility of this vast region if you can irrigate it. Irrigated land will produce such enormous crops and so continuously that I would hardly dare tell what I have seen, because I do not want to entirely lose my reputation for veracity on this floor.

Now, we have this great field. It is barren, and it is the common fate of man to be at war with the desert. The desert has driven him back and he has subdued the desert in turn, and the whole history of man from his first attempt to cultivate the soil has been a struggle with the desert. We never have been brought face to face with that, but, as I said before, we occupy the largest area of land suitable for cultivation without irrigation in the world. You can not get any other section on this habitable globe equal in extent to the land in the United States which can be cultivated without irrigation; but mankind first chose the desert. The deserts were easier to cultivate, easier to subdue than the forests. The region from the Atlantic to the line of the prairie on the west—say to Indiana, about that latitude—that region all through the Atlantic and in the South which is heavily timbered was much more difficult to reclaim than this desert, as we call it. Those timbered regions required a greater expenditure of labor, of toil, and of time, and are a great deal more difficult to reclaim than the arid regions.

If California had been first settled the immigration would have spread over the desert, it would have been occupied at once, and the Atlantic coast would have been untouched; hardly any of the Atlantic country would have been touched. The chance we have for the settler in the West is better if we can understand it and enable him to understand it. It is as great a heritage as we had for him in the prairie, for 40 acres of land properly irrigated anywhere in the arid region will support a family as well as 160 acres in a region cultivated by the rainfall, because then you have it fertilized. On land cultivated by rainfall you must constantly use fertilizers. Fertilizers do not hurt any land, but they can be dispensed with to a greater extent where you irrigate.

Now, I want Congress to take this subject up deliberately and see whether it is proposed to collect the debt from my State when nobody ever expected that it should pay it, when no member of Congress when the contract was made ever expected that my people would be called on to pay this debt. The only provision was that it should be paid in freights and fares in the Government service, and it has not been so paid, and I want a wider view of it. The amount expended is a small amount compared with the expenditures of Great Britain. I am opposed to making the expenditures Great Britain did in developing India, because our people can get along with much less. Our people understand the principle of co-operation, and they can do a great deal if we have the proper surveys and railroad facilities in that country. They can as a rule, and I think in nearly all instances, construct these works, if you make the law so that it is possible to comply with it. The principle of co-operation has been developed in that country beyond the comprehension of ordinary men. I have seen the Feather River, a river larger than the Potomac, running in a flume miles in length, and the whole work done by young men associating themselves together without a dollar of capital but what they dug from day to day out of the gravel and the sand along the banks. The water would not be low enough so that it could be carried in flumes until about the 1st of July, and they would have to stop on the 1st of October, giving only three months' time for mining the bed of the stream, the water of which was carried in flumes along the banks and over the heads of the miners working the gravel beneath.

There is not money enough in the Bank of England or in the Treasury of the United States to hire that done by men in the short season of low water.

Nothing but vigorous co-operation of young men with a high purpose could accomplish it. If you let me take you over that region I will show you tunnels through rock from several hundred feet to several miles, through hard rock, and they were constructed before we had the appliances of machinery and giant powder and other means of rapid construction that we have now, but they were constructed by the hand-drill, and the men doing it simply combined, and they had not a dollar of capital when they began. Part of them would work at that and part of them would mine somewhere else, and thus they would be enabled to obtain the provisions and tools for the others and they would go on for years and accomplish that work.

I can take you to the mountain ridges of California and show you aqueducts and canals on the very highest peaks of mountains where they had to keep at a high altitude to supply the mines. They had to build flumes across great chasms and blast into the side of the rocks for miles and miles in order to do it. Hundreds of miles of this kind of work has been done by men thus co-operating together. They understand the principle of co-operation. I will go into the interior States and Territories where mining has been pursued, and I will show you how these people understand co-operation, and if you will show them 20,000 acres or 1,000 acres of good land and tell them, "Under proper regulations you may have this land if you will construct these works according to the Government's survey," making such regulations as shall not breed monopolies, providing that each man shall have his home under proper regulations—that is the question to be studied—that can be done. Let our American people be allowed to co-operate and they will accomplish more in developing this arid region than all that has been or can be done with British capital in India.

India has not the same kind of people. They do not understand it. The people of the East can hardly credit the results which have been brought about in conducting great enterprises in mining and other enterprises that have been conducted by co-operation. Co-operation is a great power and combined labor is capital. All the fixed capital in this country would not feed the people a year. The wealth is in labor, in the productive power of the country. Stop the production and everybody would starve at once; but what the productive power of co-operation in a country like that will make possible is immense.

I say this sum that the Government invested as a war measure we should let go and not try to collect it, because it will retard the development of a large section of our common country. Let it be distributed in running branch roads and in what is necessary under such regulations as Congress may prescribe, the new roads not to be incumbered, so that they may carry freight as cheaply as possible, Congress fixing the rates; and then the roads will be run so as to do the people some good. Then let some of the money be expended in hydraulic works. Then the land can be sold at a higher price. Under the direction of Congress use the money for that purpose, and do not try to collect from the people of our State the debt of the nation. It is unjust. Whether these companies are willing to pay it or not, Congress ought not to consent to do it. Perhaps it will bridge over for the time-being their difficulties and enable them to float their bonds or do something. Perhaps it will; but it is not a matter of bridging over or a matter of the collection of a debt that now confronts us.

We made this appropriation originally for a great national purpose. That purpose has been subserved. Now we find these companies indebted to us largely—more largely than they can pay. Their business has been taken away by rival roads with our consent and by the legislation of Congress, and very properly, too, and we find this vast debt which will oppress that region and put it behind the other regions that have roads constructed with less debt.

Mr. BLAIR. I should like the Senator's opinion upon a project of this kind: Suppose that the Government claim should be discharged, wholly discharged, and then the mileage or fares, and perhaps freights, also, limited accordingly as in the case of the limitation of charges along the line of the New York Central Railroad, so that the country at large by diminution of charges would get the real benefit of this discharge of the debt, collecting it in that way, by a reduction of the expense of travel and transportation. Has that project ever been considered?

Mr. STEWART. I am considering a kindred project to that right now. My instructions propose to improve these roads by building long tunnels, making double tracks where necessary, and building branches with this debt so far as it goes, and to supply the branches with business, have them construct hydraulic works, to use this money for that purpose, and at the same time keep them free from debt and pass such laws as will insure cheap transportation. I have that idea embodied in the resolution of instructions I offered. Simply releasing the debt would not accomplish what I want. I do not want the debt released. I want the money used to build more roads.

Mr. BLAIR. That is to say you would continue the tax on the transportation of the entire country for the development of that locality?

Mr. STEWART. No, I would not; and I will tell you why I would not.

Mr. BLAIR. I thought that was the Senator's suggestion.

Mr. STEWART. If the Senator had studied geography, and if he knew what had been done, he would not make that suggestion. The transportation of the country is not taxed. Railroads have brought the rates so low that there is no profit in the through business, and these roads have to depend on the traffic right along the line of the roads.

Mr. BLAIR. May I ask the Senator a question?

Mr. STEWART. Yes, sir.

Mr. BLAIR. I should like to have the Senator explain why it is, if the road is relieved of debt or of a portion of its debt of sixty-five or seventy million dollars, it will not be able to do the business that passes over it at a lower charge than it would if it was obliged to take from that business this sixty-five or seventy million dollars to pay the debt?

Mr. STEWART. If you take off the debt and trust to them to build the roads——

Mr. BLAIR. I would suggest to the Senator before he finds fault with my construction of his plan that he understand the question I asked. My question, which I see the Senator did not understand, was how, in his judgment, it would operate upon the interests of the coun-

try and of his locality to discharge the Government debt entirely—discharge it at once, discharge it absolutely, and then let the country take its benefit by a legalized reduction of fares and freights analogous to what prevails in the case of the New York Central road?

Mr. STEWART. I admire the Senator's liberality in discharging the debt at once; but if we give up the debt what assurance have we that the branch roads will be built?

Mr. BLAIR. Then my suggestion was correct, that the Senator wishes the debt to continue in order that transportation may cost as much as or more than ever, and the money thus raised, instead of being paid by the country at large, to be used in the still further development of that locality.

Mr. STEWART. The transportation will cost less, of course, if they have branch roads. They have got little business of any kind along there, and they are compelled to charge for what little they do about all there is in it to carry it.

Mr. BLAIR. Is it not a fact that the through business is now the business very largely and that the present prices for fares and freights are paid by the people of the central and eastern portions of the country?

Mr. STEWART. The through business amounts to very little comparatively. It is the local business on which they must depend.

Mr. BLAIR. If there is no through business across these trans-continental routes, for what purpose were they constructed and for what use are they now?

I did not fail to understand that the Senator dwelt upon the great and patriotic purpose for which this line was originally constructed. I have always understood that to be the cause of the nation's contracting this high debt or giving this system assistance. But the debt remains and the nation is undertaking——

Mr. STEWART. Let me ask the Senator a question now that he has asked me so many.

Mr. BLAIR. Will the Senator hear what I say in reference to the suggestions?

Mr. STEWART. All right.

Mr. BLAIR. I want him to understand me. I will say to him that I understand the reason why the Government became interested pecuniarily was to keep the country together, to keep it united, and that purpose has been attained, and that the public did not generally expect to collect this debt originally. It remains, and now the public having obtained its first grand purpose insists upon its money also. That money must be collected out of the fares and freights of the roads so that it is a burden upon those who pay the fares and freights. Now, I understand that about one-half of this debt the payment of which the Government guarantied and which has got to be paid to private individuals or corporations any way, and beyond that is an additional debt of perhaps the same amount more which is due direct to the Government.

Now, I make this suggestion, and ask the Senator's view of it: whether for the general good of the road and of the country it would or would not be a good measure to discharge all that is owed to the Government directly, leaving only that which is due on the first original primary mortgage, which must be paid, and the payment of interest on the Government mortgage, as I understand, so that it must be paid anyway, but which is charged upon the Government directly, and then make a corresponding and unequalized reduction of fares and freights so that the whole country or whoever pays a passage over the road will have the benefit of it? That was the suggestion I made.

Mr. STEWART. I ask the Senator if he is in favor of that?

Mr. BLAIR. I have not thought very much about that. I asked the Senator the question. But I am inclined to think I would be in favor of that; but in my belief there are others who understand that great subject better than I do, and as a result of my belief I was questioning the Senator himself, thinking he was one of those who knew more about it than I do.

Mr. STEWART. My opinion is that this debt was not intended to be paid. I know it was not, because we all said so, and the contract shows it. It was to be paid out of the Government service, and the Government service has been performed so cheaply that it has not been paid, and the debt is still in existence.

Mr. EDMUNDS. I wish the Senator from Nevada would speak so that we can all hear him.

Mr. STEWART. As I before stated, the benefits we expected to the Government have been realized, but the debt has not been paid and the people at large have got the benefit they anticipated. So far as through freights are concerned, they amount to little now, because it is the local freight of these roads which gives them the revenue, for the reason that there is so much competition, so many rival lines, in through freight that none of them can pay out of that. If they attempt to pay the debt out of their through freights it will drive all through freights off the road, and it can not be done that way. If the debt is paid it must be paid by the people living along the line. It is a vast country, most of it consisting of public lands. Much of it is regarded as desert land, and there is no inducement to build roads on account of the population, for population does not go in advance of the building of the roads and does not go in advance of irrigation. It has to follow.

I propose to enable the people to go into this country to extend the railroad with this debt, and to build more roads that shall be unencumbered, so that they can run them cheaply, and I propose where the railroads can not pay without irrigation works that the money may be spent for that purpose.

Great Britain started first to build railroads, and built them all through India. They found that the roads without irrigation were useless, and they then devised a scheme to irrigate the land so as to supply business for their railroads. They first estimated one hundred and fifteen millions for irrigation. Much more than that has already been expended, and the result has been entirely satisfactory.

In the railroads and in the works of irrigation they constructed they spent a thousand millions in round numbers, and they increased very much the revenues of India. I do not propose appropriations by this Government on any such scale, but I claim that it is wrong to tax a portion of the arid region to pay for a great national enterprise, in which the whole country is interested, and oppress the people and prevent its development. But inasmuch as the Government has gotten its consideration I say use every dollar of this money for public improvements in that country under such regulations as Congress may hereafter prescribe. In that way we shall have carried out the original design of the act and at the same time develop the interior of the country, and the resulting benefit to the United States will be immense.

About 300 miles of the Central Pacific Railroad is in the Valley of the Humboldt, in Nevada. This valley, before any portion of it was irrigated, was the most forbidding in appearance of any section of the overland line. A small part of it has been irrigated and has proven it to be equal in fertility to any land in the United States. There is sufficient water running to waste in the Humboldt River and its branches to irrigate this entire valley. If this water were stored and conducted over the land by proper hydraulic works during the irrigating season at least 6,000,000 acres of land could be reclaimed in this valley alone. The irrigated land would be worth at least $50 an acre and would support a population of more than 600,000. The entire farm area of Massachusetts and Connecticut combined, according to the Tenth Census, is not equal in extent to the land susceptible of irrigation in the Humboldt Valley alone.

A few millions of the debt of the Central Pacific, if used in works of irrigation for this valley, would create wealth and support a population sufficient to contribute annually to the revenues of the United States more money than could be collected from the company by any funding bill that could be devised. The Central Pacific Railroad, as before stated, occupies this valley. There is no inducement for a parallel road; and in many places the road occupies the sites which will ultimately have to be used for reservoirs, etc., and the road-bed must be changed before the valley can be reclaimed. If the Government insists upon the payment of the debt without any portion of it being expended for the development of the country or the improvement of the road the road will remain where it is, and the greater portion of this valley will also remain a desert. Congress can remedy all this by requiring the company to change its road-bed and expend a portion of the money due the Government for that purpose, and also for the construction of the necessary hydraulic works. The Central Pacific Railroad also passes through the valley of the Truckee River, the outlet of Tahoe, Donner, and other lakes. Here again is a vast area of several hundred thousand acres of land that can be easily reclaimed by storing the flood-waters in the mountain lakes and distributing it by canals on the fertile lands below.

Nevada has numerous other fertile valleys susceptible of irrigation which will supply business for this road and branches to be constructed from it. If the policy I indicate could be pursued Nevada in a very few years would be a wealthy and populous State, and the revenues she would pay to the Government would far exceed the amount of money that can be collected by the proposed funding of the debts of all the aided roads combined. To make this central continental road capable of doing the business of the country cheap and expeditiously tunnels are necessary to be constructed to avoid heavy grades and the deep-snow line in the Sierra Nevada Mountains, where over 30 miles of snow-sheds are now maintained. These tunnels have been surveyed, and in the aggregate will be several miles in length. It is entirely practicable to enter the mountains below the deep-snow line on the east side and avoid the deep snow on the west side of the summit of the mountains by following along the sunny slope which forms the northern bank of the North Fork of the American River.

By these tunnels over 1,100 feet of altitude would be avoided, the snow-sheds dispensed with, the cost of operating the road greatly reduced, much time saved, and travel made more comfortable and safe. A portion of the debt ought certainly to be used for this much-needed improvement, and unless this is done these tunnels will never be constructed and the interior will be deprived of cheap freights, travel and mails delayed, and Government transportation, particularly in time of war, greatly embarrassed. Before any bill is passed adjusting or funding the debts of these roads it seems to me that the committee charged with that subject should make a personal examination of the country through which the roads pass to enable them to devise some scheme whereby these roads may be a benefit to the country and not an insuperable obstacle to its development.

Smalls vs. Elliott.

SPEECH

OF

HON. JONATHAN H. ROWELL,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 11, 1889.

The House having under consideration the contested-election case of Smalls vs. Elliott, from the State of South Carolina—

Mr. ROWELL said:

Mr. SPEAKER: If the right of a member to a seat on this floor is of any value, the evidence upon which he bases that right is entitled to a fair consideration by the whole House. I heartily agree with my colleague, the chairman of the committee [Mr. CRISP], that this case ought to be tried upon legal evidence and ought to be decided upon legal principles, and it is for that reason that I joined with my associates on the committee in filing the views of the minority in this case. The chairman of the committee has seen fit to arraign the minority for incorporating in their report a part of the record taken from a newspaper in South Carolina, and has insisted that that was not legal evidence and that it illustrated no fact in the case, and then he has devoted himself for three-quarters of an hour to discussing the question of whether or not Mr. Smalls was guilty of the crime of bribery, a question which had no more bearing on this case than the question whether the moon is inhabited.

It might have been permissible to illustrate the proposition that Smalls might have been unpopular by showing that he had been charged with that offense, but the question whether he was guilty or not is not a material question in this case, and no one knows that better than the distinguished chairman of the Committee on Elections.

It is brought in from the outside, like the bulldozing question, for the purpose of justifying a vote to keep a man out of a seat to which he was elected. No lawyer understanding the first principles of evidence will for one moment contend that the question of the guilt or innocence of Mr. Smalls illustrates a single proposition bearing upon the rights of either claimant to a seat here.

Now, I propose to discuss this case from this record, and from those facts of public history as connected with this district and the laws of the State of South Carolina which are legitimate to be considered in the case. I lay down this first proposition, because it is best to get at those points on which we agree: The laws of South Carolina were made with express reference to disfranchising the Republican vote of that State so far as they could possibly effect that end. The laws of South Carolina were made so as to make it difficult if not impossible for the body of Republican voters in that State to cast their votes either at a State or a Federal poll. And I shall refer to some features of those laws.

First, the whole election machinery of the State is in the hands of the governor of that State. He appoints a county board, which board appoints the managers of elections in each precinct. He appoints the board which takes charge of the registration of voters in every precinct. It is a machinery controlled absolutely by the governor and his appointees; and all management of election affairs under the law is taken away from the people in the various communities. As a result, in nearly every instance every manager, every officer of a county having charge of registration or having charge of the appointment of election judges is a Democrat; and every election manager or judge, and every clerk and every sheriff or constable at the election is a Democratic officer.

Again, the laws of registration require that each voter shall be registered; that if he move from one place to another in the district he shall be re-registered, and that when he comes to vote he shall not only produce his registration certificate, but shall swear in his vote besides. It further provides that if he in any way disposes of his registration certificate he shall never have another. If some country grocer induces a colored man to leave his registration certificate as security for his bill, that registration certificate promptly gets into the hands of the registration officer, and that colored man is forever thereafter debarred from exercising the right of suffrage in South Carolina.

Now, this particular district—it has been talked about a great many times—is peculiar in its formation. It is a striking illustration of gerrymandering—noted everywhere where people read about the formation of Congressional districts. It runs around corners, divides townships and villages, passes around the outside of other districts; in short, it is made of a form that was never dreamed of in heaven or earth—made to include, as far as possible, the colored voters of South Carolina. And it is the custom, when there are not quite enough voters in the district, for some of the others to loan the Democratic candidate a few of their voters, and have them counted by the State board.

Now, the law goes a little farther. While providing for absolute control of the election machinery by the Democrats it provides that the county board can eliminate out of the return such votes as they deem proper to be eliminated; and when they get up to the State board, the State board composed of Democratic officers can go to work and further eliminate—not in the form of an election trial, with all the evidence heard, but in their judgment sitting as a returning board and hearing evidence *ex parte*, they may eliminate enough more votes to enable the governor to award the certificate to whomsoever they desire to have returned as elected. So that it only requires a partisan board, imbued with the idea that this is a white man's government and that a negro has no right to have his vote counted in South Carolina, to secure, always, the return of a Democrat from that district.

Now, this district is composed of some 7,000 white voters and some 32,000 colored voters. In this last election, for some reason or other, nearly all of the white voters cast their ballots, and 25,000 colored voters failed to cast their ballots. Now, that is a patent fact. For some reason 25,000 out of the 32,000 colored voters in that district did not get their votes into the ballot-box. "Oh, there is a free election; the bulldozing is all on the side of the colored men; there is no trouble in an honest voter getting his vote into the ballot-box and having it counted." But somehow—in some way—the great body of the colored voters of that district have been induced, persuaded, or compelled away from the ballot-box, either by disfranchisement, by failure to hold elections, by refusal of registration, or by the danger which surrounds the colored voter.

Now, you can not escape from this fact—the result of something. And this record discloses the further fact that the colored people of that district have not given up the idea that a colored vote may count and that therefore there may be some use in casting it. Up to the election which is called in question here those people had yet retained a belief that there was a possibility of having a colored man's vote counted when it was cast; and they were desirous of casting their votes.

We are told that Mr. Smalls some years ago received a larger vote than he did two years ago, and it is argued that because his vote has fallen off therefore he has become unpopular or the colored voters have ceased to be Republicans.

It is true that some years ago the great body of the Republican voters of the district voted. They had not then been persuaded not to vote. Their votes were then counted, and on failure of the State board to count them the House supplied the omission by awarding the seat in Congress to the man elected by the people.

In the Congress preceding this their candidate had been elected and seated. Unlike the colored men of some other sections of the country, the men of this district had not lost faith in the efficacy of the ballot as representing the popular will.

They did not, therefore, remain away from the polls under the belief that it was useless to vote.

Some other reason prevented the 25,000 colored men from casting their ballots, and that reason is to be found in the laws of South Carolina deliberately enacted to disfranchise them, in the failure to hold elections in populous precincts, in falsification of returns, and in that kind of persuasion which amounts to force, well understood by the white Democrats of South Carolina.

When you talk about "intimidation," when you talk about "bulldozing," when you talk about "social ostracism," I meet you with the fact that no social ostracism has prevented the 7,000 white voters from casting their ballots. I meet you with the fact that 25,000 colored voters, by some means or other, have been kept from casting their ballots. And you can not escape this fact; you can not get around it; it exists, it stares you in the face, and it meets with no answer except the answer that by means improper, unlawful, and criminal the body of these 25,000 men have been kept from exercising the right of suffrage granted to them by the Constitution.

The governor of South Carolina, in his recent communication to the Legislature, announced that the paramount political question in South Carolina was the maintenance of Anglo-Saxon control in that State. It was not the paramount question that the majority might rule; it was not a paramount question that each legal voter might have his vote cast and counted; but the paramount question to which the attention of the Legislature was directed was, whatever might be the minority or the majority, to maintain and preserve Anglo-Saxon control—that is to say, to suppress the majority wherever that majority did not happen to be Anglo-Saxon. That is one patent fact, in answer to your talk of "intimidation." I have here a quotation from a South Carolina newspaper, recently published, which I propose to read—a Democratic paper proclaiming the sentiment of the white people of the State; a sample of the daily utterance from the press of the State.

THE CHALLENGE OF A SOUTHERN EDITOR—HE ADMITS EVERYTHING CHARGED AGAINST SOUTH CAROLINA AND QUOTES MR. TWEED.

[Special.]

COLUMBIA, S. C., *January* 15.

In commenting on the recent address issued by E. M. Brayton, chairman of the Republican State committee, the Greenville News to-day says:

"It is not worth while to challenge ex-Collector Brayton's counterblast to the South Carolina election law. We prefer to declare boldly that most of what he says is true, and that the law he describes was and is intended to keep the control of this State with the white people, who are a minority in numbers, but who pay nineteen-twentieths of the taxes and represent ninety-nine one-hun-

dredths of the intelligence and moral force. Then we can say to Mr. Brayton and to the partisan Republican politicians to whom he appeals, 'What are you going to do about it?' These laws are constitutional. They are the laws of the State of South Carolina, representing the will of the sovereign ruling people of the State, who rule because they have the mental, moral, physical, and financial power to rule.

"The entire Republican party in the United States, with all the power of the Government behind it, can not make South Carolina a Republican State, because it can not make the Republican party here respectable. The gaunt and unkempt Southerner who pokes a shotgun in a voter's face to chase him from the polls is a better man than the sleek, portly Northern manufacturer who offers the poor devil of a workman the choice between voting for high protection and starvation. The most reckless red-shirt riders who ever pulled a trigger are less guilty than the wealthy hypocrites who gave and the heelers who handled the money that corrupted the ballot last November. They may send troops here as they did before, to stand at our polls and purify the ballot with the bayonet, but for all that there will be no more good stealing in South Carolina. The crookedness in Southern elections is to save the credit and preserve the lives of the States, and to secure the safety and prosperity of the people, the churches, and the schools. They may steal our Congressmen and keep them while they can; they may steal our electors, but they never will steal our State."

Here is a bold declaration added to the declaration of the governor in his message that the purpose of the law is to prevent the exercise of the right of suffrage by the colored people.

I refer you to the law as it is made to show you the difficulties of it. The law requires a man to be registered where he lives. He registers on a plantation in a particular house, but if the man who owns it places him in another cabin the day before election, side by side with the one he has occupied, the ruling is he can not vote. My brother, chairman of the committee, happens to be mistaken in the law when he says certificates provide at what polls he shall vote; where there are two polls in one precinct it takes but one certificate.

The same certificate upon which a man votes at a State poll is the certificate he presents and votes on at a Congressional poll. The law does provide the polls may be separate—the State and Congressional polls—and whenever there is a large colored vote in any precinct the authorities put them 5 or 6 miles apart, and appoint a separate judge or separate manager for the Congressional ticket, so that he who would vote at both must pass from one to the other. That is another method of suppressing the colored vote and making it difficult to have it counted.

There is another method, and that is, where the colored vote solidly Republican is overwhelming, to appoint some judges who will not hold the election. That is what took place in several precincts at this election. Where there are five or six or seven hundred Republican voters three Democratic voters are appointed judges. They go to the place of holding the election, they stand around awhile, they go home, they refuse to open the polls, and in that way disfranchise the voters. That is a good deal easier than to shoot voters. That is a good deal easier than to stuff the ballot-box. That is a good deal easier than to issue tissue ballots. That is a good deal easier than to falsify the returns. There is less danger of criminal prosecution, and I suppose there is less shock to the conscience of the man in South Carolina who believes it a part of his duty to suppress the colored man from voting.

Mr. BURROWS. Is that done in any precinct in this case?

Mr. ROWELL. Yes, in several of them.

Mr. BURROWS. I understand that is mere imagination; that it does not exist.

Mr. ROWELL. If it is imagination then this record is false. The testimony is ample, and it is absolutely uncontradicted by anybody.

Mr. BURROWS. Let us have the facts.

Mr. ROWELL. Mr. Elliott is seated on this floor, not by virtue of the majority of the votes cast at that election. We agree to that. That is one of the undisputed facts of this case. Had the legal votes cast and returned been counted by the State officers Mr. Smalls instead of Mr. Elliott would have received the certificate of election and occupied a seat on this floor. This seat, held as it is now, is not held by virtue of an election by the people, but is held by virtue of an election by the Democratic returning board of South Carolina. There is no question about that. The gentlemen representing the majority of the committee, as well as those representing the minority, have agreed to that state of facts.

Now, how did that come about? Let us examine for a moment. Two thousand and ten votes cast for Smalls were not counted for him. They were not counted for him, and upon the theory that the tail goes with the hide 152 votes that were cast in the same precinct for Elliott were also thrown out. Had the votes as they were actually cast been counted in that election, not including Pocotaligo precinct and the stuffed boxes, Smalls would have been returned by a majority of over 1,300. Bear in mind, now, I say that not including the three precincts where there were stuffed boxes, not including the precincts where there was no election, yet by taking the whole of the votes that were actually cast by legal voters, men having been registered, holding certificates of election, holding and presenting their registration certificates and swearing in their vote under an additional provision of the law, had these votes been counted Smalls would have received his certificate by a majority of over 1,300.

So, Mr. Speaker, this is not an election by the people. It is a returning-board election. That returning board rejected boxes enough and threw out precincts enough to declare Elliott elected by a majority of 532 votes. But it did not give him a majority of the votes cast. He was not elected by the legal votes of the district. His certificate was issued upon a minority of the votes actually cast; and in this I do not include false returns; I do not include a single precinct where the people had gathered by the hundreds for the purpose of depositing their ballots under the law, but who could not do it because the judges refused to open the polls; and I do not include three precincts where the ballot-boxes were stuffed in his interest.

Now, there were cast on that day, taking the stuffed ballot-boxes and the amount of votes returned after eliminating the extra number found in the boxes, 14,616; not cast, 25,000.

I come down now to the precincts whose votes were not counted; first, the precinct known as the Brick Church precinct, in Beaufort County. There were there cast 503 votes for Smalls. The next is the precinct of Brick Episcopal Church, 267 votes for Smalls; the next, Sandy Island, 53 for Smalls; the next, Cedar Creek, 17 for Smalls; the next, Grier, 65 for Smalls; the next, Santee, 212 for Smalls; the next, Adams Run, 117; the next, Fort Motte, 236; the next, Gadsden, 451, and the next, Grahamville, 48, making, as I have said, an aggregate of 2,010 votes. I have also said, Mr. Speaker, that in addition there were 152 votes in these various precincts which went out with the boxes which had been cast for Elliott.

Now, the committee rejected in their report two polls that were accepted by the returning board of the county and the State returning board; two precincts that run the gauntlet of the Democratic returning boards of South Carolina are thrown out by the committee; one is Ladies' Island in St. Helena precinct, I believe, where Smalls got 139 votes and Elliott 77—that is to say, in a precinct where there were not a half-dozen white men, more than one-third of the colored voters freely voted for Elliott, and yet this committee recommended the throwing out of that precinct because of "intimidation!" Now they throw out another one—they throw out Beaufort, where there were 271 votes for Smalls and 135 for Elliott, or more than half as many cast for Elliott as for Smalls, and yet they also threw that precinct out because of intimidation. The very fact of 77 colored voters, more than two-thirds of Ladies' Island, freely voting for Elliott insures that the question of intimidation does not arise there, even if it were not answered by fifty witnesses produced, which have not been referred to by the chairman or the committee. Now, the committee agree that at Fort Motte there are 236 votes which were cast for Smalls that were improperly rejected, and I refer to it, not because it is not settled here, but to show the disposition on the part of the election boards of South Carolina to reject polls where there are Republican majorities, and to determine on the part of the returning-board that Smalls, who was elected, should not have the certificate, and that Elliott, who was not elected, should have the certificate.

The committee think and say that there is no question but that this Fort Motte precinct ought to be counted. Why? An attempt was made to defeat the holding of an election there because two of the judges refused to hold it, leaving but one, and that one associated himself with himself, because he did not yet quite reach the point of refusing to do his duty, and held an election absolutely fair, returns made exactly in accordance with law, and yet these returns were thrown out.

No; I am mistaken. This is one of the precincts where the ballot-box was stolen.

The committee also agree that the ballots should be counted at Adams Run, where there were 177 ballots for Smalls, at Cedar Creek 18 for Smalls, at Grier's 65 for Smalls, making 496; and in these precincts Elliott got 99, and the committee state that all these 496 for Smalls and 99 for Elliott ought to have been counted. Now, there are two of these where a portion of the judges undertook to destroy the election by refusing to serve, and only one of the judges, associating others with himself, held the election. Two others were on account of refusal to open the ballot and on account of stealing of the ballot-boxes. One of the Democratic judges of one of these precincts took his ballot-box up to the headquarters; but instead of delivering it to the proper returning board he delivered it to a leading Democratic politician in the headquarters building, and, lo and behold, that ballot-box disappeared from sight and was never heard of thereafter. The other was delivered in the same way, but the man who received it was honest enough to deliver it, but the judges refused to open it or count it.

Here I call attention to a little incident in this case. My colleague, the chairman of the committee, undertakes to bind the contestant here by a concession that his attorney might have made upon a question of law. Let me apply his rule to contestee. When the evidence was being taken in this case, when this ballot-box was produced, when the judge who made the return swore that if they would open the box so that he could see the return he could identify it, and when the commissioner who was taking the testimony undertook to open the ballot-box, Mr. Elliott, through his attorney, dared the officer to open that ballot-box at his peril. In other words, the contestant himself, through his attorney, taking his testimony, stands before this House with a threat of personal danger to the commissioner, the lawful officer taking this testimony, and thereby suppressed the testimony before him that ought to have gone into this record.

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

Mr. ROWELL. Certainly.

Mr. CRISP. Does not the gentleman know that both of these boxes to which he has referred have been counted; and that the majority of the committee, in their report, have given Smalls all that he claims in both of those precincts of which he is now speaking?

Mr. ROWELL. Certainly. I stated that; and said that I gave this to illustrate the conduct of this contestee, and to show whether he was willing that the truth might be exposed, that the light of day might be let in upon this contest, and I show that he stands there and dares the officer of the law to open that box at his peril, and that the officer of the law too well understood the peril in which he placed himself if he dared to turn the key in that box—and it was the representative of Mr. Elliott, speaking and acting for him, who thus defied the law in the interest of his client, and with deliberate purpose to suppress the truth. It is the fact which I comment on as an illustration of the methods pursued in this district.

Mr. HEMPHILL. Do you claim that he had authority from Mr. Elliott?

Mr. ROWELL. I claim that he was acting as the attorney for Mr. Elliott.

Mr. HEMPHILL. But was he doing it by his authority?

Mr. ROWELL. I hope in God's name that he was not.

Mr. HEMPHILL. I think you had better prove it before you make the charge.

Mr. ROWELL. I have looked through this record, but find no disclaimer anywhere from Mr. Elliott or anybody representing him. He got the advantage of it. This contestee would not allow Smalls to have the advantage of having that ballot-box opened. The United States supervisors of both parties made a report, so the committee, of course, have to admit the vote in spite of this act.

Mr. HEMPHILL. How did he get the advantage, then?

Mr. ROWELL. I did not refer to it because they were not counted by the committee. I referred to it to illustrate the spirit in that district, the lawless spirit, when an attorney representing the contestee here would dare to threaten a man with personal danger there, threaten his life, when that man held a commission of the law, under the authority of the law, and was about to produce legitimate and lawful testimony.

Mr. OUTHWAITE. Will the gentleman permit an interruption there?

Mr. ROWELL. Certainly.

Mr. OUTHWAITE. Will you read any evidence that shows that that was a threat of personal violence, and not a threat as to the legal result?

Mr. ROWELL. The language was that he dared him to open it at his peril.

Mr. OUTHWAITE. And you say that that threat is against his life; and that is not the fact.

Mr. ROWELL. When a man says that, whether it is in the North or in the South, he understands that it is at his personal peril. In view of what we know of that chivalric people down there, and their effort to carry on an honest election, I would say that in that country it was more in the nature of a personal threat than any other thing; and it had the effect of preventing the opening of that ballot-box. It was a threat of personal violence, and no other meaning can be given to the language.

Now, there is another precinct that stands precisely on the same footing with these admitted precincts that the committee rejected, because they say it was not in the notice. That is the precinct of Sandy Creek. If gentlemen will refer to the notice on the first page of the record they will find that Sandy Creek is mentioned both in the second and third clauses of the notice.

If they will refer to another notice to be found in the record claimed to be a copy of the original, they will find that Sandy Creek is, by some error, left out of the second, but is included in the third section of the notice.

Mr. CRISP. If my friend will permit me I want to state that he will find in the record more than one notice.

Mr. ROWELL. Yes, there are two.

Mr. CRISP. But you will find an agreement between Elliott and Smalls as to which is the notice in this case, and that notice contains no reference to Sandy Creek.

Mr. ROWELL. Yes, it does. If you will read the third clause you will find it.

Mr. CRISP. If it does then I am mistaken, but I think the gentleman is wrong.

Mr. ROWELL. I am not wrong, as the gentleman will find on examination.

Mr. ROWELL. Now, Mr. Speaker, as I was saying, there is another precinct that stands precisely upon the same ground in regard to a portion of the judges refusing to hold the election. If you will read the third clause in your second notice you will find that Sandy Island is there. That added to the 496 gives Smalls 529 and Elliott 99, and overcomes 430 of the 532 majority reported for Elliott.

The next precinct that I come to is the precinct of Santee, with 212 votes for Smalls. The committee reject that because they say that the polls were not held in a house, that they were held outside under a tree. The election was regularly held by competent judges; the electors were required to produce a certificate of registration. They were obliged to swear also that they had continued to be legal voters and that they resided where they did when they registered, and the returns were properly and legally made.

There are two objections made to counting those 212 votes. One is that the election was not held inside of a house. Now, there is no law of South Carolina requiring that to be done. Another objection is that there was not a space fenced in so that the voters could pass in one at a time. That is true; but the testimony shows that the crowd were kept away, that every regulation was observed and every care taken, and that there was no interference with voters. The clause in relation to fencing off a space is simply a directory clause in the statute with no penalty denounced for the failure to build up a pen through which the voters shall pass. The election is proven to have been regular and fair and to have been properly held, and there is no more reason in the law for throwing out this poll than there would be for throwing out any other poll in the whole district. Why, sir, the supreme court of South Carolina, long before there was any necessity to disfranchise colored men, had decided that an election held with a gourd for a ballot-box in the open air was a good and valid election.

It was the duty of the officers, and not the voters, to have the space fenced off through which the voters should pass. Neglect in this regard was the neglect of the officers—a neglect nowhere held to invalidate the election, provided the proof showed that otherwise the election was fair.

Now I lay down this proposition of law as being well settled, both by the courts of the country and by this House:

When the voter has done all that is required of him by the law in the way of qualifying himself so as to entitle him to vote, and then has gone to the place of voting and in a lawful way tendered his ballot, no neglect of the officers of the law to comply with directing provisions of the law can deprive such voter of the right to have his vote counted.

The neglect of the officer may make it necessary to make proof of the vote; but that is a question of evidence and not of legal right. Counting Santee makes 212 more for Smalls. Elliott got 4 votes at that poll. Subtract Elliott's 4 and it makes the number 208 majority for Smalls. Add that to the 430 and you get 638. Subtract 532, the returned majority for Elliott, and you leaves Smalls, up to this time, a majority of 106 votes. Now, Mr. Speaker, so far I have dealt only with those precincts rejected by the State board, but which are acknowledged by the committee to have been improperly rejected, with one additional precinct which is in the same category, namely, the Santee precinct, with its 212 votes for Smalls and 4 for Elliott. Smalls, I say, is now 106 votes ahead. Next I come to the Brick Episcopal Church, with 264 majority for Smalls. I will tell you how they came to throw that out.

In South Carolina, under the election laws, they have a right to put a Congressional poll at a distance from the State poll; so in this precinct they passed an order making the Brick Episcopal Church the place for the Congressional poll. It was not a new precinct, it was not a place where the State vote was to be cast, but it was the Congressional voting place for this precinct, and it was 6 miles away from the State voting place. I want to emphasize this statement. Brick Episcopal Church was and is a voting precinct. It was the place where the Federal offices were to be voted for in the precinct of Mount Pleasant, and located 6 miles away from the voting place for State offices in the same precinct.

Now, the registration officer sent his book of registration to the State voting place, but neglected to make a copy and send that registration down to the Congressional voting place. But the voters appeared there with the proper judges of election; they showed their certificates of registration; they took the required oath; they voted; the election was fair and free; and none but legal voters were permitted to vote under the forms of law; the returns were correct in form; yet these 264 votes for Mr. Smalls were ruled out because it is said there was not any book of registration at that poll, and the committee now claim that these voters, when there had been established a new polling place for the Congressional district, ought to have gone and got themselves reregistered as Congressional voters. There is no such thing known to the law of South Carolina as a registration for Congressional or Federal votes and a registration for State votes. These voters were registered in that precinct. A new poll was created for the Federal election, to keep it away from the State election.

These men were legal voters; they were properly registered; the election was held under the forms of law; it was a fair, free vote, properly returned. Yet this contestee, through his attorneys and the majority of this committee, reports that, the voters of the precinct having done all that was required of them by the law, having been properly registered, having preserved their registration certificates, having gone to the place provided by law and tendered their ballots and having them received, the neglect of the partisan friends of the contestee to send down the book of registration to that poll is to be taken advantage of by the contestee and that the contestant is thus to be deprived of these 264 votes. The law never was that way. The law requires the voter to do everything prescribed to be done by him, and if he

fails to do this he fails to qualify himself to vote; but the law does not require that the voter shall discharge the duties of the public officer, and that when the public officer neglects, either willfully or ignorantly, to discharge his duty, the voter is thereby deprived of the vote which he has cast. The ruling out of these 264 votes was simply the high-handed outrage of the returning board of South Carolina, by which 264 legal voters, having done all that was required of them, were deprived of the right to have their voice in this election.

The committee can find no well-considered precedents upon which to base their action in this precinct, because none such exist.

I know of no excuse for this rejection except the excuse of necessity. Now, if you will add 264 to the 106 majority we already have, we then have 370 majority for Smalls up to this stage of the case.

Now, the next vote rejected was that of Brick Church, in Beaufort County. It cast 503 votes for Smalls and 45 for Elliott, leaving Smalls a majority at that precinct of 458 votes, which, if added to the 370 we have already found as his majority, will make that majority 828. But this precinct is rejected because they say that the voters were "bull-dozed," were "intimidated." And some evidence has been brought into this record, some witnesses have sworn that previous to this election there was vigorous talk in public meetings. But nowhere has any man been assaulted; nowhere has any man been prevented from expressing his free and uncompelled choice by his vote.

Now let us consider this precinct. It was not rejected for bulldozing; it was rejected because the returning board said that for twenty or twenty-five minutes during that whole day the polls were closed. Now, the judges of that election—two white men and one colored man—all testify against any intimidation at that poll. The white owner of the building, a doctor, testifies to the same thing. The Democratic marshal or constable presiding there testifies to the same thing. Two Democratic colored ticket-peddlers, peddling tickets for Mr. Elliott all day long, testify to a free, fair, and unintimidated election. I am not surprised that the chairman of the committee says, "We will reject the testimony of Chance Green" (the star witness in this case), "we will throw that out of consideration;" because it is the testimony of Chance Green and one or two like him against fifty witnesses testifying as to the same poll that has made the basis of the committee's action in ruling out the more than five hundred votes for Small. Here is Chance Green testifying that in the morning a certain man, naming him, attempted to go up through the chute and vote, and the Republicans pulled him out and took his ticket away and would not let him vote; yet by and by, on cross-examination, he changed the time to the evening. And the person named as having been thus treated comes up and shows that he was no voter at all; that he had not any registration; that he would have voted for Smalls if he had been entitled to vote, but that he did not attempt to vote and nobody touched him.

This same witness testifies that another colored man had a ticket and wanted to vote for Elliott, but the Republican leader went and snatched the ticket out of his hand and would not let him vote. The man referred to in this testimony comes upon the witness-stand and says, "I have not any certificate; I was not a registered voter; I did not try to vote; and the only basis for this lying statement was that I picked up a torn ticket from the ground and one fellow asked me to see what that ticket was."

It is upon such testimony as this, overwhelmingly contradicted by the Democratic judges of the election, by other white men who were around the polls, by Mr. Elliott's Democratic ticket-peddlers, and by witnesses who were called in swarms—it is upon such testimony that the charge of bulldozing is based. Nobody killed, nobody assaulted, nobody hurt, either then or before, in the vicinity of that precinct.

But Smalls was guilty of the unpardonable offense of telling colored women they ought not to allow their husbands to go home if they voted the Democratic ticket. I have heard in public meetings very strong advice given to young ladies not to allow any young gentlemen to visit them if they tasted of the cup that inebriates. That was intimidation; that was bulldozing. There was a colored club came over from Ladies' Island to Beaufort, and some colored girls threw bricks at three of them. That intimidation extended down to and over the water to Ladies' Island and prevented these people from holding a fair and honest election. [Laughter on the Republican side.] In the month of October last I happened to march in a procession down in my brother SPRINGER'S city of Springfield and some dirty fellows threw eggs at us, but we caught them and turned them over to the police. [Laughter.] If, therefore, colored girls throwing bricks at a colored club going along the streets of Beaufort is to destroy the election at Ladies' Island then my friend [Mr. SPRINGER] should withdraw his certificate and retire from the House on account of bulldozing down in the great capital of Illinois. [Laughter.]

And this, Mr. Speaker, is the kind of evidence upon which the majority of the committee justify themselves in throwing out the precincts of Beaufort, Brick Church, and Ladies' Island.

[Here the hammer fell.]

The SPEAKER *pro tempore* (Mr. CUMMINGS in the chair). The gentleman's time has expired.

Mr. CRISP. I move the gentleman's time be extended until he closes his remarks.

The SPEAKER *pro tempore*. The Chair hears no objection, and it is so ordered.

Mr. ROWELL. Now, Mr. Speaker, I freely admit—and I want to be absolutely fair in this case—I freely admit that the colored people of that district, as in every other district North and South where their spirit has not been crushed out of them, are honest Republicans. I freely admit that a colored man in a colored community who votes the Democratic ticket loses caste just in the same way that a white man down in my brother's district loses caste if he votes the Republican ticket. They are earnest Republicans. They have good reason to be. They remember how they came to be men in this country; they remember how they ceased to be chattels. They have not forgotten that a colored man has now the right to marry him a wife, to raise him a family of children, and not to be separated from them because of their being chattels. Hence it is these men are earnest Republicans. Preachers talk it in the pulpits. The stump-speakers talk it on the stump.

If the doctrine of the chairman of the committee holds good, whoever goes on the stump and denounces his opponents, and declares the salvation of the country depends on the success of the party which he adheres to is an intimidator, and the election held after such a speech is not a legal election.

I say there is evidence down there of some violent talk, but there is no evidence of any assault or of any injury. But one single man comes here and swears he went away from the polls and failed to cast his vote because of any fear of the colored people on Ladies' Island.

Seventy colored men on Ladies' Island went to the polls and voted the Democratic ticket. Just think of this. One-third of the colored voters led by intelligent white men freely cast Democratic ballots at that poll without the pretense of interference. Forty of them have been organized into a Democratic club and have held meetings for weeks before the election, and yet the precinct is thrown out on account of intimidation—intimidation, as I understand the chairman of the committee, because of something said or done before the day of election—something whose influence extended down to that day and operated upon the minds of the voters, and that finding is based not upon the evidence of any witness who testifies that he was so influenced, but upon the testimony of witnesses as to certain speeches and acts which, in their opinion, did influence voters. Avoiding the best evidence, that of the voters themselves, the committee rest their conclusions upon opinions, a convenient resort when there is no possibility of proving the fact because the fact does not exist.

A warm political canvass followed by a peaceful election, according to this precedent, must necessarily result in electing the man who receives the fewest votes.

One colored man who voted the Democratic ticket testified that he was turned out of church for so voting, but on cross-examination he was forced to admit that it might have been on account of a woman. [Laughter.] He voted once for Mr. Elliott, but because of that church trial and the "woman in the case" Mr. Smalls must lose the vote of Ladies' Island.

But we are told colored women left their husbands after the election, their husbands having voted the Democratic ticket. Mr. Elliott did not lose their votes because these colored women left their husbands. They went away and remained for three weeks, but each of the husbands set himself up as a good Samaritan to the other, and so their wives were persuaded to live with them again. That is the extent this testimony reaches as to suppressing honest votes. I imagine these two men were worthless fellows, hardly deserving to have wives, not alone because they voted the Democratic ticket, although that is persuasive evidence of the fact, but because of other facts in their own statements. But the material thing in this record is that Mr. Elliott got their votes.

How does it come that the churches, the women and the people generally, come up here and show their earnest desire for the interest of the Republican ticket, and then a witness comes in and gives it as his "opinion" that they so express themselves because of intimidation, when they can not find any witness to come in and testify that he was prevented from voting? Nor were they prevented. But while there is evidence tending to show that there was some violent talk long before the election, there is an overwhelming preponderance of testimony contradicting the same witnesses as to the character of that talk at the same meetings, ten to one. This committee comes here with the testimony of one witness and rejects the testimony of ten, and thereby succeeds in throwing out these five hundred and odd votes at Brick Church, and going to Beaufort do the same, and to Ladies' Island, and there the same, at each of which precincts one-third or thereabouts of the votes were cast for Elliott, and they were all colored votes. They were the places where Smalls had incurred the enmity of some of the leaders of his race, one of them who has been quoted here who had always been a bolter from the ticket ever since he become a voter, and who testifies that he is a Republican, but in each Congressional election for years and years had opposed the fellow who was nominated.

Now I have not time to go over both sides of this testimony, but I assert, and I know I can not be successfully contradicted by any one who has looked into the record, first that no violence occurred anywhere on election day, that no violence occurred anywhere else except

some time before the election where some colored girls brickbatted three colored men; that nobody was ever turned out of a church because he voted the Democratic ticket; that nobody was compelled to vote the Republican ticket by virtue of the influence of his wife so far as discovered, except in the "opinion" of two or three witnesses. An all-sufficient answer to all this talk about intimidation is the historic fact that the colored men are in a vast majority in this district; that 25,000 of them failed in some way to vote, and that the Democratic leaders there believed they were voting the Republican ticket, and therefore tried to prevent the holding of an election and did so, whereby two or three thousand votes were excluded, men who had congregated around the polls and who were prevented from casting their votes by the refusal of the judges to open the polls.

Let me say right here that under the laws of South Carolina no provision is made whatever for the appointment by the people of a judge or manager of election where the appointed manager fails or refuses to act. In other words, if there is not the inherent right to appoint the managers on the part of the people, then you may always prevent an election in that precinct where the Republicans are in a majority by a simple refusal of the judges appointed to open the polls. In this case the notice of appointment reached them too late to send back a refusal to act and to make the appointment of others, and so thousands of men at the polls, qualified to vote, ready to cast their ballots for Smalls, were deprived of the right to do so by the Democratic judges appointed going to the polls, standing around awhile, and then saying, "There are too many people around here; there will be a riot," and refusing to open the polls, and thus preventing the holding of an election. I say you may do away with tissue ballots; you may do away with the shotgun and the red shirt; you may do away with the false count and the stuffed ballot-box; you may do away with preventing registration, and do away with all other methods which may be practiced of defeating the privilege of the electors to exercise the right of suffrage, by simply appointing judges of election with the understanding that they are not to hold the election where the Republicans are in a majority, and thus the governor of South Carolina will have his problem solved and will know that they have discovered the method by which Anglo-Saxon supremacy in South Carolina and in all districts therein may be preserved.

Now, Mr. Speaker, I come to the Gadsden precinct. The judges of election went down to the voting place, but declined to open the polls. The United States marshal waited an hour and then organized an election board, and that board went on under the forms of law and received 451 votes for Smalls, every man being required to produce his registration certificate and swear in his vote, every formula of the law being complied with. The returns were made up and sent to the headquarters, but headquarters refused to acknowledge or receive them. It is true that in the committee my brother Ellis, who argued this case, made this proposition of law, that because the election laws of South Carolina declared the polls should be open from a certain hour of the morning to a certain hour of the evening, that because the people were collected around the polls, and because of the fact there was an hour intervening when people might have voted, that that would prevent the votes from being counted for Smalls, but that it invalidated the election of Elliott. In other words, the proposition was, as a maxim of law, laid down that it would invalidate the election of Elliott, but that the votes could not be counted for Smalls.

In the committee I questioned that construction of the law. I know now that it is not correct. If an hour did intervene, if the evidence shows as in this case that nobody came and went away, that nobody was prevented from voting because of that hour, then no voter has been injured, and therefore the votes of this precinct are entitled to be cast and counted according to law.

And I repudiate the idea that the committee is bound by an admission on a question of law of the attorneys on either side of the case. That admission seems to be the only ground for excluding these 451 ballots.

The law of South Carolina makes no provision for the appointment of judges, as I said; but there is an inherent right in the people—legal voters of any precinct—when officers of the law refuse to do their duty to appoint managers in their places to hold the election, proving that it is fair, proving that the votes cast were legal, in order that those votes may be preserved as evidence showing the choice of the people, and in order that they may be counted as the choice of those voters. Such is the law, and such has been the ruling in very many of the courts of this country, and it is the settled law. The people, having discharged their full duty, are not to be deprived of their voice and vote by the criminal negligence of the officers of the law. In this case for the contestee to take advantage of the wrong of his own party friend and insist that these votes should not be counted is to declare that in South Carolina the minority and not the majority are to rule. This is the only one of the precincts where the people, having failed to get judges, took their legal right, and appointed their own judges and held the election. They ought to have done it in every one of the other precincts in order that the evidence might be preserved; that the ballot might be opened and counted and Congress have the means to see that these people are not deprived of their legal rights. They did their duty as they understood it. They violated it in no regard; and therefore their votes are to be counted. Now, you have added to this majority over 800, 451 more, carrying it up to over 1,300 majority for Smalls, after giving the 152 for Elliott.

Now, I have not stopped here. These are the districts where the vote was cast, and where it was legal, where it ought to be counted, and where it was not counted. Now, there is another place where there were forty-odd votes thrown out because they were said to be marked or mutilated. Six of them had on them pencil marks that were caused by one of the judges thrusting them into the ballot-box with his pencil. All but one of them were for Smalls. The judges say that the ballots were torn. They were thrust into the fire and burned, so that you could not see whether they were mutilated or not. They destroyed the evidence in violation of law. Thus were 41 votes for Mr. Smalls thrown out and burned up, and the evidence destroyed which would have settled the question whether they were mutilated or not. That was by the returning board.

The judges sent them up in an envelope to the county seat, and the returning board formally ordered the envelope with its ballots thrown into the fire and burned up; so destroying the testimony. The means of determining whether these ballots were mutilated or not having been destroyed by contestee's party friends he can not now be heard to say that these votes shall not be counted. That is 41 votes more to be counted for Smalls in this contest. Now, I come to the question of making the ballots in the box and the tally-sheets correspond. I will take the precinct of Pocotaligo, and two or three other precincts where the ballot-boxes were stuffed. The committee say the managers followed the law in drawing out the excess of ballots in the boxes. The law requires that if there happen to be a larger number of ballots deposited in the ballot-box than there are names on the poll-list, then they have to throw out the excess and bring the ballots down to the number of names on the poll-list. That law is for an accidental increase in the number. That law is not for the stuffing of ballot-boxes. That law is not in order to condone a fraud by the judges and managers of an election. That law does not mean that you add may a hundred to the hundred and fifty ballots lawfully in the box, and then draw out a hundred ballots and make up your returns from the ballots remaining. The law was made for accident and not for fraud.

The committee seem to have entirely misapprehended the situation when they say "the managers seem to have followed the law."

These ballot-boxes with such large excess of ballots over the number actually voted were presided over by Democratic managers and clerks, Democratic constables, and two or three other Democratic officials unlawfully present in the polling-room, while all Republicans were excluded.

There was only one way for the excessive number of ballots to get into the box, and that way was for the Democratic officers having the box in charge to put them there for the purpose of having them drawn out "according to law," as the committee say, and so in any event increase the vote of Mr. Elliott and diminish that of Mr. Smalls. And I repeat, the law for drawing out the excess was not made for a box tainted with this kind of fraud; and I am surprised that the committee has fallen into such an error. Oh, but my friend, the chairman, says there is no evidence of how Pocotaligo was counted, and that the poll-list and return found in the record was not certified to by the secretary of state, and because of that omission we can not take advantage of this wrong and have this vote corrected according to the facts.

It is true that in the package of precinct returns paid for and sent down to contestant by the secretary of state this return does not bear his official certificate. An accidental omission, no doubt, and not discovered until offered in evidence. It is, however, on the official return blanks of the State.

But, Mr. Speaker, we are not without the very best evidence as to how this precinct was counted and returned; we have the positive testimony of how it was made up at the polls and returned; we have the certified record testimony that it was counted by the State returning board, because the record shows that the protest of contestant against this poll was not allowed, or rather was overruled.

There were 143 votes cast at this poll. The box contained an excess of 105. The returns gave Mr. Smalls 57 and Mr. Elliott 86 after drawing out the 105. One hundred and eighteen witnesses, unimpeached, testify to voting for Mr. Smalls, and the poll-list shows that these 118 voted.

This purges the act of fraud by the best evidence and determines how the vote ought to be counted. It takes 62 from Mr. Elliot and adds them to the Smalls column, and so increases Mr. Smalls's majority by 124 votes more, and this conclusion is reached by the only legal method of ascertaining the correct vote, where fraud is conclusively proved, as in this particular case. In this case there is no conflict in the testimony; the facts stand admitted, the fraud conceded, and we get for an answer, "The secretary of state did not properly certify the returns."

I remember that in a case before this Congress, which came up from Alabama, the records contained the testimony of men who stood outside and watched the ballots as they were handed in by the voter and noticed how many there were, and the committee said, "You can not prove it in that way; you should call the witnesses and prove how they voted." And the committe said amen. So in this case the witnesses

are called, and instead of 56 it is found that there were 118 votes for Smalls in that precinct, and now we are told that we can not prove a thing in that way. The committee tell us, "You can not prove a fraud, because they followed the letter of the law and took a stuffed ballot-box instead of one having one or two ballots in excess accidentally. These men followed the technical law, and therefore you have no right to complain."

Now, allow that to be the law, and you may always make a minority into a majority. You have only to put in every ballot-box where there are, say, 150 votes, 100 Republican and 50 Democratic—you have only to put in 100 Democratic votes and then mix the ballots and draw them out and you have got the advantage so that you can make the minority into the majority. This is not a case of an accidental overnumber getting into a ballot-box; it is a case of the fraud of the election officers themselves and the two Democratic officers, one of them the collector of the port down there, who stood in the room and helped to perpetrate the fraud. In this case they knew exactly just how many ballots there were in excess. Having drawn the number of votes that were on the poll-list, they insisted that all the balance should be destroyed. For a good while they refused to put the ballots back into the box and have a draw made. They insisted upon counting the ones that they had taken out and destroying the balance. They knew exactly the condition before they opened the ballot-box. The evidence shows the condition of things, the action of the parties, the trepidation, the fear of detection, it is all set out in the evidence, and yet the committee say the law was followed.

So in another case, in the Providence precinct, where there were 80 votes in excess, the report by some mistake says 90, the way they corrected this box was this: They separated the Smalls votes and the Elliott votes, and then they put the Elliott votes back in the box and put the Smalls votes back into the box on top of the Elliott votes and then drew out the Smalls votes [laughter], and the committee say they pursued the law.

I want to say to the chairman of this committee that the law never was made to cover up fraud. I want to say to him that a hundred ballots in excess in a ballot-box never got there by accident. They got there by corrupt fraud. That is how they got there. They tainted the ballot-box, and the law was not made to draw out that kind of ballot and count the balance. If it was, then you have again solved the problem of Anglo-Saxon supremacy in South Carolina. A number of witnesses were brought to show that they voted the Republican ticket at this precinct.

This was so palpable a fraud that no candid man can claim that the box ought to be counted as returned, 119 for Mr. Elliott.

As there is no evidence of what the actual vote was, the law disposes of the box by rejecting it entirely and deducting 119 votes from the Elliott column.

At Green Pond was another box fraudulently tampered with, so that according to the witnesses 99 votes should be deducted from Mr. Elliott and given to Smalls, increasing his majority by 198. Now, I admit that some of the witnesses at this precinct were ignorant, and that some of the testimony is unreliable on that account, but the fact of the fraud remains, and to say the least 99 votes must be taken from Elliott.

Now, Mr. Speaker, when you add these figures, as I have said, and the 47 votes that were destroyed, it gives Smalls 1,316 majority, not counting any changes made in the three precincts which I have been discussing, where the frauds were perpetrated. You will run the number up to 2,000 when you take account of the changes there; but taking the votes absolutely cast by legal voters at legal polling-places you get a majority of 1,316 for Smalls, leaving out Pocotaligo, leaving out Providence, and leaving out Green Pond, where these frauds were perpetrated. I stated awhile ago that there were several precincts here where no election was held. I do not ask that those votes shall be counted here on the question of seating Mr. Smalls.

But the very fact that elections were not held in those precincts, the very fact that the officers of election were the partisans and friends of contestee, that the machinery of election was in the hands of the partisans and friends of contestee, simply shows that it was a part of a preconcerted purpose to prevent the voice of the majority of the electors of that Congressional district from being heard, and it destroys all right or claim on the part of Mr. Elliott to represent that district upon the floor of this House without any reference to Smalls's claim to represent it here. It taints the title which he holds here with fraud perpetrated by his partisan friends. It destroys the validity of the election on his side. And the only way that the American Congress can teach this and every other district that elections must be fair, and that votes cast must be counted, is to refuse to allow anybody to take advantage of crime against the elective franchise, and thereby to hold a seat upon the floor of this House. That is what it means.

Now, in the Providence box there are 80 votes which ought to be taken from Mr. Elliott and given to Mr. Smalls. In these three ballot-boxes there ought to be a change of some 500 or 600 votes in view of the law and the facts. If you take them and throw out Beaufort, throw out Ladies' Island, throw out Brick Church, Mr. Smalls will still be elected; and there is no way you can count Mr. Elliott in, even by throwing out what they call the intimidated precincts, unless you violate the rights of the people, unless you reject an honest poll, unless you disfranchise the voters who did everything in their power to cast their votes; unless you condone fraud and crime and hold out inducements for corruption you can not count Mr. Elliott in. You may juggle with figures, you may juggle with evidence, you may take one witness and count him against ten, and still this record stares you in the face, this count is against you. Yet by virtue of this returning-board certificates the Seventh district of South Carolina has, nearly to the end of the Fiftieth Congress, been represented by a man never elected by the people. I say unless you reject the law and the evidence you must give Mr. Smalls his seat.

You say he ought not to have it because back in 1877 he was convicted by a South Carolina jury—after he had been elected to Congress and after his seat was being contested. Now, I am not going to discuss the evidence upon which he was convicted, because it is utterly immaterial here. But I know that in most courts the uncorroborated testimony of a confessed accomplice is never permitted to convict anybody. I know, too, that Robert Smalls did not stop with South Carolina; I know he came as of right to the Supreme Court of the United States to have the law of this case determined; and I know that the governor of South Carolina cut up the case by the root by pardoning Mr. Smalls without his asking it.

Mr. BUCHANAN. Pending the appeal?

Mr. ROWELL. Pending the appeal.

Mr. CRISP. My friend will permit me to say that the record does not sustain his position. The contestant in his evidence says his case was tried by the supreme court of South Carolina, and he appealed it to the Supreme Court of the United States. All I know about the matter is from the record which is put in here, and which shows that pending a hearing of the case in the supreme court of the State he was pardoned, that court never having passed upon the case. I merely wanted to correct the gentleman in that matter.

Mr. ROWELL. That is a mistake in the record, if you have any such record. You have put in your side of the record.

Mr. CRISP. Not at all; the whole record is there.

Mr. ROWELL. But the record of the supersedeas which went from the supreme court is here.

Mr. CRISP. I speak of the record in this; that is all I know about it.

Mr. ROWELL. But it does not make any difference whether it was pending a hearing in the supreme court of South Carolina or in the Supreme Court of the United States. Suppose it was pending the hearing in the supreme court of the State that the governor cut that case up by the roots and prevented a hearing; it is all the same. But that matter is so utterly immaterial upon any question involved in this case that there is no excuse for dragging it into the record except the excuse that a man with a bad case before a jury has when he attempts to get in illegitimate testimony in order to prejudice the jury. The only object of introducing the matter here must be with a view to influencing some man whose conscience pricks him and who is willing to vote against his party on this contest, according to the law and the evidence; the object must be that such a man may have some excuse to violate the law and disregard the evidence in this case by voting to permit Mr. Elliott to retain the seat to which he never was elected except by the Democratic returning board of South Carolina.

By a free and fair election, under election laws acting with equal force on all classes and honestly administered, I believe Robert Smalls would have received at this election not less than 10,000 majority, and that belief is based upon the record in this case and public history so recent as to be known by all reading men, and I believe that you on the other side agree with me. It is useless to manufacture excuses. The facts are patent. I do not stop to read from the record. It is too voluminous. I state conclusions. Most of the facts are admitted by the majority.

These facts have gone into history and made another page in the record of crime against the elective franchise perpetrated in the name of Anglo-Saxon supremacy. If the only effect was in the State of South Carolina and upon the local government I would say that is your affair. If you can afford to lay up wrath against the day of wrath, upon you be the consequence. But this is another and different matter we are considering—a Federal question—and it will not do for you to say, "This is our business, let us alone;" "Hands off, and let us work out this race problem."

The laws enacted here affect all sections of our common country, and hence all have a right to see to it that the voice of the nation, as expressed by its lawful voters, is heard and felt in our legislation and that no district or section shall be permitted to nullify the law.

The public conscience is already awakened, and men who live away from the colored belt will do well to heed its admonitions. It will not do to shield yourselves behind the report of a committee of your party friends. The facts admitted by them will not permit you to do so; nor can you afford to accept either the reasoning or the conclusion of that report.

When you tell me that the white men of the colored sections are bliged to stand together to protect themselves against the colored, I answer that is your business, and I do not object, if you think it wise. But when you go further and so manage your elections as to have your vote counted and the vote of the colored man suppressed through any unlawful means, then I answer that is the nation's business, and the

nation will see to it in some way that this thing shall cease in Federal elections.

Race feeling you may have within the law, but not above and against it. Ours is a government of the people. The ballot is a sacred thing in this country, because it is the expression of a freeman's will, and whoever commits crime against it proclaims himself the enemy of popular government.

Somehow, in some way, I tell you now, this question of an honest ballot is to be settled and settled right, and the man or the party that stands in the way of that settlement will be repudiated.

I present this case to the majority side of the House for consideration, not with the fullest confidence, because I have learned how hard it is for the Democratic party to accept the fact that colored men are really voters in this country, or to believe there is any wrong in defeating the operation of the laws which proclaim them such. Interested as I am and as are all thinking men in the race problem, I do not think it has a place in this case. The voting part of the problem was settled by an amendment to the Constitution, and here we have a vote problem, not a race problem, if you would only believe it.

Now, Mr. Speaker, I have talked a great deal longer than I intended to. There are a great many other matters connected with the case which I would like to discuss, especially the several hundred voters duly registered, whose votes were rejected under the slightest pretenses, and which should be added to Mr. Smalls's majority. I would like also to speak of the refusal to register Republican voters, except when they practiced deception and induced the register to believe they would vote the Democratic ticket.

But I can not. I have attempted to confine myself to the case which is before us. There are a good many other things in the air—matters of public notoriety that might perhaps legitimately and properly be talked about here—but that is not my way of conducting a lawsuit or a contested election. I am satisfied to try the case as it is and submit it to the conscience and judgment of those judges who are to determine, not upon the character of these two men, but to determine under the law and the evidence whom the people elected to represent them from the Seventh Congressional district of South Carolina. Thanking the House for its attention, I bring my remarks to a close. [Applause on the Republican side.]

Repeal of the Tobacco Tax.

REMARKS
OF
HON. CHARLES W. McCLAMMY,
OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 23, 1889.

Mr. McCLAMMY said:

Mr. SPEAKER: In the RECORD of yesterday I find that just before the announcement of the vote on the resolution against which the question of consideration was raised, and in which the repeal of the tobacco tax was involved, my colleague [Mr. COWLES] announced that if present I would vote "no." I was absent because of sickness, and by the express direction of my physician. I, however, reached the House at a later hour, owing to my interest in this question, in direct opposition to my physician's advice. The statement of my colleague was substantially correct, but in this connection I desire to say for myself that I think and believe that it is the duty of Congress to remove the burden of taxation, first, on the necessaries of life; that I am not now nor have I ever been in favor of taxing food and clothes and the other necessaries of life, while luxuries are permitted to go without at least a partial aid in bearing the necessary burden of government.

It is, however, true, Mr. Speaker, that I prefer an indirect tax to a direct tax, such as the internal-revenue tax is, and therefore I wish to say for myself that I am ready to vote, and shall vote, to remove the tax from tobacco whenever an opportunity is presented. Therefore, had I not been confined to my room by sickness, I should have been present, and if present would have voted "no" on the question then under consideration. I desire further to state that I would have so voted because my party had formulated and announced no policy on the question under consideration. Should my party formally determine in caucus that the repeal of the tobacco tax at this time was injudicious, I should abide its decision and vote in obedience to its registered decree, holding as I do that the path of safety is found alone in party organization and discipline, and that every Democrat should yield, in these questions of national policy, obedience to the will of the Democratic party.

State Rights.

State rights the source of Republican success, New England influence, and domestic tranquillity.

National popular vote for President:	
For Cleveland electors	5,536,524
For Harrison electors	5,441,923
Majority for Cleveland	94,601
State-rights electoral vote for President:	
For Harrison	233
For Cleveland	168
Majority for Harrison	65

SPEECH
OF
HON. JOHN W. DANIEL,
OF VIRGINIA,

IN THE SENATE OF THE UNITED STATES,

Saturday, February 23, 1889.

The Senate having under consideration the resolution reported by the Committee on Privileges and Elections directing inquiry whether Louisiana has a republican form of government, and for other purposes—

Mr. DANIEL said:

Mr. PRESIDENT: State rights have elected Benjamin Harrison President of the United States and have recalled the Republican party to power. A majority of 94,601 of the voters of the United States gave their suffrages in favor of the electors who had pledged themselves to vote for Grover Cleveland for the Presidency.

Mr. HOAR (in his seat). That is the very fact we want to inquire into.

Mr. DANIEL. I did not hear the observation.

Mr. HOAR. I beg the Senator's pardon; I did not propose to interrupt him.

Mr. DANIEL. I thought the Senator was addressing his remark to me, it was so loud. I would be very glad to answer any question the gentleman may ask.

Mr. HOAR. I think I owe an apology to the Senator from Virginia, which I will make.

Mr. DANIEL. Not at all.

Mr. HOAR. I made, in rather too loud a tone, addressed to some Senators near me, a comment on something that he had said. What I said was that that was the very fact we desired to inquire into. But I should not have made the observation if I had supposed my remark would reach the ear of the Senator from Virginia.

Mr. DANIEL. The inquiry of the Senator would have been very felicitous if he had made it before the vote was counted for Mr. Harrison, and I might further observe that it would have been a little more felicitous if the Senator himself had not given his judgment as a member of the Electoral Commission that it was a thing that could not be answered. So, sir, speaking by the record, I beg leave to observe again that a majority of 94,601 of the voters of the United States gave their suffrages in favor of the electors who had pledged themselves to vote for Grover Cleveland for the Presidency.

If this were a nation pure and simple, and if one man's vote counted just the same as another man's vote, if, in short, public opinion, which the Senator from New York calls "the life-blood of our institutions," could find its expression at the polls echoed in the verdict of the law, then Mr. Harrison would remain a private citizen, then Mr. Cleveland would be President for four years from the next 4th of March, then the Republican party would be relegated to retirement, and then Democratic ascendency would be established.

It is a fact notable and indisputable that the majority of the American people have indorsed the administration of Grover Cleveland, and have cast their ballots and had them counted in favor of Democratic rule and in favor of Cleveland for President; but it is conceded that the man to whom the majority of the voters refused their suffrages shall be installed as Chief Magistrate of the Federal Government, and that the minority party shall assume the reins and responsibilities of power.

A result so disappointing to the hopes of the majority of the people of the United States who are Democrats, and so in conflict with what to the surface view would seem to be the just and right conclusion from such a suffrage, can not be otherwise than annoying to those who polled their votes against it. But this sense of annoyance should be consoled in beholding the perfect mechanism of our Federal system of government—the success of free institutions and the triumph of those principles of "home rule" which the Federal Constitution embodies.

If the Democratic party has not succeeded in its aims of policy and

in its personal aspirations the fundamental principles of Democracy stand unshaken, and are illustrated in the very act by which its champions fall. Scarcely a ripple passes over the surface of society, not a commotion disturbs its depths. Quietly and without other excitement than that which is the unavoidable concomitant of every contest, with scarce so much excitement as the Greeks of old displayed in witnessing the contests of the Olympic games, we see the scepter of power over sixty millions of people change hands at the dictate of the minority; and while that minority enters the councils of state the majority bow to the Constitution and the law. Why is this? It is because this is a constitutional republic, and because what has been done is in conformity with the Constitution. It is because the Constitution rests on the sovereignty and the equality of States; the sovereignty of the States in their undelegated sovereign powers, and the equality of States in their relations with each other, in their determination of their own actions, and in their participation in national affairs.

THE ELECTORAL SYSTEM BASED ON STATE RIGHTS—HOW THE PRESIDENT IS ELECTED.

The constitutional expression of this doctrine, which was translated to the country at the polls on the 6th of November last, is found in Article II of the Constitution, which amongst other things provides:

SEC. 1. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

These electors, 325 for the number of Representatives and 76 for the number of Senators, constitute the electoral college or convention which chooses the President; and it happening on the 6th of November last that twenty States appointed 233 Republican and eighteen States 168 Democratic electors, the result is that although 94,601 more votes were cast for the Democratic electors than for the Republican electors, the choice of the Republicans will soon become President of the United States.

It is not within the scope of my present purpose, Mr. President, to discuss fully the wisdom of a system which places power in the hands of the minority of the people of the United States. The system exists. We are familiar with its workings. It is riveted in the Constitution which "we, the people," ordained. It is the voice of the people which ordained that Constitution, which gives it sanction now, and whatever may be its merits or demerits there it is, known to all, and all of us unite in bending to its mandate, the Republican party gladly accepting power through the State-right agencies it created, and the Democrats yielding up power gracefully at their shrine.

THIS A GOVERNMENT IN WHICH THE PEOPLE HAVE LIMITED THEIR OWN POWERS AND THE POWERS OF ALL THEIR AGENTS.

The most conspicuous event which we are soon to contemplate, the forthcoming inauguration of the President chosen by the minority of the people, would lose the better part of its significance if we refused audience to the instruction it conveys. It freshly impresses upon us that this is a constitutional Government and that the Constitution is the supreme law of the land. It reminds us that the Constitution is so dear to all the people and is held by them as so sacred that the majority of them look on with unmurmuring submission even when by its operation power is denied to them and bestowed upon a minority.

It further reminds us that ours is a Constitution that limits the powers of all the agencies, which are by it established to execute specific trusts, and that it has indeed limited the powers of its own creators, the sovereign people themselves, and denied to a majority of them the privilege of selecting their chief ruler, unless, indeed, that majority be so diffused throughout the States as to be enabled through State authority to secure the choice of the majority of the electors.

It reminds us that statehood is fixed in absolute integrity and is so guarded that it may override, as it has now overridden, the majority votes of the people of the Federal nation. And it should cause us to pause and consider what manner of nation the Federal nation is.

THE NATION OF NATIONS, THE STATE OF STATES.

I use the word "nation" here, Mr. President, by preference, for I am not one of those who think or who have ever thought that the word "nation" is inapt to describe the character in which the people are united, or the word "national" to describe their form of government.

The fathers of the Republic called the United States a nation. The writings of Washington, Adams, Jefferson, and Hamilton and their compeers are filled with the term.

When Chief-Justice Taney declared that—

For all the great purposes for which the Federal Government was formed we are one people, with one common country (7 Howard, page 492, The Passenger cases)—

he defined a nation as I understand the word, and as the American people accept it.

"One people with one common country" possess a common government. This may be said of the people of each State and of the people of the United States. Maine is a nation of Maine people, and Texas a nation of Texas people, because each people possess a common government of sovereign powers, and the people of the United States are a nation of the American people, because they also possess a common government with sovereign powers.

But the government of a State or of many States united ceases to be a common government if it rules by one law in one part of its territory and another law in another part. Whosoever assails the community or the authority of the government that belongs to one State or nation that composes the Federal nation assails the integrity of all the people of all the States or nations that compose it. In our very nationality as one people, with a community of government, is found that guaranty of equal rights and equal protection which we should ever be upon the alert to guard.

While it is evident, then, to my mind, Mr. President, that we are a nation, it is also evident that we are a peculiar kind of nation. We are not simply a nation of individuals, for if our nationality were predicated upon the equality of our citizens in political power the consolidated majority of voters who cast their ballots for Cleveland would have elected him. We are, therefore, not only a nation of individuals, but a nation of nations and a state of states, and in this double aspect of nationality and federal statehood we have appeared in the recent election and disclosed to the world the operations of our system so plainly that they may be readily seen and understood.

STATE RIGHTS THE SOURCE OF THE DOMESTIC TRANQUILITY WE ENJOY.

As the Republican party owes a debt to State rights for its incoming President, so the country owes a debt to State rights for the domestic tranquility which has attended the election of that President and for the universal acquiescence with which the announcement of the result was received.

When the Federal Constitution says that "Each State shall appoint" the Presidential electors "in such manner as the Legislature thereof may direct," it necessarily confides to each State the settlement of all questions as to the identity of the electors by it appointed. As was well said by Commissioner HOAR, of the Electoral Commission, in the Florida case, in anticipating a question which he has to-day asked of another: "There must enter into the act of appointment the power of determining who is appointed." When the electors of the States are chosen there is no power anywhere outside of the State that can look behind the certificates and question the title of the electors upon whom they have conferred commissions to vote for the President of the United States.

If there were such power in the Federal Congress or in any tribunal established by it, who can doubt that instead of the serenity that now blesses our country there would be turmoil and tribulation?

When the news of the November election came there came with it rumors of fraud and corruption in many parts of the country. Vast sums had been contributed for election purposes and ambitious men were aspiring to Presidential favors which they evidently believed would be ingratiated by the gifts they brought.

It was charged by Democrats that votes had been bought in New York State as hucksters would buy their goods in the market, and that in Indiana a scheme had been organized to isolate and debauch the suffrages in "blocks of five." It was also charged that the Prohibition party in New York had been betrayed and defrauded by the illicit sale of the subscription lists of their chief newspaper organ and the illicit sending of Republican campaign literature with the Prohibition papers in the mails. In one State, West Virginia, alien voters had been colonized by the hundred and had well nigh changed the electoral vote. On the other hand, Republicans brought their counter-charges. It was alleged that in Virginia and elsewhere the colored vote had been suppressed; and for every charge by Democrats, "You are another" was the Republican reply.

What a pandemonium of outcry, of crimination and recrimination; what an outbreak of passion; what a terrible suspense would there have been in the popular mind; what a disastrous paralysis of business interests would have followed had not "State rights" exercised their conservative and healing sway. But by act of Congress of February 3, 1887, it had been provided that the final determination by any State by laws enacted prior to the day fixed for the appointment of electors—

Of any controversy or contest concerning "such appointments of electors" shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution.

This Congressional and conclusive enunciation of the Democratic doctrine of State rights nipped in the bud the outcroppings of controversy.

The gate of "State rights" closed upon its hinges and barred out instantly the clamors of partisans, which once under similar circumstances led the country in 1876 well nigh to the verge of civil war.

General Harrison's title as President was sealed and delivered with the seal of law and the seal of right, and the great seal upon it is not that of the Federal Government nor that of the majority of the people, but the seals of the sovereign States which have commissioned him as their Chief Magistrate.

THE RIGHT TO VOTE NOT A FEDERAL BUT A STATE RIGHT.

And now, sir, we have another fact which may be fitly regarded in this connection. The right to vote is not the right that attaches to an American citizen by reason of his citizenship. Citizenship and suffrage are distinct things. A man may have the right to vote without being a citizen. He may also be a citizen without the right to vote. There is no established relation between citizenship and suffrage.

The Constitution of the United States does not confer the right to vote upon any single human being, male or female, native born, naturalized, or alien.

The qualification and right to vote are matters that have ever belonged, and do yet belong, entirely to the sovereign power of the several States. The Federal Government has never undertaken to confer the right of suffrage, and can not do so, without constitutional amendment or gross usurpation.

With its hundreds of thousands of office-holders, military, naval, and civil, the people of the United States do not directly elect a single one of them, nor is power conferred upon them as a whole to elect indirectly a single one of them. The only election agencies employed by the Federal Constitution are State agencies, and they are exercised only with relation to the Presidential electors, the Senators, and the Representatives. The electors are "appointed" by "the States," the Senators are "chosen" by "the Legislatures of the States," and the Representatives by "the people of the several States." The appointment of electors by the States may be in any way that the Legislatures direct. The Senators are chosen directly by the Legislatures and the Representatives directly by the people; but the appointment of Representatives by districts is the customary and almost universal method, though by no means the necessary method, under the Constitution.

As to the Senators, it is provided by the Constitution, Article I, section 3, that—

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

As to the House of Representatives, Article I, section 2, provides that it—

> Shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

And as to both Senate and House, it is provided by Article I, section 4, that—

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Thus it will be seen that the Constitution of the United States in no wise touches the right of suffrage further than to require that "the qualification of electors for members of the House of Representatives shall be the same as those which the States themselves have prescribed for the election of the most numerous branch of the State Legislature;" and that Congress is given power to "make or alter" the regulations as to "the time" and "manner" of holding elections for Senators and Representatives.

Commenting on these provisions of the Constitution, Pomeroy, an able legal writer, uses in his Book on Constitutional Law language which I quote, as follows, from section 207:

> Here we perceive that the General Government has no voice in deciding who shall be privileged to vote for Representatives in Congress. The whole subject is controlled by State laws. The States will, of course, in their own constitutions or statutes, declare which of their inhabitants may take a part in choosing members of the popular branch of their local legislatures, and such persons are entitled also to vote for Congressmen in that State.
>
> We are thus met by this peculiarity of the organic law that it nowhere attempts to define what persons may exercise the right of suffrage, nor does it confer upon the General Government any such power. In the only instance where provision is made for a popular election the States are left to designate the individuals who may unite in electing.

I read again from section 209:

> It is plain, therefore, that mere citizenship of the United States does not involve the right of suffrage. It is also plain that the United States have no power or authority to interfere with the discretion of the States in determining what class of persons possess the "qualifications" for electors. The State laws may throw open the door as wide as possible or may place any limitation which is not inconsistent with a republican form of government. In some a property qualification has been demanded from the voter, and this practically was almost universal in the earlier years of our Government; in a few a literary or educational qualification is required.

THE AMENDMENTS DO NOT CONFER THE RIGHT OF SUFFRAGE, AND DO NOT AUTHORIZE FEDERAL INTERFERENCE UNLESS A STATE LAW HAS ABRIDGED IT.

Mr. President, it may be contended that the fourteenth and fifteenth amendments of the Constitution have to some extent modified or changed these constitutional principles. The fifteenth amendment is in a few lines and reads as follows:

> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The fourteenth amendment, in so far as it bears on this issue, is as follows:

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Both of these amendments refer to actions by the States. Their commands are to the States. Their prohibitions are upon the States.

I beg leave to read from a decision of the Supreme Court of the United States rendered since those amendments were adopted and in construction of them. The first case I shall read from is the opinion of the Supreme Court in the civil rights cases, 109 United States Reports, page 11. In that decision the court is going on to speak of what may be an invasion of the civil rights guarantied by the amendments to the Constitution, and Judge Bradley, giving its opinion, used the following language:

> It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the amendment. It has a deeper and broader scope.

Then, on page 13, he says:

> And so in the present case, until some State law has been passed or some State action through its officers or agents has been taken adverse to the rights of citizens sought to be protected by the fourteenth amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity; for the prohibitions of the amendment are against State laws and acts done under State authority.

Now, sir, upon the authority of the decision of the Supreme Court of the United States, I would ask any Senator who advocates the pending resolution, in contemplation of legislation which it is expected shall emanate therefrom, to point out to me the statute of any State against which he directs his denunciation or any act done under State authority which has elicited his criticism; and unless, as the Supreme Court of the United States has said, the act complained of was done by State legislation or State authority, it is not one that comes within the purview of the fourteenth amendment.

Mr. President, I shall read now from the case of Minor *vs.* Happersett, 21 Wallace, pages 171–175, in which Chief-Justice Waite, of the United States Supreme Court, gave its unanimous opinion upon the question of suffrage:

> It is clear—

Said the court—

> we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted.
>
> And still again, after the adoption of the fourteenth amendment it was deemed necessary to adopt a fifteenth, as follows: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude."
>
> The fourteenth amendment had already provided that no State should make or enforce any law which should abridge the privileges or immunities of citizens of the United States. If suffrage was one of these privileges or immunities why amend the Constitution to prevent its being denied on account of race, etc. Nothing is more evident—

Concludes the court—

> than that the greater must contain the less and if all were already protected why go through with the form of amending the Constitution to protect a part?

Again the court says:

> By Article IV, section 2, it is provided that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."
>
> If suffrage is necessarily a part of citizenship, then the citizens of each State must be entitled to vote in the several States precisely as their citizens are. This is more than asserting that they may change their residence and become citizens of the States and thus be voters. It goes to the extent of insisting that while retaining their original citizenship they may vote in any State. This we think may never be claimed.

Thus, Mr. President, the Supreme Court of the United States dismissed the proposition that, under the Constitution as it originally stood or under any of its amendments, the Government of the United States had anything to do in conferring the right of suffrage.

THE SENATE CREATED BY STATE RIGHTS.

I have thus dwelt, Mr. President, upon the terms of the Constitution and upon its construction that thereby it might be made apparent how it impresses upon us as our duty to recognize and enforce the rights and guaranties of statehood which are recognized throughout that instrument.

In the presence of Senators who owe their commissions to the sovereignty and equality of States, and who indeed were created to represent them in the Congress of the Federal nation, and in the presence of a party which owes its supremacy both here and in the Executive chair to the prerogative of statehood secured in the Federal Constitution, I may well anticipate that no taunt of "bourbon" or "moss-back" will be hurled upon him who fixes attention upon the State right muniments from which the title to individual commission and party power has been derived.

"State rights" held the ladder for Benjamin Harrison to ascend to the Presidential chair. "State rights" give you, the Senators of little and large States alike, your prerogatives here. "State rights" lifted up the Republican party out of the "slough of despond," helped it over "the hill of difficulty," and has brought it within sight of the goal of its pilgrimage.

It is an old proverb which tells us that the traveler should praise the bridge that carries him over the stream; and now that the State-rights bridge has landed the Republican party safely over the turbulent stream

of conflict, it is time for that party to confess that it is a pretty good bridge after all.

Ingrate and unnatural, indeed, would be the Republican who turned back to destroy the bridge that has served him and his party so good a turn. And astonishing, indeed, would it be if New England Senators should unite to break down and eradicate principles which they were sent here to represent, and which are the sources of the influence and power that their section exercises in the affairs of the Federal Government.

Mr. HOAR. Will it be agreeable to the Senator to allow me to ask him a question?

Mr. DANIEL. Certainly.

Mr. HOAR. I desire to ask the Senator, in order that his view may be complete in regard to two matters, if he will allow me to put the questions at the same time rather than to interrupt him twice. One is whether in his judgment Congress has authority to make an inquiry into the existence of crimes against elections to the House of Representatives, with a view of ascertaining whether there be or be not a necessity for legislation for the protection of the suffrage. I speak now solely of members of the House of Representatives.

Second, I ask whether in his judgment Congress has or has not the right to make inquiry into the existing facts with a view of dealing with the provision of the fourteenth amendment which says that "when the right to vote at any election for the choice of electors for President and Vice-President of the United States" and so on, "is denied to any of the male inhabitants of such State * * * or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion," etc. I will not detain the Senate to read it all.

Perhaps I may as well make a third inquiry—and I should like to have the Senator's view, under the Constitution, of each of these questions—whether it is not perfectly competent for Congress, having the power to initiate amendments to the Constitution, to make inquiry into the existing facts in the country with a view to see whether the Constitution does or does not work according to its intent in any particular, especially in relation to elections, and whether an amendment should not be proposed to the people of the United States?

I should like to ask the Senator, whose views we all listen to with so much deference, what his opinion is in regard to the right of Congress to initiate inquiries into those three aspects of the subject.

Mr. DANIEL. Mr. President, I had intended to touch in my remarks upon each of the points the Senator has suggested in his inquiries. I shall answer them with entire frankness. I do not doubt the constitutional authority of Congress to inquire into the state of the suffrage where it is alleged in such manner as to command its respect and attention that the Constitution of the United States has been violated in reference thereto, but endeavoring to answer the Senator's questions as near as I could collect them and speaking in reference to his first inquiry as to whether or not this body has the right to inquire into the last election of members of the House of Representatives, I will say that while there is no higher power than the United States Senate which can lay its hand upon its procedure and arrest it—[a pause].

I only wish to wait until the Senator from Massachusetts can hear my reply to his question—until he is otherwise disengaged.

Mr. HOAR. The Senator from Connecticut [Mr. HAWLEY] is obliged to leave the Senate to attend the funeral of a friend, and spoke to me with reference to making arrangements for a pair.

Mr. DANIEL. I know the Senator from Massachusetts would not be guilty of any discourtesy, and I can well appreciate these little interruptions in a long speech; but I wish the Senator from Massachusetts to hear my reply to his first question, as to whether or not the Senate of the United States has the constitutional authority to examine into the question of the election of members of the House of Representatives.

INFRINGEMENT OF THE FUNCTIONS OF THE HOUSE OF REPRESENTATIVES.

There are times, places, circumstances, and conditions under which such an inquiry might not be improper (with a view, for instance, to a constitutional amendment), but with my conception of the prerogatives of the House of Representatives, which is the only body in this Government which directly represents the people, I can conceive of nothing more improper, more indecorous, more usurpatory of the proper functions of this Government than pending the contest of election cases in that House for the Senate to undertake by a partisan committee to throw its authority and prestige in favor of one side. And, sir, I was amazed and astonished when I read a resolution proceeding from the hand of the Senator from Massachusetts in which he gravely requested the Senate of the United States to enter into an inquiry of the election of members of the House of Representatives. If anything more un-American or more in conflict with the spirit of the American Constitution could have been suggested, I am at a loss to conjecture what that thing is.

Let us see how this would operate. Here are two or three members from our sister State of Maryland who are engaged in a contest, Republicans and Democrats, and while they are in the course of trying their cause without undue suasion, intimidation, or influence from an outside source, while they are taking their testimony to submit to the only body which is competent under the Constitution of the United States to judge of the election and qualification of its members, here comes the Senator from Massachusetts, with the Treasury of the United States behind him, and a committee of the Republican Senate following him, to prepare the testimony for his partisan friends, and to cultivate a public sentiment which may override the fair and deliberate decision of the House of Representatives.

Sir, that resolution of the Senator from Massachusetts is revolutionary, for it indicates a tendency upon a part of the Senate to usurp the functions of the House of Representatives, and it would be just as competent for the House of Representatives, of its own motion, to send a committee into the State of Massachusetts to take testimony in its cities and towns and to throw the weight of its organization and its treasury in a contest of the Senator from Massachusetts for his seat. This is my answer to one question which the Senator has submitted.

WHAT IS AN ABRIDGMENT OF SUFFRAGE IN CONTEMPLATION OF THE CONSTITUTION?

Another question the Senator asks me is whether I dispute the constitutionality of an inquiry if it is addressed to the question whether or not the suffrage has been abridged in contemplation of that word as used in the fourteenth amendment? I had anticipated that inquiry, when I read from the decision of the Supreme Court of the United States in the one hundred and ninth volume of United States Reports, in which it is laid down by that tribunal that the predicate of action upon such a subject is the interference by the legislation of a State or by State authority, and I would answer that question of the Senator from Massachusetts further by asking him another. I should like to know, sir, if it has been anywhere alleged in this body that there is any law upon the statute-books of Texas or Louisiana or any other State which is in conflict with the fourteenth and fifteenth amendments or any other portion of our Constitution.

I should like to ask the further question whether it is alleged or pretended here that by State authority of Texas or Louisiana or any other State the suffrage has been interfered with; and if this be not the case, I should like to understand why it is that a mere row between a few individuals in one State or another authorizes the Congress of the United States to take those Commonwealths into custody; why is it that similar riots and similar disturbances in States nearer to the Senator from Massachusetts than either Texas or Louisiana have so long escaped his close attention?

Now, Mr. President, I want to go along with the thread of my discourse as I was endeavoring to make it and to speak about the organization and the function of the Senate.

EQUALITY OF STATES AND INEQUALITY OF VOTERS REPRESENTED IN THE SENATE.

In this body, Mr. President, there is not felt the exercise of any power that can be traced to the doctrine that "all men are free" or that "all men are equal."

If the equality of citizens were a Federal doctrine the Senate would be to-day a Democratic body and the President-elect would be a Democrat.

No idea of the consolidated nationality of the American people and no idea of their individual equality of citizens has found any the least expression in the constitution of the Senate. It is here as a Senate solely because the United States are a Federal nation composed of equal and sovereign States. The States differ so widely in area that Maine, New Hampshire, or Vermont might be tucked up in a corner of Texas. They differ so widely in population that if New Hampshire were to pour her entire people into New York they would only make a flourishing suburb of her great city. But they are equal in sovereignty as a principle and equal in power only in the Senate, which was created to represent, cherish, and defend that life principle of its being.

Thus we see that the little State of New Hampshire, with only enough population to send 2 out of 325 Representatives to the House, sends 2 out of 76 Senators to the Senate, and the same identically may be said of Florida, Vermont, and Rhode Island. The States of Colorado, Delaware, Nevada, and Oregon have each but 1 Representative and yet each have 2 Senators.

I need say no more to make it patent that if the States rights were to disappear from this body with the 8 Senators who represent populations so small that they have but 4 Representatives, the Republican party here would disappear in its ascendancy with them.

There may be something apparently incongruous in seeing four little States like Colorado, Delaware, Nevada, and Oregon, with an aggregate population of less than 1,000,000 people, given equal representation in the Senate with New York, Pennsylvania, Illinois, Ohio, and Missouri, with many times their number of voters.

But through this agency the equality and dignity of statehood is preserved, and the balances of sectional power are adjusted; the people are secured in the provision of conservative influences in this Government, and transient ebullitions of popular passion are resisted.

The Senate stands to-day in authority as a Senate by virtue of the equal rights of the States to elect their Senators, by the declaration of the Constitution that each Senator shall have one vote, and by the absolute extinguishment, so far as Federal political power is concerned, of the equality of voters.

The measure of Federal political power given to a voter differs with the subject-matter of his vote and with the State he lives in.

A voter of New York is a factor in the selection of 36 electors; a voter of New Hampshire is only a factor in the election of 4; and voters of Colorado, Delaware, Nevada, and Oregon are factors in the election of but 3.

The States of New Hampshire, Nevada, Rhode Island and Vermont have each 2-325 of Federal legislative power in the House, 2-76 in the Senate, and 4-401 in the college of electors.

Colorado, Nevada, Delaware, and Oregon have each 1-325 of Federal power in the House, 2-76 in the Senate, and 3-401 in the college of electors.

The five great States, New York, Pennsylvania, Illinois, Ohio, and Missouri, have Federal power as follows in the House, Senate, and electoral college:

States.	Population.	House.	Senate.	Electoral college.
New York	5,082,874	34-325	2-76	36-401
Pennsylvania	4,202,341	27-325	2-76	29-401
Ohio	3,198,062	21-325	2-76	23-401
Illinois	3,077,871	20-325	2-76	22-401
Missouri	2,168,380	14-325	2-76	16-401

If you will multiply the denominators of these fractions by the number of the voters in the respective States you will have the precise proportional voting power of each voter, and it will be seen that instead of being an equal power the vote varies as much as the muscular or mental power of individuals.

EQUALITY OF VOTERS A STATE RIGHT.

So while each voter has an equal right conferred by his State to cast his vote, equality ends in the act and does not extend to the force and effect of the vote. The vote cast in one State does not exert itself in the same degree as in another in respect to the number of electors voted for, and the proportion of political power is a quantity as variable as the conditions of the State in which it is deposited.

The voter, then, under the Constitution of the United States, is not a unit of political power, but only a variable fraction, to be determined by his surroundings.

Statehood and State rights are the elements that determine the value of the fraction. Each vote in a State has the same relative power as another vote in the same State, but not so in the Government of the United States. There its power varies, as we have seen, and the fact appears that the equality of voters is a principle of statehood and not of nationality. The exact equality of voters exists only within State limits, and exact equality of the States is represented only in the Senate.

THE POTENTIAL INFLUENCE OF NEW ENGLAND DUE TO STATE RIGHTS.

No portion of our country has derived such great benefits from "State rights" as that group of States known as New England. Small in area, thin in population for the most part, and not increasing in numbers as rapidly as other sections, its power in this body is greatly in excess of its due proportion, if any other idea than the sovereignty and equality of its States were considered.

The following table displays the population and potential power of the six New England States:

State.	Population.	Representative power.	Senatorial power.	Electoral power.
Maine	646,936	4-325	2-76 or 1-38	6-401
New Hampshire	346,994	2-325	2-76 or 1-38	4-401
Vermont	332,286	2-325	2-76 or 1-38	4-401
Massachusetts	1,783,085	12-325	2-76 or 1-38	14-401
Rhode Island	276,531	2-325	2-76 or 1-38	4-401
Connecticut	622,700	4-325	2-76 or 1-38	6-401
Total	4,008,532	26	12-76 or 6-38	38-401

In round numbers, the census of 1880 shows that the United States contains 50,000,000 people, and that the six New England States contained 8 per cent. of the entire population. Twenty-six representatives would be its due proportion in a body of 325 members, and in the House of Representatives has no more than its just proportion looking at representation as a national matter based upon population.

But in the Senate it has 12 out of 76 members, or over 18 per cent. of Federal political power; that is to say, the national idea has given New England 8 per cent. of the entire Federal legislative power in the House, and the State-right idea has given it 18 per cent. of the entire Federal political power in the Senate.

If its representation in a Senate of 76 members were divided in proportion and based purely upon the idea that "this is a nation," it would have no more than 5 Senators instead of 12 to represent it here.

STATES RIGHTS ADD SEVEN SENATORS TO THE FIVE WHICH NEW ENGLAND RECEIVES FROM THE NATIONAL IDEA.

In brief, 5 of the 12 New England Senators represent the power of that section in a purely national Senate, and it is indebted to State rights for the 7 in excess of that number which give it here so potent a voice.

How is it in the electoral college? In that body the six New England States have 26 members according to population and according to representation in the House of Representatives. But State rights have added to the college of 401 electors 12 electors from New England; 2 represent the statehood of each State, and it has 38 electors. If in an electoral college of 401 members its representation were reduced to the basis of population, and to the idea "this is a nation" pure and simple, it would have but 32 electors. State rights have given to the New England States 6 additional electors in the electoral college according to its present membership, and if the number were reduced to 325 it would have but 26.

After counting South Carolina, Louisiana, and Florida for Hayes as President in 1876, he was given 185 electoral votes, and Samuel J. Tilden was given 184 electoral votes. The majority of the electors then counted for Hayes was a majority which represented "States rights;" and notwithstanding he held then the majority of the electors, he held, like Harrison, only a minority of the popular vote, the poll standing for Tilden.

THE FEDERAL POLITICAL POWER OF THE NEW ENGLAND AND SOUTHERN SECTIONS CONTRASTED.

Let us now compare the Southern and the New England States with reference to their population and political power. The six New England States, with 4,000,000 of people, in round numbers, contain 8 per cent. of the entire population of the United States, and the fifteen Southern States contain 18,000,000 of people, in round numbers, or something over 36 per cent. of the entire population of the United States.

The following table shows the population and proportionate political power of the fifteen Southern States:

The Southern States and their political power.

States.	Population.	Representative power.	Senatorial power.	Electoral power.
Maryland	934,943	6-325	1-38	8-401
Virginia	1,512,565	10-325	1-38	12-401
North Carolina	1,390,750	9-325	1-38	11-401
South Carolina	995,577	7-325	1-38	9-401
Georgia	1,542,180	10-325	1-38	12-401
Florida	269,493	2-325	1-38	4-401
Alabama	1,262,505	8-325	1-38	10-401
Mississippi	1,131,597	7-325	1-38	9-401
Louisiana	936,946	6-325	1-38	8-401
Texas	1,591,749	11-325	1-38	13-401
Arkansas	802,525	5-325	1-38	7-401
Missouri	2,168,380	14-325	1-38	16-401
Kentucky	1,648,690	11-325	1-38	13-401
West Virginia	618,457	4-325	1-38	6-401
Tennessee	1,542,359	10-325	1-38	12-401
Total	18,348,718	120-325	15-38	150-401

A Representative in a House of 325 Representatives is the representative on an average throughout the United States of 151,000 people. In New England and the Southern States there is a little loss in proportionate representation by State lines. A New England Congressman represents 154,000, and a Southern Congressman represents some 152,000. But it is different in the Senate and the electoral college, in each of which the chief gain goes to the New England section. A New England Senator represents only 334,000 people, whereas a Southern Senator represents 611,000 people.

So, then, if the Senator from Massachusetts speaks of public opinion, he, representing a great State, large in population, would represent many voters behind him, whereas the Senator from a small State would gather the force of his voice not from the number of votes of his constituency, but from the dignity of the State, which has equalized number by the sovereign equality of the body-politic, called "the State."

If the representation of the six New England States and the fifteen Southern States in the Senate were proportionate according to the aggregate population of 22,000,000 which makes 30 Southern and 12 New England Senators, New England would have but 9 Senators and the South would have 33. A New England elector represents but 105,000 people, whereas a Southern elector represents 120,000 people. So that more than the South, and more than any other section of the United States, the New England section is the greatest gainer by the State-rights doctrines upon which the Federal Constitution is based.

IF ENTIRE COLORED POPULATION WERE ELIMINATED THE SOUTH WOULD STILL GAIN IN THE SENATE IF REPRESENTED AS NEW ENGLAND IS.

If no vote were given to colored people, and the Senate were based on white population alone, the South would gain six Senators as compared to New England. And so greatly does New England gain in comparison with the Southern States, that if the entire negro vote of the South were eliminated, and Southern Senatorial representation were based entirely upon the white population, the South would have more Senators here than it now has, provided the scale of population were applied proportionately to that which now gives Senatorial representation in New England.

The following table, from the Tenth Census, represents the white and colored population of the fifteen Southern States:

Population of the fifteen Southern States.

States.	Whites.	Negroes.	White majorities.	Negro majorities.
Maryland	734,693	210,430	524,263	
Virginia	880,858	631,616	249,242	
North Carolina	867,242	531,277	335,965	
South Carolina	391,105	604,332		213,227
Georgia	816,906	725,133	91,773	
Florida	143,605	126,690	16,915	
Alabama	662,185	600,103	62,082	
Mississippi	479,398	650,291		170,893
Louisiana	454,954	483,655		28,701
Texas	1,197,237	393,384	803,853	
Arkansas	591,531	210,666	380,865	
Missouri	2,022,826	145,350	1,877,476	
Kentucky	1,377,179	271,451	1,105,728	
West Virginia	592,537	25,886	566,651	
Tennessee	1,138,831	408,151	730,680	
	12,351,087	6,018,415	6,745,493	412,821
	6,018,415		412,821	
	6,332,672		6,332,672	

This table shows that of the fifteen Southern States there are but three in which the colored people are in a majority, and it will be seen at a glance that of the 18,000,000 Southern people more than 12,000,000 of them are white people, or over three times as many white people in the South as there are of people of all kinds in the New England section. If these 12,000,000 of Southern white people had proportionately as many Senators as the 4,008,532 New Englanders have, the Southern States would have thirty-six Senators instead of the thirty who now represent them, and to which number they are diminished by the doctrine of State rights.

THE LOSS OF SEVENTY-ONE SENATORS IS THE SOUTHERN TRIBUTE TO STATE RIGHTS IN NEW HAMPSHIRE.

Furthermore, if the 18,000,000 Southern people were in a consolidated nation where population was represented in the Senate instead of State rights, and if they had a Senator here for every 173,000 people, as New Hampshire has, they would have 106 Senators, each one of them on a perfect equality with the Senators from New Hampshire. If only the Southern whites were represented in the Senate in proportion as the people of New Hampshire of all races are represented here, then they would have 71 Senators to advocate their rights and interests, instead of 30, to which number the entire Southern people are confined by the doctrine of State rights and to which they are limited as between New Hampshire and themselves by the scale accorded them. The loss of 76 Senators is the tribute which the South pays for the enjoyment of State rights by New Hampshire, and the loss of 41 Senators would be its tribute if only Southern whites were represented here instead of all the races.

NEW ENGLAND SENATORS UNDERMINING THE PROPS OF THEIR POWER.

Nothing could make more plain the fact that the great and disproportionate power exercised by New Hampshire in the Senate, and the small power exercised by Southern Senators in comparison with it, is attributable solely to the dignity, the sovereignty, and the equality of the States; and I approach the consideration of the resolutions which have been offered, and which are now pending before the Senate, wondering that Senators from a section which has aggrandized its power and maintained its national sway by drawing so plentifully from the fountain of State rights should be foremost in endeavoring to destroy the source from which their own commissions and from which their Federal potentiality spring.

[Here the unfinished business was laid before the Senate; and then, the Senate having resumed consideration of the resolution upon which Mr. DANIEL was speaking, he resumed his remarks.]

Mr. DANIEL. Mr. President, I was just commenting, when the interruption occurred, upon what seemed to me a strange and almost unaccountable fact, that the Representatives of States which derive their political ascendancy from the doctrine of States' rights, and whose own commissions bore the seals of those States which had sent them here to represent, defend, and cherish them, should be the chief promoters of a scheme to so consolidate and nationalize all the powers of this Government as to diminish the power and predominance of their own people. While I am not a prophet nor a son of a prophet, I undertake to suggest that on the day when the Federal Government shall assume charge of elections in the States it will swing open a broad gate to an avenue which will not end until it has reached thorough consolidated nationality; and hereafter, in my humble judgment, if it shall become the duty of the philosophic historian to recount the decline of New England influence in the Federal Government and to analyze the causes thereof, it is likely that he will date the beginning of that decline to the time when, through the agency of her Representatives in Congress, the Federal Government assumed control in State elections, and will attribute the chief cause thereof to the consequential destruction of the constitutional State-right principles upon which New England ascendancy was founded and had been so long preserved.

Behind the pending resolutions which are now before this body, and the measures which they foreshadow, there rises in the haze of the future, to my vision, the figure of a consolidated nation with a representation in both Houses of Congress based on the equality of population and suffrage.

EQUAL RIGHTS OF SMALL STATES IN THE SENATE DUE TO A COMPROMISE WITH THE SLAVE POWER.

While I am discoursing upon this point I beg leave to read a paragraph from the book of Henry Wilson on the history of the slave power of America, in which he goes on to show how it was that States were made equal in the Senate as population was represented in the House. Says Mr. Wilson in this volume:

> There was a great struggle in the convention touching the basis of representation in Congress, in which the question of slavery largely mingled. It originated in the strife between the larger and smaller States, the latter contending for an equal and the former for a proportional representation. The Virginia plan proposed to base the representation on free inhabitants and three-fifths of all other persons. Twice the convention voted in favor of a proportional representation. Having failed to secure an equal representation in the House, the party representing the smaller States made a strenuous effort to secure an equality of representation in the Senate, but the proposition was defeated by a tie vote. The State-right members being defeated manifested much dissatisfaction. On motion of Mr. Sherman, of Connecticut, a committee of conference of one from each State was appointed. In this committee Franklin proposed that the States should be equally represented in the Senate while for the House the Virginia plan should be adopted, allowing one Representative for 40,000 inhabitants, slaves being counted in the ratio of three-fifths.—Volume 1, page 42.

Just here I should like to call the attention of our New England and Republican friends to the fact that their power and ascendancy in the Senate of the United States to-day is based upon their traffic with the slave power which they here so often denounce, and singularly enough, while they are yet holding the consideration which was paid them when they swore to a constitution which put slavery in it, while they have not hesitated to denounce the institution and every State, great or little, that got any advantage by it, I have yet to hear the first of them come forward and offer to return the consideration which they received for swearing their own support. But I must presume that since the Senator from New Hampshire and the Senator from Massachusetts and other Senators are now here endeavoring to destroy whatever immunities of States' rights are yet left in the Constitution, they are contemplating that view of the consolidated nation in which their own States shall lay down the advantages which they derived from States' rights when they trafficked with the slave power in the formation of the Constitution.

AN UNGRACIOUS ASSAULT UPON VIRGINIA.

Mr. President, I shall drop the thread of my remarks for a moment, as I see the Senator from New Hampshire [Mr. CHANDLER] in his chair, that I may answer in his presence an imputation which he saw fit in his remarks upon the distant State of Louisiana to make in reference to the honored Commonwealth of which I am one of the representatives. When I looked into that Senator's remarks, partisan as I knew him to be, and filled with no kind feelings, as I feared, to those people who are nearest and dearest to me, I confess, sir, that I was astonished that in a body of this character he should have taken an opportunity to fling his objurgations at so many States which were not involved in the inquiry which he sought to institute.

There was no State south of Mason and Dixon's line in which he did not search for some act that he might lift up to opprobrium; and having discovered in some newspaper somewhere a statement in which there was a list of colored persons who had been lynched within a year in various communities, he placed Virginia at the head of that list, which he held up in the Senate to ignominy, it having been upon her soil that two persons of African descent had been executed without the formality of law.

For my State, sir, I seek and do most sincerely desire the respect of this body and of her sister Commonwealths. I do not believe that anywhere in the American Republic there is a people who have more loyalty to law or who will go further to see the scales of justice held in even balance than in the old Commonwealth whose son I am. I feel it, therefore, necessary to answer the assault of the Senator from New Hampshire, ungracious and gratuitous as it was, that I may relate to the Senate the circumstances under which these lynchings occurred, that their fair and impartial minds may judge whether the name of Virginia is by them sullied.

THE ALLEGED OUTRAGES IN VIRGINIA.

The Senator in his remarks gives a chronicle of the lynching of a colored man in the simple words, "Reuben Cole, at Surry Court House, Va.," and the context of his speech contains the intimation that the lynching was one item in the Southern scheme to carry the election by killing negroes. If the Senator from New Hampshire or any of his colleagues of the Republican party shall claim that this negro was a Republican he will have no one to envy or to rival him in the claim. I reply to his assertion that it is true that Reuben Cole was executed by the hands of an indignant people for ravishing the person of a white woman.

His next allegation of outrage is the alleged lynching of William

Smith near Christiansburgh, Va. It is inaccurate. No one imagined that the Senator from New Hampshire would be otherwise than inaccurate. He had searched for his facts through newspapers with their hasty and often partisan-tinged reports, and when such sources of information are solely relied upon every one knows from the beginning that the person who is content with them does not especially seek to be accurate. William Smith was not lynched at or near Christiansburgh, Va., nor even in the county of which Christiansburgh is the county seat, but he was lynched near Wytheville, Va., for having assaulted a white lady after unsuccessfully attempting the like offense upon the person of another, and after being an accomplice in the murder of a third.

Neither Smith nor Cole suffered because his skin was black or because he was an actual or a presumed Republican. Notwithstanding that the utterance may bring upon me the malediction of that class of men who hate their own race and studiously suppress history in their eagerness to degrade it, I do not hesitate to say in this presence that a crime so awful in the sight of God and man merited the swift and condign punishment that followed it; and even if it leads to sectional inquiry, whether or not Virginia has a republican form of government, I give it as my deliberate opinion that in that State the brutal effigy of human nature who commits that dread, unpardonable sin may expect justice to be meted out to him in strict conformity to the fifteenth amendment without regard to race, color, or previous condition of servitude.

One of these outrages to which the Senator from New Hampshire has alluded here occurred in the district which I had the honor to represent in the Forty-ninth Congress of the United States. I passed through the town where one of these outrages was committed while it was yet fresh in the minds of the people, and while the blood of maidenhood was red upon the ground, and as there is a misunderstanding in this body of nearly all the bearings of the Southern question, I propose to tell a plain, unvarnished tale.

In the city of Roanoke, in the county of Roanoke, and within 50 miles of my own home, amongst the people whose Representative I was at that time, there was located a man by the name of Wilson, who was a mechanic from Carlisle, in Pennsylvania, who had recently made his residence there. He had just builded his home upon the suburb of that thriving and industrious town. One afternoon his wife had sent their daughter, Lizzie Wilson, a fair and blooming girl of sixteen years of age, upon a mission to one of the stores. The twilight was descending; the housewife was awaiting her husband's return and that of her little daughter with her two companions, when suddenly she heard a shriek near by the doorway of her home. She recognized her daughter's voice. She ran out to find what was the matter, and when she got there she found that her daughter was lying in the street of Roanoke, and there was that across her throat which the Senator from New Hampshire would not have cared to see. She was murdered in cold blood at her mother's and father's door, her throat cut from ear to ear, her young life spilled upon the ground. Two colored men who were seen at the time were arrested. The evidence against them was almost, and yet not quite, conclusive.

To show you, Mr. President, and to show all who may question it, that the people of that State and of that community have a self-possession and a self-restraint which are nowhere surpassed, the supposed murderer was arrested and carried through the streets of Roanoke and was turned over to the hands of the law. He was tried once and the jury hung. He was tried a second time and the jury hung. He was tried the third time. There were two colored men upon the jury and ten white men, and the jury hung; and that man who was believed by all people to be the man who committed the offense walked out of jail after three trials and no man laid his hand upon him.

But, Mr. President, there is an end to human patience. There are some things which might even stir the blood of the Senator from New Hampshire if they were to occur anywhere else than a thousand miles or so away from his home. In this vicinage a little later there was a respectable lady. She was in that situation in which all nature bows in reverence and tenderness to woman, "she held within a second principle of life;" and this brute, William Smith, who was one of the accomplices in the murder of this beautiful Northern girl, assailed the matron and murdered her infant and herself.

Does the Senator from New Hampshire mean to say that the good name of Virginia is to be derided and her people to be held up to indignity in the Senate of the United States because this bloody-handed and three-times murderer of woman and childhood and innocence met his fate at the hands of men who could not restrain their indignation? I did not believe that there was a community in the civilized world where the Anglo-Saxon still lifts up his white brow that would have produced a Senator to deliver a eulogy upon these murderers, or to have wept his crocodile tears over the fictitious wrongs presumed to have been committed, nor do I now believe that any one will envy the Senator from New Hampshire in the self-imposed rôle which he has assumed on this floor.

SOME REPUBLICAN DISTURBANCES IN VIRGINIA.

Mr. President, I am not here to speak against the colored race. I was reared amongst them. I have respect for them. I voted in the Legislature of Virginia in 1869, before the constitution of my State required it, to educate them, and I would endeavor to exercise every office of Christianity and kindness towards them. But, sir, I am tired of hearing the oft-repeated tale in the United States Senate that all the wrongs which are committed between the races in the Southern States are committed by white men, and that the people of my political faith are the only ones who do them. I will speak of things which have come under my own observation, but yet to which I have never heard a Republican Senator upon this floor allude, and which have been strangely dropped from the chronology of Southern occurrences.

In the year 1883 I went to the city of Richmond to join my brother Democrats in celebrating the restoration of Democratic power in Virginia. In the procession which was formed on Main street in Richmond there were two colored clubs, about two hundred colored men, who were Democrats from Charlotte and Halifax Counties, in their regular club organization; and no sooner did they march forth on Main street in the capital city of Virginia than they were assailed with sticks and stones by colored men, who sought thus to persecute them because they had the courage to walk in a Democratic line, and the mounted police of the city of Richmond had to be called out to prevent a general riot.

I was again in the city of Richmond in the year 1884, to join again with my fellow-Democrats in celebrating the election of Grover Cleveland. Those colored men from Halifax and Charlotte had voted for me in the election as a member of the House of Representatives, and they were there to march openly in that procession. They were threatened on every hand, as they had been in the year 1883, but in company with other Democrats I went to them and at their head I marched through the city of Richmond, deeming it an un-American and an unjust thing and a disgrace to Virginia and her capital city if it could be ever said, through the persecutions of the Republican party, or of colored men, or otherwise, that an American citizen or a Virginian could not march in line in exhibition and declaration of his political opinions.

These things occurred under my own observation, and yet whenever in the United States Senate there is an allusion to anything south of Mason and Dixon's line it is always with epithets of objurgation against the white man and a closure of ear and eye as to the colored man.

I beg leave to inform the Senate that since the Senator from New Hampshire stood in his place a few months ago and delivered his speech upon the eve of the election, of my own knowledge nine white men have been shot down in Virginia by the hands of colored men. There were four of them shot down in the streets of Norfolk on the day after the election. There were two of them shot in the streets of my own town while I was there pending our short vacation. There was one shot the other day in the county of Stafford. There was another shot in the county of Fauquier. There was yet another, an officer of the law, shot in the town of Charlottesville.

I shall presently ask to have some extracts read from some of our newspapers, but in doing so I must make an explanation of the reason why. I am sorry that the Senator from Massachusetts [Mr. HOAR] is not in his seat that I might ask him the question upon what testimony he has based the assumption and allegation that Louisiana is not as republican a State as Massachusetts, or that its government is in conspiracy, or that its people are not obeying the laws of the United States as much so as any other?

A TRUMPED-UP CASE.

It was observed when this question was first introduced to the Senate that there was no memorial here from the State of Louisiana Louisiana is always ready in its Republicans to respond to orders from Washington. They stand ready to make a case to order whenever it may be desired. They did it in 1876, and they are ready to do it again in 1889.

There are some things in this country which are grand, gloomy, monumental, and peculiar. We have the great Rocky Mountain range, we have the great Niagara Falls, we have the great Yellowstone Park, we have the great Mississippi River. But we have something that is greater than either one of them or than all four combined. It is the Louisiana liar. Munchausen, John Falstaff, Ovid Bolus, and Ananias rolled into one would hide his diminished head in the presence of Eliza Pinkston and other monumental Louisiana liars of national and world-wide repute.

There is nothing in the history of this nation which is better known than the lying that was done in 1876. Now that a Republican President is about to go into office, and will have opportunity to do as Mr. Hayes did in 1876, that is, to say prayers over civil-service reform in his inaugural address and then march every perjured scoundrel from Louisiana into an office, these fellows from that country are pricking up their ears, and are again on duty. I can not conceive it possible that Mr. Harrison will be ready to follow the distinguished example, but those people who do not know him as yet are evidently of the opinion that, under the lead of the Senator from New Hampshire, who was so conspicuous a figure then, the good time is coming again, and they are going to be in at the beginning.

A PARTISAN AND UNJUST PROCEEDING.

Mr. President, this is a serious proceeding, and I wish the Senator from

Massachusetts was in his seat that I might ask him upon what basis it is founded. There has been a very peculiar little political—what shall I call it—maneuvering going on in the Senate for the last week or so. First we had a Louisiana resolution. That resolution was spoken to for a long time and then glided into the committee. Then forth from that committee came a Texas resolution. Now Texas is on the way to Louisiana in this debate; and I should like to make a few remarks about the Texas resolution and the manner it has been treated in the Senate before I get to Louisiana.

There occurred away off in one corner of one county of a State with 198 counties an election and race conflict. The net result of that conflict was that one white man was murdered, and three negroes. I do not condone the act of the colored man who murdered the white man or of the white men who lynched the negroes; but when that matter was inquired into by the Committee on Privileges and Elections they came out with a report in which, on account of this incidental circumstance, they recommended a revision of the entire election system of the United States. That committee made a report in vindication of their action, and as the spokesman of the committee the honorable Senator from New York [Mr. EVARTS] took the floor and delivered to the Senate an address which was dignified, which was decorous, which in all of its manner of delivery and all of its matter was worthy of the Senate of the United States. But from the report of that Senator there was a striking absence of all the palliating circumstances, of all the significant and controlling facts which would enable a fair mind in reading his report to reach a just and fair conclusion.

I put it to any Senator who sits upon that side of this Chamber, to any man who feels a pride in his own people and who would have a natural impulse to defend and vindicate their good name, if a committee of Democrats or Southern men sitting upon this side of the Chamber had gone to the State of New York, or Maine, or New Hampshire, and had summed up all the testimony on one side of a case, had left entirely out of consideration the facts and views which might enable others justly to understand it, if he would not have gotten to his feet and if he would not have criticised with severity the partisan and one-sided conduct by which injustice was done to his State and to his people?

If a committee of Democrats on this side of the floor had undertaken, as to any State represented by a Republican, here to make so unfair and so unjust a report, I state it without hesitation, as a Democrat, as a fair and honorable man, and as one who loves justice, I would have repudiated that report and would have said "it is not a fair exhibit of the justice of this cause." But I have waited with patience. Levity and haste unseemly have characterized the course with which the majority has proceeded. No man has stood forth from amongst them to say, "I want justice, and I who seek justice will do justice," but the report itself has glided back into the darkness from which it sprang as if even its authors and sponsors were unwilling to continue the debate, and the Senator from Massachusetts has brought on another horse in these resolutions that concern Louisiana and other States, while Texas is relegated to the background.

THE GRAVITY OF THE PROPOSITION.

Mr. President, I have some extracts from the press which I wish to have read, but I do not ask that they may be read as the basis of any action of this body, and I do not wish to be misunderstood as to the view in which I present them or as to the measure of force and effect which, in my judgment, they should be accorded. There is nothing here to inform us upon what basis the report of the Senator from Massachusetts to make the inquiry whether or not Louisiana has a republican form of government is rested. We must leave to our imagination to define what has been his and the committee's provocation for putting before the Senate a resolution so grave in its import.

Mr. President, if this were a resolution to impeach the President of the United States and to dismiss him from his high office it would not be a resolution of more serious aspect. If this were a resolution to declare war against Great Britain and commit the power of the Army and the Navy and the people of the United States to a long and bloody struggle it would not be a resolution which should cause men to reflect more deeply or to be more serious and deliberate in their reflections.

What is it, Mr. President? It is a resolution which impeaches the character of a sovereign State, which seeks to undermine one of the pillars of the Constitution of the Federal Government, which seeks to obliterate from our flag one of the stars that glitter upon its folds.

WHERE IS THE EVIDENCE WHICH HAS ELICITED THIS PROCEEDING?

I ask Senators who represent the Committee on Privileges and Elections to permit me as a Senator here to know upon what information it is that the Senate condescends to make this indictment and to take this step in so important a procedure? Has our Government sunk into such looseness in its deliberations of business, and is the Senate of the United States, which ought to be the highest and greatest parliamentary body in the whole civilized world, gotten down to so low a plane of action that a committee without any state of facts to lay before its colleagues can rely upon a partisan majority to put through any resolution gravely assailing the statehood of Louisiana and initiating steps to degrade her in the sisterhood of States?

It will not do to answer by the allegation that this is merely a preliminary step. It is the first step that costs in all such controversies as this, and it is the first step that should be more deliberate than any other. You can not arrest the humblest individual who walks the streets of Washington, you can not impugn his good name, without an allegation, without first putting yourself under the range of law, making your affidavit as to his violation thereof, or in some formal manner producing in a preliminary fashion and foreshadowing the testimony upon which you rely for his conviction. Mr. President, there is no preliminary testimony here; there have been no preliminary witnesses here; there is not a single affidavit behind this procedure—nothing but the sweet will of a Republican partisan majority.

It is true that one Senator upon this floor did get up and read a good many letters, and some of them were anonymous letters—anonymous letters read to the Senate of the United States! Is there a man here, Mr. President, who would be willing that his own character should be judged by an anonymous letter? Is there any man upon this floor who does not feel in his breast an absolute contempt for the sneaking, cowardly people who indulge in anonymous letters? Yet, sir, can we believe our own eyes and ears when we see a Senator of the United States ask his colleagues to indict a people and put a cloud upon their form of government because at some time and from somewhere he received an anonymous letter?

But the anonymous letter has been supplemented, and we have in the only document which gives us any inkling of the provocation of this procedure a number of petitions filed by Republicans in contested elections in Louisiana. The petitions are not even evidence in the case in which they are filed. If they are evidence, all a man would have to do in this country would be to file petitions to help him into office. They are not evidence in any court in Christendom, or in any parliamentary body in Christendom, and yet in order to poison the minds of the Northern people against their brethren of the South, in order to prejudice the judgment of this judicial Senate, candidates for office in Louisiana have had their petitions filed here in speeches made by the Senator from New Hampshire [Mr. CHANDLER].

Mr. GIBSON. Will the Senator from Virginia permit me?

Mr. DANIEL. Certainly.

Mr. GIBSON. There has been no petition or no memorial from any contestant for any office in the State of Louisiana, so far as I know, addressed to any member of the Senate or to the Senate itself.

Mr. DANIEL. I do not know——

Mr. TELLER. Mr. President——

Mr. DANIEL. I will yield to the Senator from Colorado in a moment.

I do not know that the Senator from Louisiana understood my remark. My remark was that the Senator from New Hampshire, in order to prejudice this case before the Senate and before his people, had filed in his speech the petitions of defeated candidates for offices in Louisiana addressed to the courts of Louisiana. I am not speaking about the contested election for Senator or for anything that we have anything to do with, but for offices in Louisiana.

Mr. GIBSON. There may have been in the case of a sheriff in some parish in the State, but there is no petition, I will say to the Senator from Virginia, from any member of the Legislature of Louisiana, or from any candidate for the governorship of Louisiana, or from any candidate for any representative office claiming that he has a title or a right to a seat of which he has been deprived.

Mr. TELLER. I do not desire to take any part in this discussion, and I only wish to say that the Senator from Louisiana is not well informed as to what is before the committee. At least a petition from respectable citizens of Louisiana is now before the Committee on Privileges and Elections, praying for an investigation.

Mr. GIBSON. If the Senator from Virginia will permit me, I did not say that there was no petition here from any citizen of Louisiana in my response to the suggestion of the Senator from Virginia, but I do say now, in reply to the Senator from Colorado, that there is not from any citizen of the State of Louisiana any petition claiming that he on the day of the election was interfered with in the exercise of his rights. The paper to which the Senator from Colorado alludes was filed a few days ago, nine months after the resolution for investigating the State election for State officers in the State of Louisiana had been offered in the Senate by the Senator from New Hampshire [Mr. CHANDLER]. The paper which the Senator from Colorado alludes to, if the Senator from Virginia will permit me, is in the nature of a resolution adopted by the Republican State committee of the State of Louisiana, recommending that the Senate of the United States adopt the resolutions which had been offered in May or June last, I think in June, by the Senator from New Hampshire.

Mr. DANIEL. I must decline to yield further because this misunderstanding is hardly of my provocation. The Senators did not understand me in what I said, and I will make it a little plainer. I see how they have misconstrued it.

I will yield, however, to the Senator from Colorado for a moment, as he desires the floor.

Mr. TELLER. I do not undertake to state what the paper contained. I only want to say that there is before the committee, not only

the papers referred to, but numerous letters, and it has been a matter of publicity. I do not understand that these people claim that they themselves have been individually affronted or injured, but they claim that there is a condition of affairs there which deprived the people of their choice for members of the State Legislature.

Mr. DANIEL. Does the Senator know the writers of those letters?

Mr. TELLER. I do not know any of them.

Mr. DANIEL. Would you be willing to have your own concerns acted upon on such information—serious and grave concerns?

Mr. TELLER. Whenever the whole mass of my opponents in the State that I represent come up and say with one voice that there has been a fraudulent election in my State, I shall be quite ready, however irregular it may be, to have an investigation. That is what comes up from the State of Louisiana.

Mr. DANIEL. What the whole mass said then, and not upon the testimony before the committee.

Mr. President, the point which I was endeavoring to make clear was not what testimony or petitions were before the Committee on Privileges and Elections as a direct request for this procedure, but I was endeavoring to analyze and to show what were the component parts of the document which was put in the form of a speech by the Senator from New Hampshire, and I endeavored to point out to the Senator that in his speech, with a view to poisoning the minds of the Northern people, and with a view to prejudicing the judgment of his colleagues in this body, he had embodied the petition of Louisiana candidates for local offices, and referred to their statements in their petitions as embodiments of fact.

NEWSPAPER SCRAPS, ANONYMOUS LETTERS, AND ELECTION PETITIONS IN LOCAL CASES RELIED ON AS EVIDENCE.

Now, sir, apart from the general observation that these petitions are not evidence in any court and can not be looked to as sources of any information upon which action is to be taken, it seems to my mind that it was a peculiarly indelicate and improper procedure for a Senator of the United States in this body to take part in pending litigation before a State tribunal. If those petitions proved anything they proved one thing, and that was that there were courts in Louisiana, and that her republican form of government had all the machinery in readiness for action. If they showed anything they showed another, that Republican suitors in that State had confidence enough in the courts to become plaintiffs in them and to rest their rights of character and rights to office to their decision. So far they indicated the existence of a state of things which the Senator denies; and further than that, neither this body nor anybody else has a right to look after them.

The idea of putting a petition in a contested-election case in a distant State as an element of testimony before the United States Senate could never have occurred to any mind that did not feel itself in a condition of absolute beggary for something to predicate a pretension upon. If there is one character of document more than another that the wide world over is recognized as entirely unreliable, it is the petition in a contested-election case. You need not go further than the other end of the Capitol, if petitions in election cases are evidence, to show that there is no republican form of government in any State, that there is no republican form of government in the United States, or to prove that every man who was elected was unworthy of trust and that every community is in a state of anarchy and chaos.

But, Mr. President, anonymous letters and contested-election petitions were not relied upon alone to pad this record and to swell up a ponderous volume of pretentious testimony against the people of the South. The newspapers were looked to. Without being told who were the correspondents, who wrote the dispatches, without being told who were the editors who presided over the columns that published them, without being told what was the politics of this person or another, the post-bag of anonymous letters was emptied upon the Senate floor, and then another post-bag of old and new newspaper scraps.

I should like to know right here if the Senate of the United States is going to do in the exercise of a somewhat judicial function what no court would do, what no fair man would do in the determination of his judgment, and if there is anybody upon that side listening to my poor discourse who is ready to speak for the Committee on Privileges and Elections I should like to know from him if these newspaper scraps and these anonymous letters are the grounds upon which they have predicated this indictment of Louisiana; and if these are not the rocks upon which they have built this edifice I beg leave most respectfully to inquire of them upon what did they base it?

I do not wonder that there is no Republican there to answer. I do not wonder that no Republican does answer, for there is not upon that side of the Chamber one who would not rise in indignation and who would not resent the proposition if Democrats and Southern men upon this side of the floor were to assail the character of their States and their people by anonymous letters, contested-election petitions, and newspaper scraps, and ask upon the basis of them that serious procedure be taken.

IS THE SENATE JUDGE OF STATE LEGISLATIVE ELECTIONS?

One of the inquiries called for in this resolution of the Senator from Massachusetts is that this committee shall inquire into the election of a certain State Legislature. I do not know upon what point of our constitutional law there rests any authority in the Senate to inquire into the election of a State Legislature. The legislators of a State are like the electors of a State, and Mr. Commissioner HOAR said when he sat as a judge upon the Electoral Commission that the power of a State to select the person involved of necessity the power to determine the identity. So in the very nature of things and by the very theory and genius of their being there can not rest on the part of the Government of the United States power and authority to investigate the election of members of a State Legislature any more than there can be power and authority to investigate the election of electors.

I was astonished when the Senator from Massachusetts said that the investigation of the electoral vote was the very thing contemplated by this resolution when he could not then nor can he now reply to the counter proposition that if the Republican party had proposed to go into an inquiry as to the election of Presidential electors it would have been a little more graceful and a little more decorous, and would have had a higher appeal to the indorsement of public judgment if they had gone into the inquiry before they counted and sealed the vote which gives their candidate the Presidential office. And, sir, it was quite a notable and remarkable coincidence that while on the morning of the 13th day of February, when the Senate had gone to the other side of the Capitol and had witnessed the final counting of the electoral vote, on the afternoon of the same day, when the game was well by the stand, the distinguished Senator from New York [Mr. EVARTS], now followed by others, should rise and inquire whether or not electors whose votes had just been counted were elected. It is a kind of *ex post facto* procedure which can not commend itself to the wisdom of public judgment.

SOME ACCOUNTS OF OUTRAGES IN VIRGINIA.

Now, Mr. President, I do not ask that the newspaper extracts which I have here may be read for the purpose of founding any action upon them, but as they are straws floating upon the great waves of public opinion, I offer them to the Senate that it may be seen that all the criminals south of Mason and Dixon's line are not those whose skins are of the same complexion as those of the Republican majority of the Senate.

The PRESIDING OFFICER (Mr. BERRY in the chair). If there be no objection, the Secretary will read the papers forwarded by the Senator from Virginia.

The Chief Clerk read as follows:

[Norfolk Virginian, Thursday, November 8.]

FOUR MEN WOUNDED—PISTOLS FIRED BY NEGROES WOUND FOUR WHITE MEN—A LIVELY SKIRMISH ON HIGH STREET—GREAT EXCITEMENT IN THE CITY AND EVERYBODY ARMED.

There was a genuine riot on High street about 8 o'clock last night between whites and blacks, in which the latter were routed, but only after they had succeeded in wounding four citizens. There was a crowd of about five hundred standing in front of the Democratic headquarters, when, about 8 o'clock, twenty negroes, evidently under the influence of liquor, passed and gave three groans for Cleveland. Shortly afterward a crowd of three hundred put in appearance, many of them wearing white paper hats. They were singing, "Haug Grover Cleveland on a sour apple tree," and a white boy got in a wrangle with one of them. Some one fired a shot, which was quickly followed by about fifteen more. Then the negroes ran, the whites pursuing and firing several shots at them. The first fusilade wounded four white citizens. Adjutant Jenkins, staff of the Fourth Virginia Regiment, was shot in the shoulder; Frank Reiger, confectioner, was shot in the leg; Samuel Oast, of J. W. Oast & Brother, was shot in the arm, and Mahoney in the thigh.

Immediately after the shooting the white men made a rush for the gun-stores and thoroughly armed themselves. The fire-bells were rung for some minutes, and then the military alarm turned in. Mayor Baird telegraphed to Governor Lee a report of the riot, and after consultation with Captain Binford, the latter gentleman called out the Old Dominion Guard. A large number of good citizens volunteered to do police duty and were at once sworn in.

At 10 o'clock Mayor Baird and Capt. R. C. Marshall drove to the third ward, and talked to the colored people, advising them to keep indoors and not congregate in crowds on the streets. The excitement was intense, and about five hundred white citizens were assembled around Democratic headquarters at 11 o'clock discussing the riot and receiving the returns.

[Norfolk Virginian, Friday, November 9.]

DESERVED TO BE COMPLIMENTED.

The little handful of police that our city has deserves to be highly complimented for their brave and courageous acts on Wednesday night. They acted nobly and showed that they were men who did not fear danger when their duty called them, but that they were calm, quiet men, willing to protect all classes of citizens, even at the risk of their lives. At times they were liable to be shot down without any warning, but this did not deter them. They made a number of arrests upon suspicion, but there was no evidence against the parties, so they had to be dismissed, although some of them may have been guilty. One great trouble in this city is, if there are extra men needed, there are no equipments to furnish them, which should not be the case.

GREAT EXCITEMENT IN THE COUNTY.

Wednesday night a colored man who was very boisterous and insulting at Churchland was arrested by a constable. The crowd of negroes took him away, knocked the constable down, and would have killed him had not some five or six white men come to his assistance. One of the white men fired a pistol in the crowd wounding one of the colored men; the balance of them ran, but were fired at several times, with what result they could not learn. An effort was made by the magistrate to find out who did the shooting, but nothing could be learned.

About 1.25 o'clock yesterday morning the white people of Scottsville were awakened by a resident and told that a posse of about 200 negroes, all well armed, were marching down the road and were going to make an attack on the white people in about ten minutes. One hundred and twenty-five men with Winchester rifles and shot-guns were scattered on the road from the Scott's Creek bridge to the Western Branch bridge all prepared for an attack. Fortunately there was no disturbance, but the people were very much excited yesterday.

[Washington Star, January 15, 1889.]

MURDER IN VIRGINIA—A CHARLOTTESVILLE POLICEMAN SHOT DEAD BY A NEGRO PRISONER—THE PRISONER ESCAPES—A COLORED MAN WHO BOARDS A TRAIN AT BRANDY STATION IS ARRESTED ON HIS ARRIVAL IN THIS CITY ON SUSPICION.

A telegram was received at police headquarters last night asking for the arrest of Willie Musco, a colored man, wanted at Charlottesville, Va., for the murder of Policeman Seal in that city. Musco had been seen about that place for a week or two, and it is alleged that last evening he stole three umbrellas, and then went to another store and stole some collars and cuffs. Policeman Seal was called, and as he was about to put the nippers on Musco the prisoner drew a pistol and fired, the ball taking effect in the left breast of the officer, causing his death in about fifteen minutes.

PURSUIT OF THE MURDERER.

The murderer started down the street with the pistol in his hand, and when pursued by another officer turned and fired at him. The officer emptied his revolver firing at the fugitive, who continued his flight and got away. The affair caused much excitement at Charlottesville. It was at first supposed that the murderer had gone to Lynchburgh. A party at once started for that place well armed, and the country was thoroughly searched. With the party was a piece of rope. This party returned this morning, being unsuccessful.

ARRESTED ON THE ARRIVAL OF THE TRAIN HERE.

The train, arriving here at 11.13 o'clock this morning, bore a colored man who boarded the train at Brandy (about 35 miles from Charlottesville), and a telegram was sent by the train men to Officer Acton, in this city, and he, on the arrival of the train here (in company with Special Officer Augustus Lane) took the colored man in charge and carried him to headquarters. He gave the name of Henry Mitchell, and protested that he had been in Culpeper County on a visit, and that he was on his return to his work at Terra Cotta. The description given of the murderer in the circular, containing a notification of a reward of $100, is as follows:

"Willie Musco, about eighteen, dark ginger color; height, 5 feet 10 inches; weight, about 145 pounds; square shoulders, large mouth, flat nose, smooth face, scar on forehead, hair short. Came from St. Louis and killed Policeman Seal to-night. Wore several suits of clothes at the same time. Was dressed in dark clothes, new laced shoes, wide brim slouch hat. Carried two large dice in his pocket; was well armed."

Mitchell, as the man who is arrested calls himself, corresponds in some particulars with this description, and his appearance indicates that he has walked a long distance over muddy roads. He was taken to the first precinct station.

THE PRISONER A DISTRICT MAN.

Mitchell states that he lives in the county of Washington, District of Columbia, near Terra Cotta, with his mother, who is the wife of Rev. Richard Washington.

Passengers on the train stated that he got on at Rappahannock about 9 o'clock this morning. Persons who live there stated that he was never seen in that locality before he turned up there this morning. It is further stated that after he got on the train he showed considerable uneasiness, especially when the train was approaching or stopped at a station, when he would look with anxiety to the doors of the car, and it was his actions as much as anything else which caused the conductor to suspect him and to send a telegram ahead of the train.

[Norfolk Virginian.]

ATTEMPTED MURDER AND ROBBERY—A LIFE AND DEATH STRUGGLE—THE ASSAILANT CAPTURED AND JAILED.

[Special dispatch to the Virginian.]

BOYKINS, VA., *January* 12.

A diabolical attempt at murder and robbery was made at Rich Square, N. C., on the Roanoke and Tar River Railroad last night about 1 o'clock. Mr. W. H. Farmer, a prominent citizen, heard some one forcing a window in his chamber. He asked who it was, and not receiving an answer got out of bed to investigate. He saw a negro outside, and the negro perceiving that he was discovered sprang through the window, breaking out the glass and landing in the room with a razor in his hand, when a life and death struggle ensued.

The would-be murderer attempted to cut Farmer's throat, but just as the weapon pressed against his neck he grasped it by the blade, breaking it from the handle and nearly severing two fingers. The negro then beat Mr. Farmer in the face until it was black, but he held on and succeeded in inflicting several gashes on the intruder. The struggle had been carried on in the dark, and Mrs. Farmer, who was asleep, did not hear it until both parties were nearly exhausted. She, thinking her husband had a fit, got up to assist him. As she left the bed the negro grabbed her and helped himself up from the floor. She still thinking it was her husband, assisted him until she placed her hand on the woolly head of the brute. Mrs. Farmer then realized her situation and screamed for help. The fiend struck her several blows and then sprang through the window, making his escape. The neighborhood was aroused and a searching party started out to capture him. Mr. Farmer recognized the man to be Eli Ward, a worthless negro, who lives about 5 miles from Rich Square. At daybreak a trail of blood was found leading from Farmer's house towards the road, and several gates through which he had to pass had blood on them. A search of the latter's house showed that the negro had been at home, saddled his horse, and left for parts unknown.

Later in the day the searching parties went to Jackson, and as the constable walked into a doctor's office Ward ran out of the back door. He was pursued and shot in the shoulder, but managed to get to the swamp, where, at last reports, he had not been captured. The doctor who dressed his wounds says that one of Ward's hands was cut nearly off, a deep gash in his throat and one in his thigh, showing how manfully Mr. Farmer fought for his life.

Mr. Farmer is well known in Norfolk, is about fifty-five years old, and about six weeks ago married Miss Bettie Powell, who lives just back of Norfolk. The excitement is very high, and if Ward is captured and carried to Rich Square he will adorn one of the trees of that place.

Later.—Ward was captured late this evening near Jackson and carried to a doctor's office, but made his escape.

Later.—The negro Eli Ward has been caught, and is now in jail at Jackson.

VANC.

[Lynchburgh News, January 11, 1889.]

ATTEMPTED MURDER.

[Special to the News.]

ROANOKE, VA., *January* 10.

William Grasty, alias Robert Morris, a notorious Lynchburgh negro, attempted to kill the city jailer, J. B. Traynham, by shooting at him in the jail here to-night. Grasty was brought here to-day from Lynchburgh, where he has been confined in jail awaiting trial for larceny, to testify in the case of Cornelius Lane, charged with receiving stolen property. After the trial he was taken to jail, but not locked in a cell. When the jailer entered the prison to-night to give the prisoners their supper he saw Grasty standing behind a partly opened cell door, pointing a revolver at him. Traynham drew his pistol and fired, but without effect, before the negro could pull the trigger. Grasty's shot went wide of its mark and the jailer fired again, at the same time calling for help. Traynham's nephew, Ernest Moore, came to his uncle's assistance and with a quick rush closed the cell door on the would-be murderer. Andrew Wimbish, another prisoner, was in the cell during the shooting, and when Grasty fired, he threw a lock at the latter, striking him in the head and making a slight wound. Grasty made no further resistance, but delivered up the weapon to Wimbish.

The shooting created considerable excitement for awhile among the prisoners in jail. Grasty says that he intended no harm to Traynham, but merely tried to frighten him, so that an escape might be effected. This is the second instance within the past two weeks where a prisoner in the city jail has been known to have a loaded revolver. The negro says that a fellow-prisoner in the Lynchburgh jail gave him the weapon.

[Richmond Times.]

WILLIAM HENRY BONAPARTE—A LEADING VIRGINIA POLITICIAN JAILED.

HAMPTON, VA., *January* 18.

W. H. Bonaparte, a leading colored politician, was jailed here to-day, charged with assaulting a twelve-year old white child, daughter of a merchant here, on last night. There is considerable excitement, and his examination is postponed to Monday.

[Fredericksburgh Star.]

INDICTED FOR THE AFFRAY AT TACKETT'S MILL, IN STAFFORD COUNTY, VIRGINIA.

At the regular term of the county court of Stafford, held on last Thursday, Henry Brown, colored, was indicted for murder in the first degree, and George Black, colored, for assault with intent to kill, and Warren and Thomas Heflin for misdemeanor. These parties were engaged in the affray that took place at Tackett's Mill during the Christmas holidays, and which resulted in the death of Mr. Benton Heflin, from a pistol ball fired by Henry Brown. Several other parties in the affray received slight injuries. The cases will be tried at the next regular term of the court.

[Richmond Times.]

A BLACK FIEND FOUND GUILTY OF A CAPITAL OFFENSE.

[Special to the Times.]

CHATHAM, VA., *January* 23.

Jed Pritchett, the negro fiend who committed rape on the little seven-year-old girl, Jennie Pollock, near Danville, last May, and made his escape and was caught near Ruffin, N. C., Christmas eve and sent to Lynchburgh to prevent being lynched, was brought back here yesterday by the sheriff, under a strong military guard. He was tried in the county court here to-day. The evidence was positive, his own statements proving him guilty.

The jury was out but a few minutes, when they brought in the following verdict: "We, the jury, find the prisoner, Jed Pritchett, guilty of the felony charged in the indictment, and ascertain his punishment to be death." The judge will fix the day of execution during this term of the court.

[Lynchburgh News, February 13, 1889.]

George Booker, colored, of Russell County, was received at the penitentiary Monday to serve a term of ten years for highway robbery. Booker stopped a thirteen-year-old boy on a public road and demanded his money. The boy refused, whereupon Booker cut his throat and took a watch and chain and other valuables found on the boy's person and left him in the road in what he supposed to be a dying condition. Fortunately the boy was found by some persons passing along the road, and he was taken home and medical assistance called in, and his life was saved. The negro highwayman was captured, tried, and convicted.

A NEGRO FIRES ON AN ELECTRIC CAR CONDUCTOR.

[Special to the Virginian.]

RICHMOND, VA., *February* 8.

A great excitement was created here this morning by Thomas Hewlett, a young negro man, firing four pistol shots in rapid succession at F. P. Jones, an electric car conductor. Hewlett lives in Boston, but was raised in Richmond, and was here on a visit to his mother. He attended a wedding in the county last night and when returning early this morning he boarded an electric car going in the direction of his mother's house. When the conductor asked for the fare Hewlett ripped an oath at him and said: "Why don't you wait until I sit down." A war of words followed and Hewlett was ejected. He took the next car through and went to the sheds on Church Hill, and there engaged in another quarrel with the conductor, and finally drew his pistol and threatened to shoot. Jones made a break at him and Hewlett pulled the trigger, but the weapon snapped or there might have been a murder. Hewlett retreated from the house, and Jones picked up a rock to defend himself. Seeing Jones's friends coming to the rescue, Hewlett fired four shots, but none of them took effect. The negro was chased to a house where he took refuge, and was held in bay until an officer arrived. The prisoner was taken before court and sent on to the grand jury and fined $20 for carrying concealed weapons.

Mr. DANIEL. The extracts which I have caused to be read from newspapers, the names of which are given with them, will show that in many instances the people of the State which I represent have had occasion to be very forbearing towards representatives of the colored race, and that they have been. As these matters which I have just caused to be read concern the State which I represent in part here, I might fittingly call attention to the fact that that State is doing a great and a good work through taxation chiefly paid by its white people for the education and for the promotion of the interests of the colored race.

EDUCATIONAL WORK IN VIRGINIA.

A little comparison of that Commonwealth with some of her sister Commonwealths in reference to the matter of schools would indicate at a glance that instead of being backward it is in the very front line of the educators of the United States. I was told by a member of the Civil Service Commission that the applicants from the State of Virginia for civil-service appointments rated 15 per cent. higher than the applicants from any other Commonwealth. The result of the educational work which is going on in that State is one which is not only felt among its more refined class of citizens, but one which permeates the whole mass and carries the light of knowledge, as King Alfred carried justice, to the humblest door.

The census of 1880 shows that Virginia, with a population of one million and a half of people, had 4,405 school buildings; that Georgia, with something like the same population, had 4,529 school buildings; that North Carolina, with 1,399,000 people, had 4,216 school buildings; and that the great State of Massachusetts, with a population of 1,783,000, or over 200,000 population more than any of these three States, had only 3,343 school buildings. I know that the State of Massachusetts, by reason of her smaller territory and of the congregation of her population in manufacturing towns and cities, could probably accommodate a larger number of students in one building than could a Commonwealth whose population was more scattered; but still when we see that a poor population comparatively, and one so scattered, has erected so many more educational institutions than the Commonwealth which is the light of New England, we have one fact at least to weigh in the scale to show that those States of the South which were desolated by war and which were thrown back almost to the condition of nature have taken giant strides in the last twenty years and have already placed themselves abreast of the powerful and wealthy Commonwealths which were accumulating fortunes while theirs were being dissipated.

In other words, while the population of Virginia is less than that of Massachusetts by 279,000, she has more school buildings than the latter by 1,062. Georgia, less in population by 240,000, exceeds Massachusetts in school buildings 1,186. While North Carolina has a population of 383,000 less, she exceeds Massachusetts in school buildings by 873.

WHY NO REPORT, NO EXPLANATION, NO PRODUCTION OF THE GROUNDS OF ACTION IN THIS CASE?

While I see the Senator from Massachusetts in his seat I hope he will allow me permission to submit to him an inquiry, which I make simply for the purpose of acquiring that information by which I may ascertain upon what views the resolution which has his name attached to it has been submitted. It is a very peculiar and a striking circumstance that a resolution so grave in its import and concerning such large and such sensitive interests should have had no report accompanying it to enlighten the minds of the body which is invoked to pronounce judgment upon it. I should like to know what facts have been testified to before the Committee on Privileges and Elections or upon what view of the Constitution under which we live it has been suggested that there is a doubt in the minds of the people of this country whether the State of Louisiana is possessed of a republican form of government; and I would ask the Senator from Massachusetts, who is the author of the resolution, to point out to me for my information as a Senator the facts upon which he predicates the question, is there a republican form of government in Louisiana?

Mr. HOAR. Does the Senator put that question rhetorically or because he wants a reply at this time?

Mr. DANIEL. I shall be most happy to know. I put it as a matter of fact in good faith and not rhetorically.

Mr. HOAR. I have no doubt the Senator puts it in good faith, whether rhetorically or otherwise, but I did not know whether he would be willing to lose the time.

Mr. DANIEL. I put the inquiry, and the Senator can apply the adjective.

Mr. HOAR. I will answer the Senator with great pleasure. In the first place, I will inform the Senator from Virginia that this resolution embraces the resolution of the Senator from Louisiana [Mr. GIBSON], himself a Democratic Senator from that State, demanding an investigation into his State, and what the Committee on Privileges and Elections offer is an amendment to that resolution. Afterwards, when there was a technical objection to the matter going at once to the Committee on Contingent Expenses and coming back to be debated, it is true I offered a separate resolution, which involves the same thing and which is technically an original resolution. But that is a very narrow answer, as I agree, to the Senator, because it is true that the proposition for this investigation preceded the offer of the resolution by the Senator from Louisiana, and the Senator from Louisiana undoubtedly proposed it understanding that another proposition had come from this side of the Chamber and desiring to expand it by including some other State or States. So the Senator from Virginia will not understand that I attribute very great consequence to so much of the answer as I have yet made; but still that is the precise parliamentary attitude of the case.

We base this resolution, Mr. President, upon three constitutional powers which are given to this body, the exercise of which, as of all constitutional powers, is our sworn constitutional duty when fitting occasion shall arise. An authority given to a public officer is a duty, an authority given to a legislator is a duty, if the facts require its exercise. We have devolved upon us the duty of preserving constitutional liberty and constitutional government by majorities according to the method and within the limits prescribed by the Constitution of the United States. The Constitution of the United States supposes that State Legislatures will be elected according to the forms and principles and methods of republican government, and that they will send Senators to this body to legislate for the whole people; and it authorizes us to determine the title of those Senators to their seats. The Constitution of the United States supposes that the national power of legislation is to be exercised in part by another great constitutional assembly, whose members are to be elected by the vote of a fair majority of the lawful electors of their districts, who are to be permitted to vote and to have their votes counted fairly and justly and according to their legal rights, and the ascertainment of whose title to their seats is lodged in the House of Representatives.

If that constitutional mechanism does not work out constitutional liberty according to the law prescribed by the Constitution it is our duty to propose to the people of the several States to change the mechanism of the Constitution in accordance with its general principles, and we have a perfect right and it is our duty to get at the facts to see whether that thing is necessary.

We have a right also, and it is our duty, to provide by law for the protection of the popular elections of members of Congress in the different States, and if the facts require any change in the existing safeguards and sanctions of that law each House of Congress has an equal right to initiate that change, and it is equally its duty; and we have a right to see what the facts are with reference to that.

Further, the fourteenth amendment, to which I called the attention of the honorable Senator from Virginia a little while ago, while it gives to the Congress the right to protect the constitutional rights of persons which are denied by any State on account of their race, color, or previous condition, as the Supreme Court of the United States have expressly affirmed, puts no such limit on the constitutional power or the constitutional duty of Congress when it comes to ascertain the number of Representatives to which any State shall be entitled. Therefore, if the rights of a large class of persons, white or black, are in any way abridged, not merely by the denial of the State, but if they are abridged by crime, by fraud, by a failure to administer proper election laws of the States, by contrivances in the election laws of States intended for that purpose even while the laws of the States are absolutely just and righteous in form, and still by a consent of the men who wield the power in those States by a conspiracy private, but one which executes its dread decrees with a certainty and a terror to which the administration of law in this country never reaches, it is our right and our constitutional duty to inquire into that fact also and to be ready for the next apportionment of representation in this country according to the constitutional mandate.

There is abundant constitutional authority for this investigation. Are we to determine what shall be our course in regard to these great legislative and constitutional functions, knowing the facts, as this side of the Chamber desire, or in ignorance of the facts, as that side of the Chamber and as the Senator from Virginia seem to desire?

Mr. President, there is no question of an invasion of State rights here. Gentlemen on the other side claim sometimes to be the exclusive champions in this country of State rights, and of local self-government, and of letting people manage their domestic concerns that are close to them at home. I utterly deny that claim. I tell the Senator from Virginia that in those portions of the country, and among those people who entertain the political beliefs which attribute to the Constitution of the United States the fullest and the most vigorous national functions, the love of State rights and the love of local self-government burn with an intensity which will not be found anywhere in the section of country to which he belongs. You can not find on the face of the earth a place where local self-government and the love of personal independence exists, and where that government is administered in that love so completely as it is among the towns of New England and among the communities of the great West, of which your own State, sir, is so conspicuous and brilliant an example.

The thing which these gentlemen assail and which is in peril in this country is not local self-government. It is government. The thing which the Senator from Virginia and those who think with him are trying to break down in this country at this time is the right of citizens of the United States to be protected anywhere, locally or nationally, in the exercise of the simplest constitutional rights.

The Senator asks us what facts we depend on when we bring forward this proposition for an investigation which makes us think it is necessary. Does not that Senator know that within six weeks a man contesting a seat in the other House has been shot down while he was making his contest? Does not the Senator know the history of these political offenses all over certain States of the South? In the State of Louisiana alone, General Sheridan, some years ago, declared that the number of Republicans who had been murdered for their political opinions was greater than the number of men who had fallen in battle on both sides in the Mexican war.

The Congressional Directory, which is laid on our tables, shows us a fact which, I think, somebody would like to have explained, and which can only be explained by a fair investigation. Take the Territory of Dakota. The Senator from Virginia talks, whether in sarcasm or in earnest, of a popular majority which they have kept knocking at the door. That Territory cast two years ago in one single election for a Delegate, on the two sides, 104,811 votes. According to the Congressional Directory, our official document, 104,811 votes were cast there. Now, compare that with what the Senator talks of as making popular majorities in this country. The First district of Alabama gave 4,220 votes for a Congressman; the Second district 5,659 votes.

Mr. BLAIR. Both sides?

Mr. HOAR. Yes, all the votes cast. I took the figures down while

the Senator from Virginia was making his speech. The Third district of Alabama cast 4,660 votes; the Fourth district 6,045 votes; the Fifth district 6,335 votes; the Fifth district in Arkansas 4,746 votes; the First district in Georgia 2,078 votes; the Second district in Georgia 2,411 votes; the Third district in Georgia 1,704 votes; the Fourth district in Georgia 3,139 votes; the Fifth district in Georgia 2,995 votes; the Sixth district in Georgia 1,722 votes; the Eighth district in Georgia 2,932 votes; the Ninth district in Georgia 2,366 votes; the Tenth district in Georgia 1,944 votes.

Mr. DANIEL. At what election was that?

Mr. HOAR. At the same election for members of Congress, two years ago, in 1886. The First district in Mississippi cast 3,167 votes; the Fourth district in Mississippi 3,086 votes; the Fifth district 3,527 votes; the Seventh district 4,514 votes; the First district in South Carolina cast 3,317 votes; the Second district 5,235 votes; the Third district 4,407 votes; the Fourth district, 4,470 votes; the Fifth district 4,701 votes; the Sixth district 4,469 votes; making in twenty-five Southern Congressional Democratic districts a total of 93,353 votes against 104,811 votes in a single election for Delegate in disfranchised Dakota. It seems to me that taking that alone there is reason enough to make this inquiry.

But does the Senator from Virginia suppose we do not know of the complaint which comes to us from our political brethren all over those States? Has he read the appeal of the Republican State committee of the State of Louisiana? Has he read the appeal which comes from South Carolina? Has he read the resolution of the Legislature of the State of Kansas, which borders on Arkansas? Does he suppose we do not know something of the current history of our country?

The Constitution of the United States declares in substance that men shall have these rights without regard to race, color, or previous condition; and Senators take the oath to support those constitutional provisions. The constitution of the State of Alabama, and so of Arkansas, and so of Texas, has the declaration of the equality of these with their white neighbors without regard to race or color in as strong terms as it can be put into language, and every officer in those States, I suppose, swears to support those provisions. In Alabama every registered voter had to do it a few years ago, down to 1874. Yet an honorable leader of the Senator's party in this body has contributed to a Northern magazine within six weeks an article, the title of which is "Shall negro majorities rule?" Now, what does that mean? There is no such thing as "negro" in regard to these constitutional rights, and it means nothing more nor less than this, "Shall majorities rule?" I have not the article here at this time, but I shall produce it before this debate is over.

The Senator proceeds to say in substance that the right of the white people to prevent the rule of such a majority, if it happened to be in the majority in any place, justifies the same kind of method of prevention which the instinct of men approves when a negro or a Chinaman commits an outrage on a white woman—swift, summary vengeance, and punishment without waiting for the law.

It is sought to make out that this is a sectional question. The honorable Senator from Tennessee [Mr. HARRIS] spoke of this debate as a sectional debate, and some other Senator made the same remark in one of the preliminary motions that took place. I utterly deny it. There is nothing sectional in it. It is not an attack on these States. These States, if these charges be true (and if they are not this investigation will show it), are lying helpless and bound at the feet of a band of conspirators. The charge that comes to us is not that Louisiana has done wrong, but that Louisiana is suffering wrong, which she has the right within constitutional limits to call upon the National Government to interpose to protect her from. That is the question.

One gentleman said we were trying to revive the old issues of the war. I deny that. There never was an utterance in the heated time of that war against the gallant and brave men who fought on the side of the Confederacy so insulting to them as the suggestion that the right to adhere to these election methods was a right that they fought for or that they stood by at all.

This is not sectional. This is not an issue of the war. It is a question whether, in certain parts of the country, the Democratic party is trying to keep itself in power and has succeeded in keeping itself in power by raising this old spook, the fear of the negro, and by election processes, which no one of the gallant men who went into the war would consent, in my judgment, to have stated as anything he was fighting for.

The issues of the war were, in the first place, slavery, and that has gone; in the next place, the right to carry slavery into the Territories, which went with it; and in the third place, the right of a State to go out of the Union at will. That, I understand, is abandoned now.

Mr. President, I did not intend to take the floor, but I do not want the Senator from Virginia to suppose that there is anybody afraid to encounter, in all honor and courtesy, his challenge and show the ground, both of constitutional law and of public fact, notorious history, on which the faith which is in us is based.

I should like to read a sentence or two before I sit down from the article of the honorable Senator from Alabama [Mr. MORGAN], to which I referred. I think that article warrants the inquiry whether the doctrines that it advocates are in force or not in Alabama by anybody who is sworn to support and defend to the best of his ability the Constitution of the United States:

But the further we draw away from the slave era—

Says this article:

the greater is the aversion of the white people to negro rule, and the weaker the negro becomes in the use of political power. We may attribute this to the perverseness of the white race, and ascribe to the negro the virtue of integrity in his purposes and meek submission in his conduct, if we prefer to revile our own race in order to make excuses for the impotence of the negroes as a ruling class. But in that case it is plainly a hopeless task to reform the white people so as to render them capable of doing justice to the negroes as joint rulers of the States, or to elevate the negro race so as to make them capable, aside from mere race proclivities and race advantages, of estimating the privileges and power of the ballot. It is still more hopeless to attempt to compress into one the races of men that God has separated into great families, to each of which he gives the ideas of self-government best suited to its development into a higher civilization.

The Southern people are not mistaken as to the dangers of the ballot in the hands of the negro race.

* * * * * * *

They are no more amenable to moral censure for attempting to avoid that desperate fate——

Mr. MORGAN. If the Senator will allow me, if he is reading from my article he ought at least not to skip.

Mr. HOAR. I will read the few lines I left out.

The Southern people are not mistaken as to the dangers of the ballot in the hands of the negro race. Twenty years of experience, beginning with eight years of the horrors of enforced negro rule, has demonstrated to them that a relapse into that condition would be the worst form of destruction. They are no more amenable to moral censure for attempting to avoid that desperate fate than are the people who, in all parts of our country, punish with instant death the Indian or Chinaman or negro who inflicts a worse fate than death upon an innocent woman.

Then I skip to another paragraph:

A plan looking to some personal fitness of the negro for the high duties and corresponding powers of citizenship would not have shocked the common sense of the people, and would have collected into the body of voters in the States those negroes who had at least some idea of the uses and value of the ballot. The plan we adopted of transferring the whole of this inferior race into the body of our citizenship, with the powers of government, was a rash experiment that has not succeeded in accomplishing any good to either race.

As the Senator from Virginia I think observed, there are but three States in this country where the negro is in the majority. I believe that if the white Democrats of the South, instead of standing aside, surly and sulky, during the period which is called the period of reconstruction, had taken hold in good faith and done their best to make this experiment successful, they would have maintained and would have retained all the influence which their superiority of race, which their training in political lessons, which their aptness for command would have given. When you have tried through a single generation, when you have tried for a single decade, when you have tried for a single Presidential term education and justice, if these two races do not live together in peace, it will be time to call the reconstruction policy a failure.

I do not believe that race prejudice, race aversion, race hatred is the dominant principle in the bosom of men anywhere, least of all in this country. I believe these two races can live together in peace, in affection, in glory, as neighbors, as brethren, as equals—men of different occupations, men of different localities, men of different capacities, men of different tastes, men of different inclinations, dividing among the political parties which exist in this country as the people of the white race have done.

Mr. President, I do not expect these remarks to be so received, but I make them in no spirit of hostility; I make them with full knowledge of the difficult problem that awaits us, and the problem that especially concerns our friends south of Mason and Dixon's line; but I remember when I make them that the person hears the sound of my voice this moment who in his lifetime will see fifty million negroes dwelling in those States. If you go on with these methods which are reported to us on what we deem pretty good evidence, you are sowing in the breast of that race a seed from which is to come a harvest of horror and blood to which the French Revolution or San Domingo is light in comparison.

We desire, those of us who live in the North, to do everything that we can to help you if you will only accept our help and not spurn it. We will pour out our money like water; you may tax us by the ten million or the hundred million or the thousand million, if it is needed, to give these people the intelligence and education which is necessary to fit them to live with you as citizens.

I know, too, when I say these things that I am saying them of my countrymen. I am saying them of men with as gallant, noble, and honorable traits, where this race prejudice does not get possession of their souls, as ever existed on the face of the earth. They have some qualities which I can not even presume to claim in an equal degree for the people among whom I myself dwell. They have an aptness for command which makes the Southern gentleman wherever he goes not a peer only, but a prince. They have a love of home; they have, the best of them and the most of them, inherited from the great race from which they come the sense of duty and the instinct of honor as no other people on the face of the earth. They are lovers of home. They have not the mean traits that grow up somewhere in places where money-

making is the chief end of life. They have, above all and giving value to all, that supreme and superb constancy which, without regard to personal ambition, without yielding to the temptation of wealth, without getting tired, and without getting diverted, can pursue a great public object in and out, year after year, and generation after generation.

In the great future which the hundred million and the two hundred million who are to inhabit and rule this continent are to enjoy, the greatest and the most glorious part, my brethren, is to be acted by you. But I do not believe it is a good thing that a generation of young men anywhere shall be brought up to believe that the election methods which we hear of and which we know of are honorable or reputable.

However that may be, let us know the facts. Let us have the benefit of the Senator from Delaware [Mr. GRAY], the Senator from North Carolina [Mr. VANCE], the Senator from Louisiana [Mr. EUSTIS], and the Senator from Alabama [Mr. PUGH], who live far down towards the Gulf, to aid the majority of this committee, and to let us know whether these stories that come from Democratic papers are true. Why not good proof? This whole case, if proved at all, is proved by the declarations of the leading Democratic papers of the South. But I am not speaking now of proving the case; I am speaking only of the inquiry. Let us know whether this thing is a falsehood or is truth. We stand, in my opinion, on the solid ground of constitutional law, of constitutional duty, and of proved facts when we demand that the Congress of the United States should let the country know something about these things.

Mr. DANIEL. Mr. President, the answer of the Senator from Massachusetts to the question I asked him was, as he himself conceded, a very narrow one. The answer of the Senator to a question which I did not ask, but which his mind evolved in order to get rid of the one propounded him, was exceedingly broad and ample. But if the Senator has given no response, either broad or narrow, to the question I asked him, I have, nevertheless, been gratified to hear some of his remarks in lieu of an exposition of the resolution of which he is the author.

The Senator has expressed so many noble sentiments in his speech with such tasteful eloquence and with such a high appreciation of those with whom I am more nearly identified, that I could but forgive him ere he got through for what he said in the beginning, and I could but feel that in any argument I might submit I was appealing to a mind which was not only capable of justice, but which on some sides of it would be quick to respond to generosity.

This query occurred to me when I heard his eulogy upon the character of Southern men, their love of home, their sense of honor, their constancy and devotion to duty, I wondered whether the Senator would not add the additional reflection that men of such a character, and of such intelligence, and of such sense of honor, right present with a question and dealing with it, were perhaps as well aware of the facts concerning it and were as competent to judge of the methods by which it could be dealt with as a Senator a thousand or so miles away who had to look through a glass darkly in the medium of partisan newspapers.

IS TRIAL BY NEWSPAPER THE NEW FORM OF PROCEDURE?

I have no doubt that the Senator can prove anything by newspaper. When trial by newspaper has succeeded those forms of trial which have been handed down to us by the common and parliamentary law of England, I have no doubt that he can prove by that method anything which his imagination could suggest or which his desire might wish for.

I can prove by newspapers that the white slave-trade is going on today in Massachusetts, and I have the proof before me in such a way that if the white slave-trade is inconsistent with republican government an unsectional Senator ought to inquire in this resolution whether there is a republican form of government in Massachusetts.

I can prove by newspaper that in the State of Ohio not only have white men during the past year but colored men been driven out of that State and hounded by mobs lest they might give testimony in court. I can prove by newspaper, and I have the witness on my desk, to prove to the satisfaction of the mind of the Senator from Massachusetts that colored school-children have been driven from school in Ohio, and that there is a conspiracy there to drive their fathers and mothers from the land that they inhabit and to evict them from their tenements as the poor Irish are being evicted in Great Britain, because they seek to educate their children at white schools. As the Senator from Massachusetts has proclaimed that he is not sectional, I shall ask him to join me ere this resolution is voted upon, in having an inquiry instituted into the condition of things in the State of Ohio, that the colored people of the South may know whether the fourteenth and fifteenth amendments were provided as a delusion and a snare north of Mason and Dixon's line.

WHY DOES THE SENATE COMMITTEE ON ELECTIONS REFUSE TO REPORT ANY GROUNDS OF ACTION?

Mr. President, I can not answer so long a speech as the Senator from Massachusetts has interjected into mine, except by following it somewhat into detail, but I call his attention to the fact and I call the attention of the Senate to the fact, which the Committee on Privileges and Elections shall not escape from answering, if it has any answer, that it has neither informed the inquirer nor has it deigned to let the American people know, nor has it even laid a paper before the Senate that the minds of their colleagues may be enlightened upon what condition of facts or upon what testimony they predicated an assault upon a sovereign State. I asked the Senator from Massachusetts the question why it was that it was put in this resolution that an inquiry should be made as to whether the State of Louisiana possessed a republican form of government, and without giving any answer to that question, without defining what to his conception was a republican form of government, without saying that there was one spicula of testimony before him upon which to rest a doubt, without pointing me to any source of information in which I might enlighten my own mind for intelligent justice, the Senator went to Dakota and to Mississippi and then responded to something which had been written by the Senator from Alabama.

Is there upon the part of that committee a constancy of evasion and an unwillingness to stand before the Senate and hold up the hand upon which they rely for judgment? Why is it that that committee in so serious and grave a concern as an assault upon the government of a sovereign State have not deigned to say one word to the Senate as to why so serious an inquiry should be made?

I hope, indeed, sir, that the Senator from Massachusetts is not sectional. There is breadth and scope and liberality and generosity in his mind; but I wonder that he does not himself perceive that while he may seek to evade sectionalism he has been sectional in selecting one far-off State when the like conditions, so far as the evidence is concerned, exist in many States. Would the Senator from Massachusetts be pleased if a serious inquiry were made by the American Congress whether or not Massachusetts has a republican form of government and at the request of a Democratic committee?

WILL THE SENATE BOW TO THE BEHEST OF A PARTISAN POLITICAL COMMITTEE IN A FAR-OFF PLACE?

There is, indeed, a memorial here from Louisiana. It is a fashionable, tailor-made suit. It recites the fact that the Senator from New Hampshire had offered these resolutions. When his attention was called to the fact that they were spontaneous resolutions, apparently unprovoked by the petition or remonstrance of anybody in Louisiana, the pleadings had to be amended. A certain form of public decorum had to be observed by the makeshift methods which are so usually adopted in reference to Southern affairs; and when the news went back to Louisiana that the Senator from New Hampshire stood here without any memorial of course the memorial was furnished. I have read that memorial, and I have it before me now. It rests upon the responsibility of one man, William Viger, corresponding secretary of the Republican State committee, who says: "Whereas the following resolution is now pending before the United States Senate;" and then the resolution of the Senator from New Hampshire is produced, and "whereas" and "whereas," "*Resolved*, That this committee is confident that the facts which will be adduced by said investigation will show," and so on.

That is to say, a Republican committee in the State of Louisiana, after having months and months of prompting and suggesting from a Republican Senator in Washington, have responded to a call at the capital of the United States and have indorsed a bad note. That is about the result of it. Did anybody doubt that the Republican committee in Louisiana, the land of so many distinguished model Republican statesmen, could furnish their indorsement to a proceeding in the United States Senate when called upon by their political colleagues to unite with them in attacking the other party? Why, of course they would do it. But this makeshift response from Louisiana shows a consciousness on the part of the Senate that it was proceeding with indecorum, and is a very poor pretension of putting itself in order.

WHY WILL THE SENATE COMMITTEE MAINTAIN DARKNESS AND SILENCE?

I would still like to know upon what predicate a committee of this body has reached the *prima facie* conclusion that there is not in the State of Louisiana a republican form of government. It may be that there are frauds in Louisiana, it may be that there is here and there violence in Louisiana, it may be that there is race prejudice in Louisiana, and it may be that the Senate may reach the conclusion that under the broad powers of amending the Constitution and giving us a different one from that we sit under, an inquiry may be made into the condition of all affairs in the United States. But after all the question recurs, and the answer has not been made, upon what ground does this committee predicate its inquiry as to whether there is a republican form of government in Louisiana. If I could ascertain from that committee, composed of profound lawyers and publicists who have studied the Constitution, what is their idea of a republican form of government I might perhaps seek in my humble way to assist their labors by pointing out some other Commonwealths that did not meet the standard; but their idea of a republican form of government is one which they have kept closely in their own bosoms, and the facts upon which they predicate the inquiry, is there a republican form of government in Louisiana, are facts which, in my judgment, have never reached their own bosoms under any responsible name. They have got their facts from newspapers, current rumor, and the so-called confessions of Democratic correspondents and editors, newspapers unnamed, editors unnamed, facts unspecified.

The committee sitting to look into a particular State and to adjudicate the rights of a particular people have looked all around through

the general newspapers of the United States and through the magazine articles from public men from other States; they have informed themselves of what was done in Kansas and Arkansas; they know the condition of the vote in Dakota; they have an inkling of what is going on in Mississippi; but they can not tell the Senate a single fact about Louisiana.

Why did you not investigate Arkansas if that was the testimony which was before you? Why did you not investigate Alabama if there arose the thing that provoked you? Why did you not investigate Mississippi if that was the testimony which actuated you? You look after the testimony of other things and then, *ex mero motu*, by spontaneity, you landed in Louisiana. That is the position in which the Committee on Privileges and Elections of the United States stands before the country—

Shrine of the mighty! can it be
That this is all remains of thee?

This is a body that was once the grandest in the world and which ought to fix the highest standards for its action that have ever been fixed in the ideal imagination of human nature; and yet here is a committee, judicial in its character, high and exalted in its prerogatives, standing before the country as the accusers of a sovereign State, and unable to point a colleague in the Senate to a single fact on which they have predicated their opinion!

Mr. President, I have some ideas of my own as to what constitutes a republican form of government. I have not had the advantage of consultation with the distinguished gentlemen who constitute this committee or of hearing their views upon the subject, but I have some feeble glint, gathered from the early writers upon our Constitution and from the Supreme Court of the United States, of what constitutes a republican form of government. My own opinion on that subject would weigh but lightly.

Mr. TELLER. If the Senator will allow me to ask him a question, I should like to do so.

Mr. DANIEL. I shall be most happy to respond, sir, if I can.

Mr. TELLER. Does the Senator think the Committee on Privileges and Elections are authorized, without the direction of the Senate, to enter upon an investigation as to whether Louisiana has a State government republican in form?

Mr. DANIEL. I do not.

Mr. TELLER. Then I should like to suggest to the Senator from Virginia that the offense the committee seem to have committed in his eye is that the committee have failed to investigate this matter before they came to the Senate to ask authority to do so.

Mr. DANIEL. I beg the pardon of the Senator for differing with him. That is not the point I make.

Mr. TELLER. If the Senator will allow me, I will suggest in this connection that the whole argument the Senator has made for the last half hour as a charge against the committee is that they have brought no evidence here. The Senator now says, what everybody knew before he must say, that the committee had no authority to take any evidence until the Senate had directed them so to do.

Mr. DANIEL. I knew that the committee could not feel otherwise than uneasy in the attitude in which they have placed themselves, and I will endeavor to make my point so plain that every one of them can understand it. I do not complain that they have not investigated the State of Louisiana without the authority of the Senate. I do complain that they have recommended to the Senate and have urged it to pass a resolution to investigate Louisiana without presenting to the Senate any reasons for so doing. Does the Senator understand that? Whether the Committee on Privileges and Elections understand it or not, the Senate can not fail to understand it nor will the country fail to take notice of it.

Mr. TELLER. If the Senator will tolerate an interruption——

Mr. DANIEL. I am happy to have it.

Mr. TELLER. I will say that if we had come here with any kind of testimony of any character the Senator would have been a very poor lawyer making his side of the case if he would not have said, "Without jurisdiction, without authority to inquire, without authority to administer an oath, without authority to call a witness, without authority to investigate at all." That he would have said. Now he says that we ought to have investigated without authority, and by reasoning as he does, in a circle, not having authority, if we had produced this testimony he would have said, "It does not justify the Senate in making the inquiry." Now he says because we do not produce the authority it does not justify the Senate to make the inquiry. Therefore it would be impossible to make an inquiry at all.

Mr. DANIEL. My point is not because you have not the authority, but because you do not produce your grounds, so that the Senate may have the same opportunity to judge of them that you have.

Mr. President, I do not intend that anybody shall misunderstand my position, and I repeat it. I complain of this committee because it has asked the Senate to make an inquiry impugning a sovereign State and has not deigned to give to the Senate any statement of the grounds for so doing, either orally or written, except inferences of the Senator from Massachusetts from newspapers, and except a memorial from a partisan Republican committee.

Then the question comes before the Senate, if the machinery of this great federation of States is so light and is so easily set in running order that by the invitation of an unorganic body of a partisan kind, naturally infected with prejudice and naturally ambitious for the results which might follow, and if this great Government and this most dignified and permanent branch of legislators hold their powers and their prerogatives so lightly that at the beck of a committee hundreds of miles away it stands ready to do its partisan bidding against a sister Commonwealth of the Union. What would the Senator from New York think, what would the Senator from Colorado think, what would the Senator from Nebraska think if the United States Senate were here seriously to resolve that one of those Commonwealths should be put upon a trial for its life as a State in this Union because a Democratic committee chairman in one of those Commonwealths were to invite the Senate to say that it does not possess a republican form of government—without an affidavit, without a specification of any history, without a statement of either the facts or the principles of law upon which it is predicated?

I did not suppose that there was an intelligent justice of the peace between the Canadian line and the Potomac, or between the Mississippi and the Pacific Ocean, who would allow the process of his court and all of its expense and machinery to be set in motion by the suggestion of a local partisan committee whose motives at least are subject to be questioned. What is the hope of republican institutions living and enduring down the ages in this country, what is the hope of putting men in the fair and equitable frame of mind in which every one feels the desire to do the other justice, what is the hope of elevating the Commonwealth upon which we must rely for local rule, if a partisan chairman in the State of Louisiana can lift his little finger, address the United States Senate, and see a majority of a great party, without a fact adduced or a principle stated, bow to his beck and go forward to do his bidding?

Talk about partisanry, Mr. President. I am somewhat of a partisan by nature, and I have always admired and honored the true and noble partisan who has convictions and stands by them. But, sir, the whole history of this country, from the day when the Constitution was established one hundred years ago to that centennial day near at hand which the Senator from Massachusetts is so anxious to celebrate, has never witnessed a more paltry piece of partisanry than the attempt of the majority of the Senate to arraign a State before its bar upon the suggestion of a partisan chairman of a Republican committee.

THE SUPREME COURT'S IDEA OF A REPUBLICAN FORM OF GOVERNMENT.

Now, sir, I will read a little from the Supreme Court of the United States and endeavor to ascertain what that tribunal considers to be a republican form of government. This is a decision made as late as 1874 after the days of reconstruction were over. There were many things, hundreds of them, on each side, whether the men who did them were Democrats or Republicans, there were hundreds of things done through all those bleak years from 1861 to 1871 which can not be justified by Constitution or law anywhere. The war of 1861 struck this country as an earthquake might have struck it, breaking up its old boundary lines and throwing the titles to all things in confusion, and when reconstruction was over, when each State had taken its place again in the federation which our fathers established, when Constitution and law held their mild sway from the Rio Grande to Canada, then, sir, all lifted up their hearts and minds to the Supreme Court to hear its decision as to the new titles and the new establishments, and to turn their faces to the perpetuation of that Republic which I love today as much as the Senator from Massachusetts, and would fight for it as quick as any man who wore the blue, that it might stand and shine as a great federation of the people, guarantying popular rights, elevating the weak and the poor, holding up the flag as a flag of humanity, and respecting law and order everywhere according to the lines which the Constitution had marked out for their obedience.

COMMISSIONER HOAR VERSUS SENATOR HOAR.

Mr. President, the Senator from Massachusetts seems to think that there is some deficiency of comprehension, or mayhap some indifference to the moral element in the Southern Senators, that they are not quick to respond to him in joining to press this matter or that, here or there. I can not unite with him in his invocations, I can not follow him in all the things to which he would summon me, because with a pencil of light, with a finger of judgment, which will stand as a landmark in this country for many years to come, he and his colleagues have pointed out exactly where Senatorial and Congressional authority ends and where the demarkations of State lines become impregnable, and I read from the Senator's judicial decree in deciding the greatest question which was ever submitted to a judge in this country, and out of his own lips and out of the deliberations of his own mind he will find my answer.

It is—

Said he, in giving his judgment in the case of the Electoral Commission—

It is asked is there no remedy if the officers to whom the States intrust the power of ascertaining and declaring the result of the election act fraudulently or make mistakes? The answer is that the Constitution of the United States gives no jurisdiction to Congress when the certificates are opened and the votes are to be counted to correct such mistakes or frauds. A like question may be put as to every public authority in which a final power of decision is lodged.

And he adds:

The danger of mistake or fraud is surely quite as great if the final power be lodged in Congress, and the framers of the Constitution acted in nothing more wisely than in removing from Congress all power over the election of President.

"Sittest thou here to judge me after the law, and commandest thou me to be smitten contrary to law; contrary to law as thou thyself hast written it?" Wisely, said the Senator from Massachusetts, applauding the far-reaching sagacity of the able men who "reared the arch and laid the architrave" of this great nation, wisely did they take away from Congress the power to do the very thing which he invites and summons them now to do without fact in one hand or without doctrine in the other.

Mr. HOAR. Will the Senator pardon me for calling his attention to the fact——

The PRESIDENT *pro tempore*. Does the Senator from Virginia yield?

Mr. DANIEL. With pleasure.

Mr. HOAR. I call the Senator's attention to the fact that there is no sort of resemblance between the two cases. I did not ask the Senate of the United States to count the vote of Florida or the vote of South Carolina, or any other Southern State. The question whether we may have constitutional or legislative processes which will prevent these frauds in the future is a different thing.

Mr. DANIEL. That is to say, when the title of the President of the United States is concerned it is entirely beyond the jurisdiction of Congress to look into anything but what has been the result of the State machinery in evolving it.

Mr. HOAR. When the vote is counted?

Mr. DANIEL. When the vote is counted.

Mr. HOAR. That is true after the fact.

Mr. DANIEL. But it is entirely within the jurisdiction of Congress, as the Senator would have it, to look into the vote of the State Legislature of Louisiana after the vote has been counted, after the vote which made its governor has been counted, to go and look behind those returns, even if they are a year old!

Mr. HOAR. May I ask the Senator a question?

The PRESIDENT *pro tempore*. Does the Senator from Virginia yield?

Mr. DANIEL. I shall be most happy.

Mr. HOAR. I suppose the Senator and I agree that in determining the title to the seat of a member of the House of Representatives the right is exclusively lodged in that body?

Mr. DANIEL. I supposed we agreed on that until I saw your resolution.

Mr. HOAR. Does the Senator doubt that we may pass a law to change the manner of elections or to punish persons who commit frauds or crimes against that right or are guilty of bribery? Does the Senator doubt that?

Mr. DANIEL. Not at all. Propose your law and I shall be glad to consider, possibly vote for it.

Mr. HOAR. Then I think the Senator will see that it is quite one thing to say that when the votes are counted the body to whom the Constitution has committed the power—the two Houses, not the law-making power of the two Houses and the President, but the two Houses alone, to whom the Constitution has committed the mere power o counting something else that somebody else sends out; that is to say that they can not, when they count, look to see anything except what has been sent out—does not at all involve a denial that they may, in their legislative capacity, inquire whether those persons so acted as to deprive the people of their States of their lawful right to elect on that occasion, and whether there is any constitutional or legislative amendment needed to prevent their having that power.

Mr. DANIEL. Mr. President, the opinion which the Senator from Massachusetts has delivered answers his question in a much more condensed form and in much better language than I could use upon an impromptu occasion. The Senator here not only speaks as to the construction of the Constitution, but he elaborates the wisdom of having it that way, and, consistently with the doctrine which he then laid down in this grave matter, he has since advocated the passage of a law, which nearly all of us voted for, making determinate the action of the State as to who was its elector, and he says in his opinion as an electoral commissioner:

The danger of mistake or fraud is surely quite as great if the final power be lodged in Congress, and the framers of the Constitution acted in nothing more wisely than in removing from Congress all power over the election of President.

Never was a finer or more sententious encomium pronounced upon that Constitution which lies before us now, and never did man seek with so savage an appetite to devour his own offspring than has the Senator from Massachusetts in this debate to dispute the dignity and authority of the great commission upon which he served as a judge.

At the time when that commission sat, in the heat of that campaign, and having had the honor to be one of the electors of my State and casting my vote for Samuel J. Tilden for the Presidency, I was scarcely well prepared to be a fair and impartial judge of that conclusion, but I have read these opinions in hours which I might give to reflection and study and I have endeavored as fairly and justly as I could to estimate the weight of arguments which were given upon the one side or the other, and when I cast my vote in this body not long ago for that act of which the Senator was the advocate, which puts the determination of the electors conclusively and finally in the hands of the State, I but did so following the judicial philosophy which had held sway in the conclusions of the Electoral Commission. I stand by it, let it hit where it may. But it seems to me a peculiar incongruity, it looks as if all judgment had given sway to the dictates of a partisan committee in Louisiana and to the momentary passions of a fleeting hour when conspicuous statesmen like the Senator from Massachusetts, when learned lawyers and ex-Cabinet ministers such as sit in this body, shall stand before the United States Senate and endeavor to egg it on to the passage of a resolution which is in the teeth of the principles which their jurists have enunciated, in the teeth of law which they have freshly enacted, and in the teeth of the habitual practices which have governed them for more than a decade.

OLIVER P. MORTON STANDING FOR STATE RIGHTS TO CONSTITUTE LEGISLATURE AND DETERMINE ITS LEGALITY.

Mr. President, if I do not intrude too much on the patience of the Senate, I hope I may be permitted to read something from the pen of Oliver P. Morton. Every one knows who Oliver P. Morton was—a man who possessed a great mind, and it was a mind well informed. I beg leave to commend to the consideration of his brother Republicans, many of whom were his colleagues in this Chamber, some words which have fallen from his lips. Says Mr. Morton:

Murder is the highest crime; but it is not every court that has jurisdiction to punish it; and one court can not assume such jurisdiction upon the ground that another, to which it has been granted, will not properly exercise it; and Congress has not the jurisdiction to examine and redress every great wrong that may take place in a State. Where, by the constitution and laws of a State, legal remedies are provided for the redress of all wrongs that may take place in regard to elections, it would be inconsistent with the independence and integrity of the State governments for the United States to interfere and assume jurisdiction upon the ground that the State tribunals have acted wrongfully and fraudulently, or will so act. The Government of the United States is not a Don Quixote, going forth to hunt up and redress all the wrongs that may be inflicted upon the people in any part of the country; but is a Government limited and restrained in its jurisdiction by the charter of its creation, and that charter distinctly recognizes the existence of State governments to be constituted legally by the States themselves, subject only to the provision of the higher law that they shall be republican in form. This doctrine in nowise recognizes the blood-stained theory of State sovereignty, which has been the evil spirit in our political system, and to which the present troubles in Louisiana may be traced back, but springs from the great fact that the States have a vast body of rights distinctly guarantied and recognized by the Constitution of the United States, and that among these is the right to constitute their own Legislatures, and determine by their own tribunals the legality of their organizations.—*Tafft's Senate Election Cases*, volume 2, page 476.

And, if I might be permitted to interpolate a few reflections of my own, let me say, sir, that considering the comity and good will which should be cultivated between all the States and the Federal Government and between the States themselves, while contested-election cases were in progress in Louisiana and while the judges of that Commonwealth were holding the scales in even hand, it does seem to me that the proprieties of life such as would regulate the conduct of gentlemen in their social relations with each other and that etiquette which should certainly reign where sovereigns are concerned, should induce the Senate of the United States to refrain from the use of a passionate hand to disturb affairs that were then pending in litigation, and that decency and common right would at least declare that they should await the adjudication ere they pronounced sentence upon the judge.

THE OPINION OF THE SUPREME COURT AND THE VIEWS OF OLIVER P. MORTON ON A REPUBLICAN FORM OF GOVERNMENT.

I was about to read when the Senator from Massachusetts asked me a question, something from the text of a decision of the Supreme Court of the United States as to what constitutes a republican form of government, and if it be known to any member of the Committee on Privileges and Elections or to any Senator here as matter of fact that there is something about the government of Louisiana which makes it fail to meet the standard which is here laid down, I will thank that committeeman or that Senator if he will point it out to my mind that I may be enlightened in delivering my judgment as he is by reason of the occult information which has reached him through other channels which are not open to public observation and use.

Says the Supreme Court of the United States in the case Minor *vs.* Happersett, 21 Wallace, page 175, decided in 1874:

The guaranty is of a republican form of government. No particular government is designated as republican, neither is the exact form to be guarantied in any manner especially designated. Here, as in other parts of the instruments, we are compelled to resort elsewhere to ascertain what was intended. The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had governments when the Constitution was adopted. In all the people participated, to some extent, through their representatives elected in the manner specially provided. These governments the Constitution did not change. They were accepted precisely as they were, and it is, therefore, to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form, within the meaning of that term as employed in the Constitution.

As has been seen, all the citizens of the States were not invested with the right of suffrage.

The fact that Louisiana has a republican form of government was not only passed upon when she was originally admitted into the federation of States, but it was again passed upon and again approved and confirmed when Louisiana came out of war reformed and remolded with

every condition to meet the amendments to the Constitution and the then established views. I look in the archives and find that Louisiana has a constitution such as this body has approved as republican in form. I see that it has a Legislature which is performing all the functions of a legislative body. I look to the other House and I find its Representatives there, showing that the people of Louisiana have acted. I stand here in the Senate and I see two Senators, each with one vote, admitted here as your peers and mine. I look to the Presidential house and I see that in all Federal connections and relations Louisiana is recognized as a co-equal sovereign State of the American Union, panoplied with that guaranty of equal rights which was intended for her protection and for yours, for my State and for all the Commonwealths that constitute the federation.

Now, sir, where did this committee get information that this form of government is not extant in Louisiana? What witness has come up to testify before it, what memorial has been presented, what public intelligence of a notorious and general form has come to its ears that the Senate of the United States, which should be the most conservative body in the whole Union, which should go slowly and deliberately in all its actions, which should set an example to States and to Legislatures and judges by its orderly procedure, by its fair-mindedness, by its excellent temper, by its judicial bearing, by its calm weighing of all facts and circumstances—where did this committee of such a body as this get information which is going to lead it to put itself at the head of a revolution to undo the government of a State?

It looks to me as if this body, which owes its existence to statehood, in which two Senators represent each State simply because they are States, and who were sent here by the people and their constitutions to guard that sacred element of State sovereignty which has this branch of the Government only, to keep special watch and ward over it—it looks to me as if the Government had turned itself upside down when this Senate puts itself at the head of a revolution to destroy the very principles of the Constitution and the very elements of statehood to which it owes its being.

Mr. HARRIS. Will the Senator yield to me to submit a motion?

Mr. DANIEL. In one moment. I will finish, before I yield to the motion of the Senator from Tennessee, the observation of Mr. Morton, which I wish to read to the Senate. He speaks now on this specific point. He says:

> This great power to guaranty to each State a republican form of government is intended only for the highest and most solemn occasions. If it is invoked for every disorder in a State, it must result in the absorption of the State governments and subvert the whole theory and plan of our political institutions. While we are a nation, in which alone the sovereignty resides, yet local self-governments, which preceded the Constitution, and are recognized and continued by it as a part of the great plan of political salvation, are indispensable to our liberty, progress, and happiness, and must be preserved. It should be exercised only upon well-defined principles, in cases coming clearly within their limits, and with all the more caution because it is political in its character, and the use or abuse of it can not be reviewed by the courts. While it would be imprudent to attempt to define the cases that come within its scope, it may be safely said that it does not comprehend a disorder in a State arising under its own constitution and laws, for which those laws provide remedies, a State in which there is profound peace, and in which the State government is republican in its form, and discharging its functions in every department without interruption. Even in cases that come within its scope it should not be exercised except in the last resort, and the States should be left to work out their own relief and reformation as long as there is any hope.

These are the words of an eminent statesman and a great man. Evidently to his mind and evidently to the mind of any man who will give to this subject due discussion and reflection, the power to upturn a State and remold its government is a power of revolution transferred from the people of that State to the Federal Congress in certain instances, and only as the act of last resort, to be called into action when every process of law has failed, when every expostulation and procedure has been in vain.

Mr. President, so grave a thing as this, so mighty a proposition as the revolution of the government of an American Commonwealth, which in stability should be like that of the Federal Government of which it is a part—so serious and grave a matter as that has been hastily dragged into the Senate at the fag end of a four years' administration and has been sought to be dragooned to its passage by appeals to partisan feeling and to the readiness of men to fall in line with the companies in which they drill, without even the Committee on Privileges and Elections having enough respect for the Constitution under which they live or the people of this country who will be involved in difficulty if difficulty should come, and without so much as a regard for the people of Louisiana as to state to them in writing or to speak upon the floor of the Senate the grounds which have actuated them in so doing.

The Senate at 5.40 adjourned.

In the Senate, Monday, February 25, 1889.

The PRESIDENT *pro tempore*. The hour of 2 o'clock having arrived, the Senate resumes the consideration of the unfinished business, being the resolution reported by the Senator from Massachusetts [Mr. HOAR] authorizing the Committee on Privileges and Elections to investigate alleged election outrages in certain States, upon which the Senator from Virginia [Mr. DANIEL] is entitled to the floor.

Mr. ALLISON. I move to lay aside the pending order in order that I may call up the Army appropriation bill.

The PRESIDENT *pro tempore*. Does the Senator move that, or ask unanimous consent?

Mr. ALLISON. I will ask unanimous consent, to begin with.

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent that the unfinished business may be informally laid aside to enable him to move the consideration of the Army appropriation bill.

Mr. DANIEL. I had expected at this hour to-day to resume my remarks upon the resolution in regard to the investigation of elections in Louisiana, but I recognize the fact that the public business is of a more important character than that, and I am perfectly willing to enter my consent that it may be unanimous that the appropriation bill referred to by the Senator from Iowa may be taken up, with the understanding, which I suppose it is hardly necessary to state, that if either the Louisiana or the Texas resolution should at any time at this session be called up I may be recognized as entitled to the floor.

The PRESIDENT *pro tempore*. The Chair will recognize the right of the Senator from Virginia to resume the floor when the consideration of the resolution is again proceeded with by the Senate. The title of the bill the consideration of which is moved by the Senator from Iowa will be stated.

SPEECH

OF

HON. ROBERT P. KENNEDY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 26, 1889.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 12378) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June 30, 1890, and for other purposes—

Mr. KENNEDY said:

Mr. CHAIRMAN: On the 12th day of July last I delivered in this House a speech on Southern elections and election frauds in the South, and during the course of my remarks I had occasion to refer to the States of Mississippi, Alabama, and Georgia, and other portions of the South. I was notified almost immediately afterward that the gentleman from Georgia [Mr. TURNER] would answer those remarks, and I was also informed that Mr. CRISP would make a reply.

Mr. TURNER, of Georgia, rose.

Mr. KENNEDY. I will yield to the gentleman from Georgia [Mr. TURNER].

Mr. TURNER, of Georgia. I affirm the statement of the gentleman from Ohio [Mr. KENNEDY] of having served him with the notice to which he has referred, but as the brunt of his attack was aimed at my colleague [Mr. CRISP], who had just returned about that time, I left the matter with him.

Mr. KENNEDY. The gentleman from Georgia will understand I am making no reflection upon him. From that time to this, Mr. Chairman, with the exception of the remarks made by the gentleman from Georgia [Mr. CRISP] the other day, no attempt has been made to answer that speech.

The gentleman from Georgia [Mr. CRISP] the other day informed this House that during his absence a gentleman from Ohio [Mr. KENNEDY] had made a speech on elections in the South, and in answer to that speech he impeached the statement I made there in which I said the Speaker of this House had appointed the Committee on Elections, and that one of the grossest infamies ever perpetrated upon this House or the nation was in the selection of a man to the chairmanship of that committee who had been elected by 1,704 votes, the fewest number of votes that had ever presented a man to this floor. The gentleman does not deny the assertion. The records of this House show that he was chosen to the chairmanship of that committee, and the records of the election show that he was chosen by 1,704 votes as a Representative on this floor.

What I objected to, Mr. Chairman, was the selection of the gentleman from Georgia as chairman of that committee, whether selected by the Speaker of the House or by the House itself.

I ask now why was it necessary to defend the Speaker of this House? If the selection of the gentleman from Georgia was what I denounced as an insult to this House and the intelligence of the great people of this country, was it not as much an outrage to have selected him by a Democratic caucus as to have him selected through the Chair of this assembly?

But I might content myself by referring to the Journal of this House, where on page 246 I find the Speaker of this House announces his committees, but I am not ready, nor am I willing or content, to let it abide there. I find by the record of the Forty-eighth and Forty-ninth Congresses Mr. TURNER, of Georgia, was appointed the chairman of this committee, a gentleman elected by the same sorts of fraud and the same sorts of infamy which returned the gentleman from Georgia [Mr. CRISP] to this floor. If it were an infamy to this assembly to appoint the gentleman from Georgia [Mr. CRISP] I ask gentlemen on this floor whether

it was not an infamy to appoint Mr. TURNER in the Forty-eighth and Forty-ninth Congresses?

I want to give what I believe to be a portion of the unwritten history. The gentleman from Georgia [Mr. TURNER] desired no longer to continue at the head of that committee, and, as I am informed, asked the Speaker to relieve him from the chairmanship. I do not believe that the Speaker was willing to offer an insult to the gentleman from Georgia, but at his own request transferred him to the Committee on Ways and Means; and Mr. CRISP, of Georgia, who was the second member of the Committee on the Pacific Railroads, Mr. Throckmorton having gone out, by the unwritten law of this House became chairman of that committee and should have been appointed. But instead of that, Mr. CRISP was chosen chairman of the Committee on Elections, and the Democratic caucus ratified and sanctioned it, and he became its head. And thus not only was he made chairman of it, but in the cold blood of a Democratic caucus the people of the United States were insulted and outraged by the selection of a man whose own election was challenged by every sense of decency and honor.

Now, sir, I desire to say further that this committee was appointed for a purpose. I find by the records of this House on the 13th day of December, by a resolution presented by Mr. CANNON, of Illinois, this committee was chosen, and on the 5th day of January it was formally announced by the Speaker. I find further that there was a contest in this House, and that the seat of JOHN G. CARLISLE, of Kentucky, was contested. I find, too, that this committee, headed by Mr. CRISP, and selected for a purpose, with undue haste, on the 20th day of January, reported that case back to the House.

Mr. TAULBEE. Will the gentleman allow me a moment?

Mr. KENNEDY. I have no time to yield.

Mr. TAULBEE. I simply desire to state [cries of "Regular order!" on the Republican side] that the gentleman from Kentucky [Mr. CARLISLE] is not present. [Renewed cries of "Regular order!"]

Mr. KENNEDY. I decline to yield. I say that on the 20th of January the committee reported back to the House the case of JOHN G. CARLISLE. Now, sir, on the 23d day of January that case was brought into the House of Representatives, and under the lead, and championed by the chairman of the Committee on Elections, it was decided in favor of the Speaker of this House, the gentleman from Kentucky, Hon JOHN G. CARLISLE.

ROBERT SMALLS CASE.

I ask now that you contrast the action in this case with the action of the same committee in the case of Robert Smalls.

I desire now, Mr. Chairman, to say that the gentleman from Georgia who was at the head of that committee did not treat this case in the same manner and with the same kindliness that he did that of the gentleman from Kentucky. For I find that on the 7th day of December the committee reported the contested case of Robert Smalls, of South Carolina, nearly eleven months after it had reported the case of Thoebe vs. Carlisle.

I repeat, that I simply call attention to the fact that on the 7th day of December this same committee reported, eleven months afterwards, the case of Robert Smalls to this House, and on the 13th day of February of 1889, nearly thirteen months afterwards, permitted the vote upon that case.

I call attention to this to show that the Democratic side of this House has never done and never can do justice to the black man upon this floor. [Applause on the Republican side.]

BUTTERWORTH AND YOUNG CASES.

I was speaking of the Carlisle case. [Laughter.] Now, I desire, Mr. Chairman, to refer to an occurrence which took place on this floor in 1879. On the 20th day of March, 1879, a memorial of twenty-three citizens of Cincinnati impeached the seats of BENJAMIN BUTTERWORTH and General Thomas L. Young. No contest had been made, and yet these gentlemen, instead of remaining silent, arose in their places in this Chamber and demanded an investigation at the hands of this House, and the House of Representatives appointed a committee to investigate these two seats, so challenged by twenty-three citizens of Ohio, and at the head of that committee of investigation it placed the gentleman from Kentucky [Mr. CARLISLE], and under his leadership that investigation was had.

MR. CARLISLE'S CASE.

Now, when forty-five hundred Kentuckians stood at the door of this House and demanded a hearing in the matter of the right to the seat occupied by him, what did the Speaker of this House, who was the contestee, do? He remained as silent as the Sphinx, and the committee of this House, headed by Mr. CRISP, of Georgia, reported back and denied the contestant the right to a hearing on this floor.

Other men have been quick to demand investigation when their honor was at hazard. Never but once before in the history of this Government was such a proceeding witnessed.

THE PAYNE CASE.

Mr. Chairman, I say that only once before in the history of our Government has there been such a case as that. I need not mention names, but I may say that my own State of Ohio furnished the unfortunate and disgraceful precedent—when a seat of one of her Representatives in one of the Houses of the National Congress was challenged by her people, not only through her Legislature, but by the governor of the State, acting officially, demanding a hearing and an investigation, when the press of my State of Ohio, secular and religious, Independent, Democratic, and Republican, demanded that that case should be heard. Not only Republicans, but Democrats, State officials and others, demanded that that case should be heard.

But the gentleman himself remained silent, and was content, with lips sealed, to continue to occupy a seat that was clothed with dishonor. That gentleman will go into private life condemned by his political associates and despised by his political enemies, without society save that only which wealth can purchase, too low for pity and beneath contempt. [Hisses on the Democratic side.] I refer now to a case in this House, and I ask is it any wonder that the contestee in that case which was reported upon this floor on the 20th of January last should, after that report was made, be covered with humiliation and shame? Was it any wonder that it required the exhilarating and stimulating influences of Washington and the balmier breezes of Old Point Comfort to restore him to his mental and moral equilibrium?

Mr. Chairman, I leave the question to him, to the country, and to the people of Kentucky. [Hisses on the Democratic side.]

A DISTINCTION WITH A DIFFERENCE.

The gentleman from Georgia [Mr. CRISP] asks whether I have ever been in Georgia. I desire to say to him that in 1863 and 1864, if he had not been moving so swiftly to the South, he might have made my acquaintance in Georgia. [Hisses and jeers on the Democratic side.] I presume, sir, that my standing in Georgia will not be as high as that of the gentleman from Georgia——

Mr. McMILLIN. Or anywhere else.

Mr. KENNEDY (continuing). Because he wore the Confederate gray and I wore the Union blue in that great contest. I have no desire to compare records with the gentleman from Georgia, but I believe that in the estimation of every loyal man in this land my record is as high above his in that great contest as the angels of light are above the angels of darkness. [Derisive laughter and jeers on the Democratic side.]

Mr. Chairman, the gentleman's distinction at home comes from this. His distinction abroad comes from the fact that in this House he is elected by a smaller number of votes than any other man was ever elected by to a seat on this floor, and I trust, sir, that the national distinction which he has thus achieved will never again be achieved by any man within the limits of this great Government of ours.

FAIR ELECTIONS IN THE SOUTH.

The gentleman tells us that the elections are fair and honest in Georgia. I desire to call his attention to the fact that in 1884 4,286 Republicans voted, while in 1886 no Republicans voted in his district. I say that he is impeached by the record of the election in 1886 which comes to us from the State of Georgia.

The gentleman from Georgia does not attempt to answer the statements of facts and figures in my speech of July 12 last, and I challenge him or any gentleman upon that side of the Chamber to controvert or deny them. I have in my hand a list of twenty-five districts which voted in 1886 to return members of this House. That list includes the first and second districts in Alabama, the first and fifth in Arkansas, the ten districts of Georgia, the fourth of Louisiana, the fourth, fifth, and sixth of Mississippi, the first, second, fourth, and fifth, and sixth, of South Carolina, and is as follows:

District.	Democratic vote.	Opposition.
First Alabama	4,120	16
Second Alabama	5,659	None.
Third Alabama	4,660	2
First Arkansas	6,092	None.
Fifth Arkansas	4,746	None.
First Georgia	2,061	17
Second Georgia	2,411	None.
Third Georgia	1,704	None.
Fourth Georgia	2,909	330
Fifth Georgia	2,999	None.
Sixth Georgia	1,722	None.
Eighth Georgia	2,377	55
Ninth Georgia	2,355	11
Tenth Georgia	1,944	None.
Fourth Louisiana	5,747	12
First Mississippi	3,140	27
Fourth Mississippi	2,964	122
Fifth Mississippi	4,289	27
Seventh Mississippi	4,508	6
First South Carolina	3,315	2
Second South Carolina	5,212	23
Third South Carolina	4,402	7
Fourth South Carolina	4,470	None.
Fifth South Carolina	4,696	5
Sixth South Carolina	4,411	58
Total	93,013	720

Twenty-five members of Congress elected by a total vote of 93,733! Twenty-five electoral votes controlled by less than 100,000 votes, who suppress the votes of at least 100,000 colored voters.

In those twenty-five districts, casting ninety-three thousand and odd ballots, the entire Republican vote was 720, an average of 29 votes to a district. And yet gentlemen over there tell us that their elections are free and honest and fair. And in this list I find the district of the gentleman from South Carolina and the district of the gentleman from Georgia. What shall we say to gentlemen who, with the assurance of the thimble-rigger, continue to say that these elections are free and fair?

GOVERNOR LEE, OF VIRGINIA, AT NEW YORK BANQUET.

The other day, at the New York banquet, Governor Lee, of Virginia, made this expression:

It remained with the North to decide whether the national improvement and prosperity can best be promoted by a union of American white-governed States or white American through African sections in the great whole. The whole thing depended upon the South being recognized as a white-governed portion and that there shall exist no African sovereignty. "We do not care to take the tomahawk from the red man and give it to the negro. We have provided for the negro, built homes and schools for him, and given him all his condition requires, but when it becomes a question whether those States are to be governed by blacks or whites, I say," the governor exclaimed, "we want a white government."

I refer this matter to the gentleman from Georgia; and I say to him that the governor of Louisiana, the governor of Virginia, and the governor of South Carolina have made the record on this question; and all of them refute his statement.

Governor Lee wants "a white man's government;" I want an honest man's government. I say to-day that I would rather have an honest black man's government in this country than a dishonest white man's government. [Applause on the Republican side.]

LOYALTY OF BLACK PEOPLE.

I am not here to speak for the colored man; at another time I shall be glad to do so. But I say now that while the begloved and bejeweled fingers of a Southern aristocracy were trying to tear down this Government, were attempting to pull down its flag and clutching like blood-hounds at the throat of the nation, not a single instance can be cited where the colored people of this country, when opportunity offered, were not loyal to the Constitution and devoted to the flag. Gentlemen on the other side may sneer at it as they will, but history will forever record the fact that a black man ran the boats past the batteries at Moultrie; that black hands uplifted and black hands sustained the flag of the Union on the top of Fort Pillow. [Applause on the Republican side.]

ANOTHER WITNESS CALLED.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KENNEDY] has expired.

Mr. PERKINS. I yield fifteen minutes to the gentleman from Ohio.

Mr. KENNEDY. Now I desire to call another witness.

Hon. W. H. Skaggs, a Democrat, of Talladega, Ala., prints in the Montgomery Daily Advertiser the following:

We can not go on forever stealing the negro's ballot. There must be a wiser and more honorable solution of the question. We have gone too far in our election frauds, and soon we shall learn that success founded on fraud can not be permanent. In the black belt, where the negroes are in the greater majority, the tactics by which the negro has been deprived of his vote have also served the purpose of depriving the white men of fair representation. The negro vote has been used to count the South Alabama Democrat in and the North Alabama Democrat out.

I commend this to the gentleman from Georgia, and I commend to gentlemen of the other side the fact that in Arkansas only last week four members of the State Legislature resigned their places because they were there by fraud and intimidation and violence; and I call attention to the fact that the same election which returned them to the Legislature returned a member to this House who has not yet tendered his resignation so far as I know.

A WORD FOR MASSACHUSETTS.

The gentleman from South Carolina the other day referred to Massachusetts. I am not here to defend Massachusetts. Her honored Representatives on this floor and her sons everywhere are abundantly competent for her defense. But I want to say here for old Massachusetts that while she stood at the cradle of liberty and rocked it until it grew into a vigorous manhood, from that hour until the present it can not be said, and history does not record the fact, that a single one of her sons, true as they are to old Massachusetts, has ever lifted his hand against the Constitution or attempted to tear down the flag. They were found on every battle-field from Lexington to Yorktown, and in that later struggle they were found on every field where blood was shed, from Baltimore to Bull Run and from Bull Run to Appomattox. The history of the past will be written, and the history of old Massachusetts will be a part of this nation's great record.

And I want to say to gentlemen on the other side that the Meccas of the future will not be in the Southern clime or under a Southern sun, but will be the sacred resting places of the illustrious and patriotic dead, where Lincoln sleeps, where the silent warrior of the century is resting, and that place on the hillside at Arlington where gallant Phil Sheridan is sleeping. I say to you that in the future there will be lifted above old Bunker Hill and Lookout Mountain and Missionary Ridge and Round Top the record of a nation's glory, and with it the history of old Massachusetts.

Our children and our children's children will stand with uncovered heads where Logan rests, where Prescott stood, and Warren fell.

GENERAL ROSSER AT BALTIMORE.

The other day, over in the city of Baltimore, General Rosser made a speech, and he said:

That it was his purpose to show that the reason the South was able to maintain an unequal combat against the North for years and why the South was victorious in every battle in Virginia from first to last, and finally yielded only to starvation, was the fact, and is still the fact, that a Southern gentleman can whip a puritanical Yankee every time.

Mr. Chairman, at the point of the bayonet and the end of the saber on three hundred battle-fields of this Union we punched that idea out of them. [Laughter and applause on the Republican side.]

I want to tell who this General Rosser is who was never whipped, according to his own statement. He is the man whom Torbert with his Union cavalry drove 26 miles up the Shenandoah, and in that case, with rebels ahead and Union soldiers behind, Thomas L. Rosser, like a good general, led his Confederate cavalry up the valley in defeat.

If I may be permitted to paraphrase a familiar line:

And lo! Tom Rosser's steed led all the rest.

I want to call attention to another thing that General Rosser said; and I wish to say that three United States Senators and a member of this House from Mississippi were present on that occasion. This is what he said:

I feel that I am, and I believe that every brave Confederate soldier living to-day is, more loyal to the constitutional Government of the new United States than are the rank and file of the Grand Army of the Republic (so called), and I believe that we are more loyal to the flag of the new Union than they.

This banner [waving a Confederate battle-flag], under which we so gloriously fought, is now the badge of our loyalty to ourselves. This is the cross which we bore with a courage, patience, and fortitude which entitles every brave, true, and tried Confederate soldier to wear a patriot's immortal crown.

THE MISTAKE OF THE WAR.

Mr. Chairman, England, in her great contest with the rebels in India, blew them from her guns. Germany, after her war with France, compelled the French nation, as an indemnity, to pay the entire expenses of the contest. But after six thousand millions had been expended, after blood and treasure beyond measure had been poured out, this Government extended amnesty without price and without any conditions to the Southern people.

I want to say that I believe that if Lee, and Davis, and Beauregard, and Rosser, men educated at the public expense and who led the young men of the South into rebellion and treason, had been hung to the gibbet, as they ought to have been after that contest was over, they would not now be teaching disloyalty and treason to the young men of the South.

RULE OF THE REBEL BRIGADIER ABOUT OVER.

General Johnson said up to a short time ago in Baltimore that this Government was controlled by the Confederates.

Several MEMBERS. You mean General Bradley Johnson.

Mr. KENNEDY. Yes; General Bradley Johnson.

But thank God, Mr. Chairman, the hour is passing away when they can control this Government. They will be compelled to take back-seats. There is a brighter day coming for the South, freed from the hands of Confederate despotism, rebellion, and disloyalty.

I not only congratulate the country, but I congratulate that side of the Chamber, that they will be freed from the dictation to which they have been subjected for the last two years, a dictation humiliating, not only to this House, but to the entire country. I trust, sir, it will catch the inspiration of freedom.

I desire to point further to the fact, Mr. Chairman, that it comes with bad grace from gentlemen half shot away on rebel battle-fields to come here and attempt to teach us loyalty, and to tell us what our duties are under the Constitution and under the old flag.

A BRIGHTER DAY COMING FOR THE SOUTH.

The South has been throwing away her opportunities. Let them quit sneering at New England. Let them cease snarling at her heels. Let them be inspired with some of New England's energy and enterprise. With a warmer sun, beneath whose rays the earth gives forth her richest fruits, with a softer clime that New England can not know, with a wealth of mines waiting for the pick and drill, with streams and rivers flowing unvexed to the sea, waiting for the spindle and loom, the South has been casting away her opportunities as a reckless spendthrift would throw priceless jewels into the sea. [Applause.]

Let her catch some of New England's pluck and courage. Let her quit whining at New England's wealth and power. Let her quit regretting the lost cause—a cause that went down in dishonor and degradation and death. Let her cease crying forever over her pride, poverty, and despair. Let her imitate Massachusetts enterprise and grit and there will be a Lowell on every river, a Lawrence on every stream. [Applause.] Let her open the doorway and bid wealth and labor come and share with her her richest blessings. Let her accord to all an equal chance in this race of life. Let her cease flaunting her disloyalty in the faces of the people, and learn once for all that the rebellion is ended, and that but one flag is recognized as the emblem of our unity and power.

Let her come to know that slavery is dead and forever buried by the irrevocable enactments of the Constitution. Let her do equal and exact justice to all her people, black and white, rich and poor. Let her assure all within her borders that the laws shall be supreme, that all shall be protected in their rights, that person and property shall be secure, that the privilege of the citizen shall be accorded him in its fullest sense.

Then, Mr. Chairman, this new South will have solved the problem of her future. Then this new South, new not only in name but in spirit, in fortune, in promise, in progress, in wealth and power, will start on the highway to the greatest and grandest march of all the centuries.

> And thus full roused, each giant limb awoke,
> Each sinew strong, the great heart pulsing fast,
> She shall start up and stand on her own earth.
> Then will her long triumphant march begin,
> Thence shall her being date—thus wholly roused,
> What she achieves shall be set down to her.

[Applause.]

Just Pension Laws.

SPEECH

OF

HON. OSCAR L. JACKSON,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 15, 1889.

The House having under consideration bills granting pensions to Union soldiers of the war of the rebellion—

Mr. JACKSON said:

Mr. SPEAKER: It is almost twenty-four years since the close of the great war that suppressed the slaveholders' rebellion against the Government of the United States. A generation has been born and grown to manhood and womanhood that only knows of that great struggle to defend our Government from the assault of traitors and to preserve free institutions on this continent as they read of it in the pages of history or hear the story from those actors who are spared to see the present peace and great prosperity of our beloved land.

The great benefits secured to our nation by that war, in preserving for it "a government by the people," in establishing a respect for law and order, and in the removal of the curse and blight of human slavery, will be better appreciated and higher regarded as generation succeeds generation in after years. We may even hope that some of the far-reaching results of that war will aid in extending the Christian civilization of the nineteenth century which we enjoy to other portions of our race.

But, Mr. Speaker, the character and extent of that war, its cost in money and property, its sacrifices of ease, comfort, health, and most precious human life was scarcely comprehended and realized at the time, but is to-day by a large part of the people of the United States almost unknown. The heroic devotion to the flag, the voluntary relinquishment of the happiness of home and family, the privations and hardships of the march and field, the horrors of the prison pen, the ruined health, the painful wounds of the many times ten thousand individual soldiers never have been, and never can be, fully known.

Still less can we comprehend, as we ought, the sacrifice of the more than four hundred thousand who gave "the last full measure of devotion," their lives, that the Government might live. But I have not words to speak fittingly of the unnumbered homes whose firesides were shrouded in mourning and bathed in tears. The widowed wives, the helpless orphans, the sisters lacking a brother's care, and the aged fathers and mothers who lost the support of their declining years.

This history should be better known. Many of the great lessons of the war are likely to be lost for want of better knowledge of them by the generations that are coming to take our places. If men knew more of the dread realities of war we would hear less talk in this Hall and elsewhere of war as a remedy for trifling wrongs. I call attention to the fact that in the discussions in Congress in the last few years of difficulties with other nations it has not been the men who saw service in the field who hastily suggested our ability to obtain redress by force. This place in the debate has, at least for the most part, been left to those who never advanced with a line of battle under fire and never felt a wound.

We may not expect that in the near future conflicts of arms will entirely cease and nations learn war no more. But war more than ever in the past should be a last resort, accepted only in case of supreme necessity. I count as one of the advantages of our great war that it ought to enable us to maintain peace with other nations for the reason that we have shown the world our great ability to make war in a just cause. This reputation, without doubt, enabled us under Grant to arbitrate the most perplexing question with the strongest of nations.

Never again will ambitious, scheming men be able to organize a rebellion in this country on the theory that the Government will not use the strong arm of force to subdue it. That lesson has been learned for all time. The general bravery and tenacity of the American people has been so well attested it will not be questioned for a hundred years. I wish that the individual character of the best soldiers was as well known. The lesson should be taught in every school-room—that the most intelligent, industrious, law-abiding citizen at home made the most reliable and gallant soldier in the field; that the bravest man in a just cause is the man who has most respect for himself; that the highest type of manhood is that which enables men to endure hardships and make great sacrifices for the welfare of their fellow-men. In every neighborhood the example of its citizens who made these sacrifices should be pointed out to the young to encourage them in unselfish acts for the public welfare and in works of charity and benevolence. Let loyalty to country be taught as a duty, as it should be, and we will never again hear men claiming the action of their State as an excuse for treason and rebellion.

But, Mr. Speaker, whilst this general subject is important and worthy of more consideration than it has received, I desire to confine my remarks more particularly to the question of pension legislation in behalf of the Union soldiers of the war.

NEGLECT OF CONGRESS.

In reviewing the action of the Congress of the United States during the past four years, in which I have been a member, I am forced to the conclusion that it has been grossly negligent in not passing just pension laws for the relief of Union soldiers and their dependent relatives.

The political party that has had a majority in this House and has controlled legislation here is responsible for that neglect. The facts have been well known to every member that the Government, in good faith to the men who saved it as soldiers, should have passed additional pension laws.

The necessities of disabled soldiers and their dependent relatives demanded this. Justice and good policy united in requiring this at the hands of the Government. When the records of the last two Congresses are made up history will record this as their greatest neglect.

The Democratic majority, which has controlled all legislation that has been had, must be held responsible as a party for this, and they are, in fact, responsible for the negative votes that have defeated good bills, and for the refusal and objection to fixing time for consideration of other worthy measures. I know that there have been Democratic members of Congress from Northern States who have been true friends of soldier legislation, but, unfortunately for that kind of legislation, their party and the machinery of this House has been controlled by members from the States that were engaged in rebellion.

So far as I can now recall no Democrat from a State that was in rebellion has in the four years voted for a single general law that would place another Union soldier's name on the pension-rolls. During that time no general law has been placed on the statute-book that would enable additional names of Union soldiers to be enrolled as pensioners. Some few general laws have been passed increasing rates of pensions for disabilities already provided for, and on the passage of these the votes of the solid South will, as a rule, be found recorded in the negative.

We have been accustomed to hear in this Hall most eloquent tributes to the magnanimity and leniency of our Government towards those who engaged in causeless rebellion against it. It must be conceded that our people have been disposed to go to the very extreme in this direction. It is certainly the better side to err upon; but to the broken-down, disabled soldier it must seem a little hard to have just pension laws defeated by Representatives in Congress who only obtained their seats by the leniency of the Government in defense of which he fought and suffered.

AN UNFRIENDLY PRESIDENT.

Whilst I attribute great neglect to Congress for its failure to enact just and reasonable pension laws, to be fair I must charge that we have had an Executive still more blamable who has vetoed much of the legislation on that subject that has been presented to him. I give Congress credit for the passage of a large number of meritorious private bills that have brought joy and comfort to the humble fireside of many a deserving soldier. I know with what patience, fairness, and care the Committee on Invalid Pensions has examined and disposed of these cases.

I give those who have opposed all general legislation the credit they deserve for having permitted as many of these private bills as they did to pass. I have only regretted that the still larger number of most worthy and deserving ones presented to Congress, and which might very readily have been passed, have failed because these men would not permit final action upon them.

I give due credit to the 37 Democrats from loyal States who cast their votes with the 138 Republicans in the Forty-ninth Congress to pass the dependent-pension bill over the veto. That bill was not all I wanted, but it was carefully prepared by men of large experience in

pension legislation, true friends of the soldier, and it would have brought relief to a large number of deserving men.

It is to this day but imperfectly known by the people, but it was a better and much more liberal bill than is generally understood. I believe that a fair and liberal construction of its provisions would have given pensions to a very large part of the men who had seen severe service in the Army. I regard its veto as the most severe blow given from any source to pension legislation during the four years.

My objection to this bill was that it did not cover all cases that deserved pensions, but it was vetoed on the ground that it was too liberal. And the enemies of pension legislation everywhere hailed this veto as an assurance that no general pension law whatever could receive the approval of the present Executive.

Considering his antecedents no one could expect President Cleveland to bring with him to the executive chair any very high appreciation of military service to the country. He had not shown much interest or sympathy in the defense of the flag during the war. But every citizen had a right to expect that whilst he occupied the office he would treat pension legislation, as well as all other kinds, with fairness and dignity becoming the high position he held.

But in this we were disappointed. From the organization of our Government down to the present time no such state papers have ever been prepared as his pension vetoes. You may go over all the vetoes of his predecessors as they are published in book form, and in not a single one can be found a sneer, a coarse remark, or an effort at wit. He is the first to attempt this style of paper, and then to think it is upon the subject of the wounds, injuries, and disabilities of soldiers received in the service of their country!

The vetoes by their substance, language, tone, and temper admit of no construction but that he dislikes all pension legislation. He evidently sees no merit in having served the country in the field; he does not regard it as deserving of recompense because a man was wounded or otherwise disabled in the line of duty as a soldier. They were written, so far as they had a purpose, to please the men who have no desire that the Government should deal justly with the men who saved it.

OTHER OPPOSITION.

To the example set by the President of reckless, unsupported statements, we may fairly attribute many of the city newspaper articles which attempt to throw discredit on all applications for pensions. A very general effort has been made by certain classes of journals to have it appear dishonorable to receive a pension. This is done not by direct charge, but by falsely and maliciously intimating that the larger part of the claims are fraudulent.

I know that the great majority of the loyal people of this country are right on this subject. They heartily approve of just and even liberal legislation. But in the North during the war there was a minority that sympathized with the rebellion and rejoiced at the defeat of our armies. This class are still as ready as ever to circulate slanders against Union soldiers. The strictly commercial part of the country has no conception of loyalty as a principle. To save trade it was ready, as Horace Greeley saw in 1861, to agree to the dismemberment of the country. The valor of our armies protected its property and made it possible to repay with liberal interest the loans made during the war, and now this selfish class complains and objects to doing even half justice to the soldier.

The scheming, selfish office-seeker of to-day who was of proper age to enter the Army and managed by bounties, substitutes, and technicalities to evade military service is jealous of the partiality and preference shown soldiers by the people, and is, of course, lukewarm on the subject. You can find men of this kind in every neighborhood. Many of the younger people of the country, as I have already stated, do not fully comprehend the real services rendered by the soldiers to the country, and for this reason are not as zealous in urging just and fair pension laws as they should be.

AN HONOR TO RECEIVE A PENSION.

Among all civilized nations it is to-day and always has been considered an honor to receive a pension for military services rendered one's country. It is justly regarded as a recognition of wounds and disability incurred in line of duty or of long service. To the American soldier more than any other is it a high honor, for his services were rendered voluntarily.

A pension is not a gift or gratuity. It is a part of the implied contract made by the Government with every citizen when it accepts his service as a soldier. It comes from that high duty devolving on the nation "to care for him who has borne the battle, and for his widow and orphans." So far as it may be regarded as a recompense for services rendered no money is so dearly earned. Indeed, money can not pay men for the injuries of wounds, which every year grow more severe, and no man would consider any amount of it as an equivalent for ruined health or broken constitution.

There is not a man in the sound of my voice that could to-day be hired with any amount of money to take for one hour the risk of being shot, such as the ordinary soldier took for days on a dozen battle-fields; neither would any amount of pay induce men to undergo the horrors of Southern prison-pens. Yet there are now supported as paupers in the poor-houses of this country large numbers of men who for love of their country and its flag faced death on many a battle-field of the rebellion, and for long months endured starvation in Andersonville. It certainly does not require argument to show that the Government owes these men much, the giving of which would be justice, not charity.

PRESENT PENSION LAWS NOT LIBERAL.

Those who oppose pension legislation say the present laws are unusually liberal, but this is not correct. I go further and assert that they are not even just. If a soldier is disabled in line of duty so as to deprive him of his ordinary ability to earn a living the Government ought at least to pay him a pension sufficient to obtain with it the usual common necessaries of life.

If the husband, father, or son lost his life in the service of his country the dependent relatives who have thereby lost their natural support should receive a pension of like character. Will any one dispute either of these propositions? The principal nations of the world, even where they obtain their soldiers by conscription and forced levies, recognize these principles as just and binding upon them. Without considering for the present the defect in our laws, which prevents many deserving disabled men from obtaining pensions at all, let us examine briefly the amount of pensions given those who succeed in having their names placed on the roll, and see whether the amount is liberal.

Without referring to special provisions for specific injuries, such as amputations and helplessness requiring a constant attendant, where larger amounts are allowed, I find that the general law gives every enlisted man for "total disability" incurred in service $8 per month. This is a little less than $2 a week. Does any one think this is unusually liberal?

As I have said, a number of specific disabilities are rated higher, but the great mass of all pensions are rated to-day on the basis of $8 per month for that extent of disability that the Pension Office classes as a total disability to earn a living by manual labor. A mere pittance, not sufficient to furnish food and clothing of the plainest kind for the soldier himself. But if he have a wife or little ones, an aged father or mother, or a helpless sister, who, according to the best attributes of our nature, have a right to look to him for aid and support, he is unable to extend the slightest assistance.

That the Pension Office construes this rule strictly as to extent of disability the published reports leave no room to doubt. From the report of the Commissioner of Pensions for the year 1888 I find that there are 272 men who are rated at $1 per month. How exact the discrimination of a generous Government, which requires its soldiers applying for pensions to prove disability incurred in line of duty by official records, or by at least two witnesses who have knowledge of the facts, examines them by at least one board of surgeons, and grants a pension of 3⅓ cents per day.

Upon 31,392 men, many of whom we may well suppose followed Grant from Donelson and Shiloh to Vicksburg, and Sherman from Chattanooga and Atlanta to the sea, or fought with Rosecrans at Corinth, Stone River, and Chickamauga, the Government bestows a pension of $2 a month—6⅔ cents per day. Upon 68,563 men our Government bestows a pension of $4 per month. Embraced in this number beyond doubt are many of the men who stood in front of Longstreet at Gettysburgh, who dashed with Hancock upon Johnston and Early at Spottsylvania, charged the heights at Fredericksburgh, were at the front at Malvern Hill, Bull Run, and Antietam, followed Sheridan at Winchester, and heard the last shot fired at Appomattox.

I will not stop now to read the numerous other subdivisions of $8 that are allowed as pensions, many of them parts of a dollar, and in several cases even down to the fractions and part of a cent per month. These are the pensions that are bestowed, recollect, only upon men disabled in the line of duty, and they are also the pensions that President Cleveland referred to in his veto of the dependent bill, when he used these words:

> The bounty of the Government in the way of pensions is generously bestowed when granted to those who in this military service, and in the line of military duty have, to a greater or less extent, been disabled.

A most remarkable and unjustifiable statement when placed side by side with the facts. Let the truth be known and it will be admitted by all fair-minded people that so far as the size of pensions is concerned our laws are not liberal, but the very reverse. Indeed a large part of them are so small and trifling that they reflect no credit on the Government that pays them.

It has grown to be a somewhat common expression that our Government has at least been more liberal with pensions than any European government. The people of our country receive so much higher wages than those of Europe and as a class live so much better that it is difficult to make a fair comparison between them. It would be but reasonable that pensions here should be higher than there, but I find that at least in some countries that is not the case. The Republic of France fixes the lowest pension to a private soldier at 600 francs per year, being equivalent to $10 per month. An increase is allowed above this to non-commissioned officers, whilst the United States rates non-commissioned officers the same as all other enlisted men, at $8 per month for total disability.

There is a still greater difference as to the higher offices, France giving an increased pension for all increase in rank. She pays the lowest

grade of lieutenant-colonel $740 per year, and a major-general as high as $2,100 yearly. The United States laws recognize no difference in rank above lieutenant-colonel, and the highest pension paid any officer by general law, no matter how useful or distinguished his services may have been, is $30 per month.

Despotic Russia, when either enlisted men or officers become disabled in her military service, pays them not less than one-third of their regular pay, and increases this, according to disability, up even to full pay. Spain pensions her soldiers on about the same basis; and whilst their applications for pensions are pending she pays and rations them as soldiers, a rule which I have no doubt hastens the disposition of cases.

All countries whose laws I have been able to examine make provision for the widows and orphans of soldiers dying in service, and all provide for a full pension after a long term of service without requiring any proof of disability. These terms of service are generally much longer in time than those of our volunteer soldiers, but as a rule none of them see anything near as much fighting or campaigning in the field as was done by the veterans of our late war.

I have not been able to obtain a copy of the pension laws of Great Britain, but I understand they are as liberal as any I have referred to, and that the British soldier who served with his regiment in India, when he receives a final discharge, comes home knowing he shall receive as a matter of right a pension for life that will at least prevent him from ever being sent to the poor-house.

Our pension laws ought to be more liberal than those of any other country, but taking into account the difference in pay, usual wages, and conditions of the men who have been soldiers I am satisfied our present laws are not so. Indeed, before we have a right to be proud of them they require very great amendment. We pay the largest pensions to men who have suffered amputations of limbs. They are none too large; are, in fact, as nothing compared to the losses for which they are given. The men who receive them are comparatively few in number, and this has always been urged on Congress as a reason for making them liberal. But a much larger number of men whose disabilities and sufferings are fully as great as if they had lost limbs are paid less than half as much.

Nothing but additional laws can correct this great injustice. I concede to the Forty-ninth Congress the credit of giving me and others an opportunity to vote for the law that increased the pensions of widows whose husbands were killed or died from injuries received in the Army from eight to twelve dollars per month, a mere pittance yet. Is there a man on this floor who thinks the sum too large? Yet on final passage of that law a large number recorded their votes against it. We pay the aged father and mother, when the son on whose strong arm they depended for support in their declining years sleeps in a soldier's grave on the battle-field or starved in Andersonville, $12 per month, a little less than $3 per week, for all the necessaries for their support as they linger on the down-hill of life, recalling the memory of their boy who, full of hope and high resolve, went to the Army and came not back again. You will allow me to remind you that father and mother can only at present obtain a pension after they prove that they are without property or other means of support. Still worse is that provision of the law which requires a father or mother, no matter how great may be their necessities now, in order to obtain a pension to prove that they were dependent on their son when he died.

When it is recollected that a large part of our best soldiers enlisted in the Army when mere boys, when their parents were still in health and strength and felt no need of their assistance, but, parent-like, were still striving to aid the child, this provision amounts in many cases to a prohibition. I recall a case in the district I have the honor to represent on this floor where the only child of a widowed mother, a bright boy of sixteen, away from home on a visit, enlisted in a regiment that followed Grant from Belmont to Vicksburg. His comrades buried him on the banks of the Mississippi. For years that mother made every effort to obtain a pension, only to have it rejected by the Pension Office at last. She was very poor; had no means of support but the hardest labor.

It would bring tears to the eyes of almost any one to read the depositions she filed in the Pension Office to prove her dependence on her son at his death; showing by some how her boy had earned and given her small sums when he was a child, by doing chores and little jobs for the neighbors. By others she proved how the boy said when he became a man he intended to go away and work and get his mother a home. After all her efforts she failed, because dependence at date of death was not sufficiently proven to satisfy the law and practice of the Pension Office.

I count it as one of the most gratifying acts of my official life, that without either her knowledge or request I introduced in Congress a private bill which became a law and put this mother's name on the pension-roll. As we hear frequent complaints against Congress for passing so many private pension bills, I cite this as a fair example of the worthy cases these bills provide for.

When a soldier is killed in battle or dies from causes incident to his Army service the law allows a pension of $2 each per month for the support of his babes and little ones until they arrive at the age of sixteen years. This is 50 cents per week less than will pay their support at any public or charity institute in the country.

There are other provisions of our laws on this subject that I would like to call attention to, but time will not permit. If any who hear me are not now satisfied that our present pension laws should not be called liberal I can not hope to convince them.

LARGE APPROPRIATIONS FOR PENSIONS.

It is urged as an objection to additional legislation that our appropriation for pensions is now very large, much more than was paid the soldiers of our other wars. We are told that we pay out annually more than any other nation, and that it is time to stop. It is true we have paid in the aggregate a very large sum for pensions, but it has gone to men who deserved it. We ought to pay out more than was ever paid before and more than any other nation pays, for ours was the greatest war of modern times.

Nowhere else on the earth within one hundred and fifty years have such battles been fought with such great destruction of human life as in America from 1861 to 1865. Never have such large percentages of the men engaged been killed and wounded. No armies have ever fought so many battles in such short space of time.

I recently saw a statement of an English regiment that has an organization dating back for one hundred and eighty-four years. It has inscribed on its banners the names of thirty-eight engagements in which it took part in that time.

We had plenty of regiments that saw more real fighting in four years than this, had more battles to inscribe on their flags, and could show a longer list of killed and wounded. If you compare the war of the rebellion with the Revolutionary war, the war of 1812, and the war with Mexico, they sink into insignificance. Not only is this the case in the size of the armies, but in the proportion of killed and wounded.

The average strength of the Union Army in 1862 has been calculated at about 550,000 men. The returns of thirty-nine battles fought in that year, in which the loss exceeds 500 each, make the aggregate of killed, wounded, and missing 138,709. Add to this the casualties in the long list of minor engagements in which the losses were less than 500 each, and it will appear that in a single year about one man in every three who was borne on the rolls was killed, wounded, or taken prisoner. But this was only one year of the war. The following two years the armies were larger, the fighting more continuous and terrible, and the proportion of killed and wounded in the aggregate of losses was larger.

The wars with Great Britain were mainly fought by militia called out by the Governors to meet some emergency, and who, after a short service, returned to their homes. The collisions were only moderately destructive of life. Monmouth was one of the most severe battles of the Revolution. In it the 13,000 Americans had 69 killed and 160 wounded, a much smaller loss than the Union army of three divisions sustained at the battle of Iuka, 19th September, 1862. The Revolutionary army did no more real fighting after Monmouth until at Yorktown, three years afterward. But the three divisions of the Western army that fought the battle of Iuka two weeks afterward, in the battle of Corinth, October 3 and 4, had 30 per cent. of their survivors killed and wounded. In the war of 1812 we had enrolled about 500,000 men. In none of the battles of that war did the loss of life equal an ordinary skirmish in Grant's or Sherman's army in 1864.

The entire loss of that war was 1,877 killed and 3,737 wounded; less than the loss of Grant's army of 35,000 in the two days' battle at Shiloh. The entire loss of the 101,282 men who enlisted for the war with Mexico was 1.567 killed and 3,420 wounded, about what Sheridan's 25,000 men lost in a single day at the Opequan.

In several instances not a single man was killed in all of a State's quota in the Mexican war. Much has been said of the great fighting the Texans did. Texas had in her quota 8,018 men; of these in the whole war 46 were killed and 29 wounded. Many of our regiments lost as much in the late war in a single battle.

Buena Vista is regarded as the great battle of that war. The entire loss of the 5,000 Americans was 746, less than losses sustained by a single division in one day in many half-forgotten battles of the rebellion. In Sherman's army organized for the campaign of 1864, of a little over one hundred thousand men, were the men who in the preceding year had gone through the Vicksburg campaign and fought its great battles. Other portions of it were the survivors of the men who fought and won the great battle of Chickamauga and made the campaign under Rosecrans that secured the starting point of Chattanooga. These united armies, just before starting on the campaign of 1864, fought the battles of Missionary Ridge and Lookout Mountain, which of themselves far exceeded any battles fought on this continent prior to 1861.

On the Atlanta campaign of less than four months Sherman's army had 5,284 men killed and 26,190 men wounded. By making allowances for the non-combatants in the quartermaster, commissary, and other departments, who were not usually exposed, it appears that of the men who carried muskets and carbines and stood by their guns, and the officers who commanded them, more than one man out of every three was either killed or wounded. This makes no account of the thousands who fell by the way or were sent to the rear disabled by sunstroke, disease, and the severity of the campaign, worn out by fatigue, exposure, and the terrible strain of such battles.

The eastern army, under Grant, in the campaign of 1864, was the largest army of the whole war. There is not a shadow of doubt that

it fought more battles and had a larger percentage of killed and wounded than any army ever had in the same length of time that fought under Wellington or Bonaparte. It, too, was composed of men who had in a short time previous seen the most severe and terrible service. Its regiments carried flags inscribed with that long list of battles extending from Charles City Cross Roads to Malvern Hill; from Antietam and Fredericksburgh to second Bull Run. They were the survivors who within a year had fought the great battles of Chancellorsville and Gettysburgh.

The campaign of 1864 was almost one continual battle from the Rappahannock to Petersburgh. In either one of the three battles of the Wilderness, Spottsylvania, and Cold Harbor the Union Army had more men killed and wounded than there are men in an average-sized county in Pennsylvania or Ohio. Yet all of these three battles were fought within a few weeks time. I refer to these two great campaigns because they are better known than others, and yet I am satisfied the greater part of our citizens to-day have no correct idea of the losses sustained in them.

But there are a hundred other battles, East, West, and South, on ocean, river, and field, whose names were scarcely known at the time or are now half forgotten, where smaller armies and detachments did as hard and useful duty and contributed as large a percentage of their number to the list of killed and wounded.

We have gathered in our national cemeteries the remains of over 300,000 of the fallen. This includes the thirty thousand graves at Andersonville and Salisbury; but there never will be known even approximately the number of Union soldiers who went down to death in the slow horrors of the prison-pens at Richmond, Belle Isle, Savannah, Columbia, Charleston, Florence, Millen, and a dozen others.

Thousands stricken in the field reached home to die, and sleep now in every cemetery and church-yard of the North. Every regiment has its list of men in unknown graves. Every soldier can recall the comrade killed in the skirmish or who died in the camp, who was hastily buried uncoffined in field or wood, in out of the way spots, an unmarked grave never again visited by man or woman who knew him. These are the thousands—

> Who are resting where they wearied;
> They are sleeping where they fell.

I call attention to these facts that Congress and the country may not forget the great number of wounded and disabled men who ought to have liberal pensions and who to-day are unable to obtain them. I make these statements that we may to some extent at least comprehend the vast number of widows, orphans, and dependent fathers and mothers who by the war lost the dear one on whom they had a right to rely for support and have for this reason a just claim on the Government for relief.

It is not my purpose to follow at any great length the comparisons of losses in our war with those in battles in other countries. I find, however, from published statistics that at Waterloo the loss was only 12 per cent., but at Shiloh was over 30 per cent. At Wagram, 5 per cent.; at Zurich, 8 per cent.; at Ramillies, 6 per cent.; at Ligny, 6½ per cent.; at Contreras, 10 per cent.; at Marengo, 15 per cent.; at Austerlitz, 13 per cent.; at Magenta, 8 per cent.; at Solferino, 6 per cent.; at Gravelotte, 12 per cent., and at Sedan, 15 per cent. Whilst at Corinth, Perryville, Chickamauga, the Wilderness, and Spottsylvania the average losses of those engaged exceeded 30 per cent.

The regiment with which I served had 45 per cent. of its numbers engaged killed and wounded in one day's battle at Corinth, October 4, 1862. I recollect that on the Atlanta campaign the regiment at one time had casualties of killed and wounded by musketry for nine consecutive days, and suffered severely in different other engagements. I mention this not because it is exceptional, but because it comes within my own personal knowledge. For although the regiment served throughout the war in the general operations of the Army of the Tennessee, and took part in many battles, I know from authentic reports that many regiments, both in the eastern and western armies, had still larger losses. The same bravery and endurance seems to have been exhibited by all our armies wherever they served.

The question may well be asked, What was the cause of such extraordinary fighting and such heroic endurance? Military training and discipline will not account for it. Our people as a class are as brave as the bravest, but they have very little pure military taste. Our armies of more than a million men, at the close of the war, went back to peaceful occupations in the course of a few months.

The best answer that can be given is that our armies were composed of the most intelligent men that were ever organized. To a large extent they entered the Army voluntarily from a sense of duty. They believed that there was a question of right involved in the war and that we must succeed no matter what it cost.

PRISONERS.

The sacrifices and sufferings of prisoners in the hands of the enemy were so extraordinary that in my judgment they should have special laws in their favor. I want to see general laws that will do justice to all, but I hope to see some laws that will give prisoners a per-day allowance in addition for the time they were in prison. They richly deserve it. No part of the sufferings and sacrifices of the war is so poorly known as that which is attributable to the barbarous and inhuman treatment given to our prisoners of war.

This is not the time or occasion to enter upon a statement of the details of these atrocities. I only refer to them so far as they bear on the question of pensions. No excuse ever can be given for the barbarity of starving men when plenty of food was within reach of the authorities having them in charge. Sherman's army found plenty to eat in the vicinity in November and December afterward. History will record that this brutality was premeditated and intentional, for, outside of the question of food, the crowding of men in pens, without shelter, on bare ground too small in extent to even allow them to lay down comfortably, admits of no defense.

I only refer to this subject now to call attention to the great sufferings endured by the soldiers of our Army and to show that our laws are not liberal to them. We have all a general knowledge of the horrors of Andersonville, and this diverts attention from the large number of other prisons, where in the aggregate still greater sufferings were endured. The men buried at Andersonville are only a small part of those who died in prisons during the war. It was used a comparatively short time the latter part of the war, and the men confined there were mostly old veteran soldiers inured to exposure and hardships, so that there is no room to doubt the malicious character of the treatment they received.

I have only time to give a few facts. The stockade was 1,100 feet long and 799 feet wide, about the amount of ground that would usually be occupied for a camp of one regiment of a thousand men with officers' quarters and sinks. Twenty feet inside the stockade was a dead line, reducing its size, and to step or reach across this was to be shot. The only water it originally contained was in a swamp at one end, which reduced the size, was from necessity used as sinks, and soon became one mass of filth. In this inclosure during the months of July and August, under a burning southern sun, without shelter, were confined over 30,000 men, the ground which they could occupy giving scarce room on which they could all lie down at once.

No particle of meat or fresh vegetable was ever issued as rations within the inclosure. But one article of food, such as corn-bread, corn-mush, or coarse beans, was issued in any one day, and that in quantities so small that the men wasted to skeletons and died of actual starvation. When mush was issued one bucketful was all one hundred men received for a day, and this the starving, half crazy men had to divide among themselves as best they could.

This stockade was used from March 1 to November 1, but principally from the middle of May to the middle of September, 1864. The total number of men confined in it was 49,485; the highest number at any one time, 33,006; died whilst in confinement, 12,926. The following are the numbers at end of each month, respectively:

March	4,603
April	9,577
May	18,454
June	26,367
July	31,678
August	31,693
September	8,218
October	4,208

It thus appears that the larger part of the men were there but a few months, but that one man out of every four that set foot within the stockade died and was buried there.

In September and October, when the bulk of the survivors were sent to other prisons to get them out of the way of Sherman's approaching army, they were in such horrible condition that vast numbers of them died on the trains moving them, at stations, or soon after arrival at the prisons to which they were taken. By the records kept by the rebel authorities themselves it appears that of the survivors that remained from month to month there died as follows:

April, one out of every	16
May, one out of every	26
June, one out of every	22
July, one out of every	18
August, one out of every	11
September, one out of every	3
October, one out of every	2
November, one out of every	2

Of the detachments and organizations that were taken there early and remained late by far the larger part died. Of 63 men of Company L, Sixteenth Illinois Cavalry, captured in the West, 48 died. Of 49 enlisted men of Company C, One hundred and first Pennsylvania Infantry, captured at Plymouth, N. C., 42 died, 2 escaped, and 5 were returned to the Union lines. It is a portion of the history of this blackest part of the slaveholders' rebellion that these men, with scarce an exception, enduring their terrible sufferings, remained true to their Government and its flag, refused to purchase food by taking an oath of allegiance to their enemies, and refused even to send a delegation when requested to their own Government asking for special relief.

REASONS FOR GRANTING PENSIONS.

There are many good reasons why the Government should pension the soldiers of the late war. I have already stated that it was a part of the implied contract when the men enlisted that they should be. In addition, by their hard and severe service they have earned it. It re-

quired the highest order of courage and self-sacrifice to enter the Army after the war was fairly begun.

The men who remained at home and now talk lightly of the services of the soldier did not talk that way when the Government was calling for more troops. Nothing could then induce these men to enter the Army voluntarily, and oh, how they did dread a draft! If one of them was drafted he would give all he had, if necessary, for a substitute. Men at home devised ways and means to get others to volunteer, such as had never been thought of for any other purpose.

Men who had generally been supposed to be strong and healthy suddenly developed a multitude of disabilities. Boards of surgeons were besieged by men striving to get exempt. Thousands of men ran off to Canada or the Territories, where they could not be found. Rich men sent their sons to Europe. No one talked then disparagingly about enlisting when every train brought back from the South maimed and disease-wasted men and every day's papers told of slaughtered thousands, while sad-garbed mourners going about the streets and homes robbed of their firstborn were confronting them on every hand.

If the soldier did not lose his life or health he earned a pension by his loss of the comforts of home and ease, by his endurance of the hardship and privations of the service. The pay he received was merely nominal; he could save scarcely any of it. Men went from the best employments, trades, business, and professions in life. They received far less pay than common laborers at home. During the war was the best time to make money that has ever been in this country. The men in the Army lost this opportunity, and the men at home had all the benefit of it. The service of the soldiers saved to the Government and the nation in money, stores, and public lands vastly more than pensions to all of them would amount to.

Every soldier who served any considerable time exhausted his vitality and lessened his ability to earn a living after he reached home. Years of exposure, sleeping on the ground in cold rain and storm, without fire, shelter, or sufficient clothing and covering, must wear out a man very fast. Add to this the most severe fatigue and exertion, night after night without sleep, for long periods deprived of food and drink, at no time receiving nourishing palatable food, and for the most part receiving what he did at irregular times, carrying a heavy load of gun, cartridges, rations, and knapsack on long marches in mud and dust, over hills and through swamps, and you can understand how the youngest, strongest soldiers came home broken in health, and grow prematurely old.

Every man who was in prison any considerable time is permanently disabled; they are all physical wrecks. It could not be otherwise, and this fact is apparent everywhere. The common experience of all soldiers is that every man who has a wound finds it growing worse and worse every year. Each season it hurts him more. The number of men who have died since the close of the war of wounds received in battle is very large. It may be fairly said that every wound deprives a man of a portion of his vitality, and unless he can save himself in some other direction, inevitably shortens his life to a greater or less extent.

There is one way that men were injured in the Army that I think has never been sufficiently taken into account. I mean the nervous strain and exhaustion of battle. At the time the men themselves did not observe its effects. At home a man who encounters a single instance of great peril and bodily danger frequently receives a shock that gives him a spell of sickness or unfits him for his duties for a considerable time.

In the Army, under a high sense of duty, men met these perils and dangers frequently and bore up under them. But this must have been a great tax on men's health, and oftener than has been allowed the cause of men breaking down and yielding to disease. When you think of the long, continuous endurance of battle and danger, such as at Vicksburg, Atlanta, and the Potomac campaigns, it must have told fearfully on the health and nervous systems of all engaged.

All these things combined explain why so many soldiers came home at the close of the war in apparent fair health and soon after began to break down. The incidents of the service had exhausted their vitality, broken their health, and brought on nervous disorders that shorten their lives. The soldier finds himself suffering with numerous different ills and disabilities. It is exhaustion, the result of his severe service, simply attacking the parts it finds weakest. He finds himself each year getting worse and less able to follow his usual business.

He knows his disability in some way originated in the service, he is unable to support himself and make money like his neighbors, and he applies for a pension. He knows that we already have laws to pension men for disabilities received in the Army, he knows he received his there, and he commences the very difficult task of proving the particular time, place, and circumstance of the origin of the disease that is now disabling him.

DIFFICULTIES IN OBTAINING PENSIONS UNDER PRESENT LAWS.

All laws now in force granting pensions to soldiers of the late war require that disability incurred in the service shall be proven.

The impossibility of securing the proof required by the Pension Office of matters that occurred twenty-five years ago prevents a very large number of the most deserving men from obtaining pensions at all. Many of the rules of the office are harsh, arbitrary, and unjust, and the strongest argument in favor of additional laws is that many of them are justified by the present law. Some of them, however, could be, and ought to be, changed at once.

In proof of a disability the Pension Office requires, if the applicant can not obtain the testimony of an officer, that every fact must be sustained by testimony of two enlisted men. No other tribunal makes such a discrimination as to the value of testimony. Every witness's testimony should be considered as to his reliability, intelligence, and means of knowledge. In most cases a soldier's comrade had better opportunity of knowing when and how he was injured and when he took sick than his officer.

The officer had to do with a large number of men; he could not see or know all that was going on. It is impossible for him to recollect the vast multitude of incidents of a campaign, still less of three or four years' service. On the march, the skirmish line, and battle-field the officer's duty was with the living fit for duty. From necessity the disabled man, whether from bullet, shell, exhaustion, sunstroke, or other sickness, dropped by the way or was carried to the rear. A good officer on duty has but little opportunity at the time to know particulars of injuries to his men. The most intimate comrade frequently could not stop to even see how seriously a soldier was hurt, but the better qualities of human nature induced him to make all efforts afterward to learn what he could of his friend's condition.

The old rule of treating an officer's testimony as worth twice as much as an enlisted man's should have no application in our army of volunteers. There were just as reliable, intelligent men in the ranks as had commissions. Their social, business, and moral standing at home since the war, as a rule, is as good. In no court or tribunal except the Pension Office is this distinction recognized.

Too much weight is given to what is called record evidence, which includes the hasty, careless, and often negligent entries on hospital books and memorandums. It is proper these should be considered *prima facie* evidence of the character of injuries. But I have known a case where a soldier wounded in battle, as was well known to his comrades, was unable for years to obtain a pension because when he was placed on a hospital steamer, with hundreds of disabled men, a hospital steward marked opposite his name by mistake "fever" instead of gunshot wound.

The difficulty of men recollecting at this late day the time, place, and circumstances under which soldiers were hurt or took sick renders such proof very difficult in any case. But when you consider that by far the larger part of the surviving soldiers of the war have changed their places of residence since the war, and that a very large part of the witnesses are already dead, it ought to satisfy any one that to require positive proof amounts in most cases to a refusal of the pension.

There are thousands of good soldiers who went to the Army young and strong. They returned at the end of their service, or sooner, broken down, disabled, mere wrecks, the direct result of disease, exposure, long fatigue, insufficient food, want of rest, and the terrible nervous strain of battle. The best of them bore sickness and injuries uncomplaining, refusing often medical attendance in camp, and, with a soldier's dread of hospital, dragged themselves along with their regiments, scarcely allowing the comrade with whom they messed to know of their suffering. These men, of course, have no hospital records.

They have not seen a well day since they returned to their homes. They are unable to compete with their more fortunate neighbors in the struggle of life. They endure poverty uncomplaining, just as they endured their sufferings in the field. Many of their applications for pension have been rejected for want of sufficient proof, whilst thousands of others are still pending. Every Congressional district in the North has several hundred of these cases.

Year after year as we inquire as to the condition of these claims we get the same answer, that the Pension Office is still waiting for proof by an officer or two comrades who have personal knowledge of the facts, of the particulars, when, where, and under what circumstances the claimant incurred the disabilities. He has no hospital record, and no presumptions are allowed in his favor. He may have started on the campaign sound and well, did long and severe service, and at the end have in his body every evidence of disability.

Yet this generous, liberal Government will not pension him now in his need unless he can prove the very particular time and circumstance under which he contracted fever at Vicksburg, incurred rheumatism on the Atlanta campaign, show the particular one of the many campaigns in Virginia that brought on the disease that is carrying him slowly to his grave, or how six months or more starvation in prison happened to break down his health.

Every member of Congress who hears me knows I do not overstate the facts. I think our present laws ought to be more liberally administered; but the only safe plan is to pass additional laws that will render these things impossible.

THE VIGOROUS AND STRONG ENTERED THE ARMY.

It was the most healthy, strong, and vigorous men that entered the Army. The men of most enterprise and energy. None other could have endured the exposure, fatigue, and privations. As it was, vast numbers died of exhaustion. The presumption ought to be that those

who survived these severe services and got home were certainly healthy men when they entered the Army. I insist it would only be fair wherever you find one of these old soldiers disabled now that he should be given a pension sufficient to keep him from want without asking him to prove the particular place he incurred his disability. The truth is all who saw any considerable service are in fact to a greater or less extent disabled by it. Few came home after long service without bringing with them the seeds of disease in their bodies.

SMALL NUMBER OF PENSIONS NOW GRANTED.

Many people have an idea that we have already granted for disabilities a large and liberal number of pensions, so that they think most all disabled men are receiving pensions of some size now. This is a great mistake, and a single statement ought to correct it. It is a well-established fact that in battle about four or five men are wounded to every one killed.

It is fair to conclude that at least four to six men would be disabled by disease and be injured in health in the service to each one that died of disease in the service. Yet there have not in all been granted pensions to Union soldiers on account of wounds and disease contracted in the service to a greater number than there were men killed and died of disease whilst in the service. This shows beyond question that a large number of wounded and disabled soldiers are not yet pensioned. The difficulties in obtaining pensions under the present laws have prevented many worthy men from applying, others can not obtain evidence to complete their claims. The last report of the Commissioner of Pensions shows that 131,773 applications are pending and undetermined, whilst 106,784 have been rejected. Pensions granted since 1861, in all, 403,267. The number of soldiers who lost their lives in the Army will exceed this latter number.

NEW LAWS.

Mr. Speaker, I thank the House for the courtesy that has enabled me to present my views on this important question at such length. I propose briefly to state the legislation that I believe justice and good policy demand from Congress. If pensions, as at present, are to be based on disability alone some very important changes should be made in the law. Among these changes I would suggest:

First. That active service in the field should, in the absence of fraud, be conclusive evidence of soundness prior to enlistment.

Second. That evidence of enlisted men should be put on an equality with that of officers, and each be tested by their means of information and credibility as men.

Third. That official records should be considered only as *prima facie* evidence, and that when the soldier desires to either correct or disprove such records that he shall, on request, be furnished with their contents. At present when the records do not agree with the proof as to how the soldier was hurt he is simply informed of the fact by the officials in charge, and that the Government declines to furnish an applicant a statement of the record or with information to enable him to contradict them; in short, that the Government will not aid him in making out a case.

Fourth. That one credible witness of good character to any fact shall be sufficient when the circumstances show that it is not practicable to obtain two.

Fifth. That the applicant for a pension shall be permitted to testify in his own case and his evidence be received as it is in courts of justice, subject only to his credibility.

Sixth. That the arrears-limitation act shall be repealed and all pensions date from discharge of the soldier. The Pension Office requires the soldier to prove that his disability was incurred in the service. He must further prove that it has continued every year since his discharge, and it is but simple justice that he should have a pension during all the time he has been disabled.

Seventh. That fathers and mothers shall not be required to prove dependence at death of the soldier. Dependence now is all that should be asked. That the widows of pensioners shall continue to draw the soldier's pension without being required to prove that his death was caused by injuries received in the service.

That the lowest pension given any soldier shall be $8 per month. That no longer shall a soldier be insulted by having his disability from wounds or disease rated at 3 or 6 cents per day.

Eighth. That a sound man who entered the Army and did good service if he is now disabled should have a pension without being required to prove when and where he contracted disease and disability, as this is now almost impossible to do.

EQUALIZATION OF BOUNTIES.

At this point I would suggest as further appropriate legislation that our bounty laws should be amended so as to pay men who entered the Army in the early part of the war as much bounty as those who enlisted later. Let the bounty by the General Government be equalized and paid in proportion to the length of time each man served. As it is now, the men who went out early and did the longest, hardest part of the service received the least bounty. This is an unfair discrimination against the men who were most prompt to come to the help of the Government.

UNFAIR TREATMENT OF CLAIMANTS.

It seems to be the general practice of all Departments of our Government to refuse to give claimants information of what the records show in regard to their claims. If the books and records show conclusively that a citizen has a good claim, and that the Government is plainly indebted to him, no official is allowed to so inform him. Indeed, Government officials in the Departments at Washington seem to consider that it is not so much their duty to properly adjust and settle honest claims as it is to prevent, so far as they can, any claim whatever from being allowed against the Government.

I have at different times on this floor denounced this practice as a species of dishonesty on the part of the Government and beneath its dignity. This rule works particularly hard with the soldier who is applying for a pension. The records in the field were made out hurriedly, frequently very carelessly, but the Pension Office attaches great importance to them; too much, I think, in most cases. The private soldier had no means of knowing their contents at the time, and the Government has had exclusive possession of them ever since.

So far as the practice I have referred to is concerned I do not think the Pension Office is any worse than other Departments of the Government. But I want to call attention to a matter of legislation that expressly discriminates against soldiers' claims. It is a well-known general proposition that a citizen can not maintain a suit against the Government without its consent; that no matter how just and honest a claim he may have against it he is compelled to abide by the willingness, equity, and good faith of the Government whether it shall be paid or not. The result was that with the limited discretion allowed to officials by law and practice in the early history of our Government very great injustice was done many claimants of all classes.

To remedy what was admitted to be a great evil Congress created what is known as the Court of Claims. In this court any citizen who alleges that the Government owes him for services rendered in any capacity, for goods sold and delivered, or for almost any other cause, is graciously permitted to appear and prosecute his suit against the United States. The court will hear, determine, and decide according to justice and equity. In this court, from time to time, appear men whose claims have been refused by the Treasury, Quartermaster, and other Departments of the Government of the United States, and if they can succeed in showing a just or equitable claim they obtain a judgment against the United States.

But in the act of Congress giving this court jurisdiction it is expressly provided that claimants for pensions shall be excluded. Can any one give a good reason why a claim for pension for wounds and disability incurred serving the Government in the Army, rejected by the Pension Office, should not be as sacred as one for a clerk's salary, or for transporting the mails in time of peace, or for beef, hard tack, or mules sold in time of war? But so it is written. The broken-down, disabled soldier is not permitted to enter the court where other claimants go as a matter of right. In the language of the law this court has jurisdiction to hear and determine—

All claims founded upon the Constitution of the United States or any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, or for damages liquidated or unliquidated, except for pensions.

NEW SYSTEM OF PENSION LAWS.

Mr. Speaker, the new legislation which I have now urged upon the attention of Congress is all in the line of amendments to our present system based on the disability of the soldier. I have done this because it would meet the worst objections to our present laws, and because it would seem easier to amend them than adopt an entire new system, and I have seen the difficulty of getting any legislation.

The more important of these changes I have repeatedly advocated on this floor. It would be a great gratification to me if I could see them enacted into law. They would bring relief to many thousand soldiers and their dependent relatives who are suffering from the neglect of the Government. The importance of early legislation can not be overestimated. On scarcely any subject is the importance of time so great.

In my judgment, however, it would be still better if Congress would adopt an entirely new system of pensioning soldiers of the late war, based on the service of the soldier, and give pensions to all. At this time I can not enter very fully into the details of this subject, but I submit the following as the general features of a system that I think Congress should adopt:

First, give a minimum pension of $8 per month to each soldier who served at least three months. To those who served longer than three months give an increased amount per month for each additional month served, so that the men who served longest would receive the highest pension. Give also an addition to the pension, within certain limits, for specific disabilities incurred in the service. To those who served less than three months and were actually disabled in service give a pension according to the extent of disability. Give additional above the minimum to those who were prisoners, or pay them a per day allowance for the time they were in prison.

This system would embrace all the advantages to men who served long terms of what have been called the one-cent-a-day graded pensions, but remedies the great defect in those bills which give but a trifling pension to men who served short terms. As a rule, the men of long terms are most disabled and should have the largest pensions. But many men of short terms saw very hard service, were good soldiers, and

should be fairly provided for. A minimum pension of $8 per month to every man who served his country at least three months, with increased rates on the basis I suggest, will be sufficient to keep all from want, and is no more than a fitting recognition of the services rendered.

The Government owes this much to her soldiers, is well able to pay it, and, in fact, considering the services rendered, it is not as liberal pensions as have already been granted to the soldiers of other wars. For any service, no matter how short, in the Revolutionary war, fourteen days' service or one day's participation in battle in the war of 1812, a pension of $8 per month was granted. For sixty days' service in the Mexican war, even if the time was put in going or coming, or in camp, a pension of $8 per month is granted for life. Many soldiers who are receiving pensions under this law never even reached Mexico, and four years fighting afterward against the Government in the rebel army does not deprive them of it. The President who approved this bill vetoed the one which would have pensioned disabled Union soldiers.

It is objected by some that a service pension will give poor soldiers as much as good ones. That is true to some extent; and so will any system, but it is not a good reason for neglecting to pension the deserving. As well might you have refused to pay a regiment in the field because some worthless men would get pay as well as the best. No system is perfect, and a service pension will come nearest doing justice to all, is least difficult to adjust, and can largely be granted from an inspection of the rolls. It would save soldiers a large expense and trouble from hunting witnesses and save the Government the expense of keeping at least a thousand clerks and special examiners.

The President, in at least one of his numerous vetoes of pension bills, says that it is now too soon to give pensions for services in the late war. That means wait until the larger part of the soldiers are dead and past all need of a pension. Why do this? Because it will cost less. A most cruel and heartless reason. A service pension granted any considerable time after this will only reach those who were last to enter the Army or saw but little service. The men who endured the long campaigns, won the great battles, and suffered most severely will nearly all be gone. The opportunity for the Government to do justice is fast passing away.

In the last year ten thousand of the old veterans went to their long homes and joined that grand army of five hundred thousand who sleep the sleep that knows no waking. Many of them died in poverty, their last days embittered by the thought that the Government they gave their best days to serve had neglected them. They are beyond care and trouble, and no poor-house has now a dread to them.

It is a disgrace to the Government of the United States that twelve thousand men who wore its uniform as soldiers and followed its flag in the great war are to-day supported as paupers.

This is a shame, I am told, no other great nation bears. France allows no soldier who has upheld her honor in battle to be treated as a pauper. Selfish Britain and Imperial Germany follow with a tender care the declining years of every son who has served them in the field. We can not disguise the fact, and future generations will know it to our shame, that many of our soldiers who served their country, to the sacrifice of health and worldly interest, have been compelled to seek shelter in the poor-house.

I am greatly concerned for the future welfare of my country when I contemplate the record it is making in this respect. Each generation that follows us will have its perils and trials to encounter. We hope and trust that peace may long be within our borders. But who knows? It may not be many years till the Government will need soldiers as bad as ever it did.

Men may be appealed to, just as they were in our time, to risk their lives in battle, to exchange home and comfort for the privation and exposure of the field, and to endure the horrors of other prison pens. Possibly the protection of wives and little ones, the safety of homes, and the very existence of Government, law, and order may induce patriotic men to again risk all and give all.

But who will then address in eloquent words the departing company or regiment and assure its members that a grateful Government as a reward for their services will care with a liberal hand for the disabled soldier and his dependent relatives? The page of history will make such addresses sound like mockery. How could you again expect to put a million volunteers in the field if you do not do justice to the soldiers that did serve you?

It is now too late to remedy the neglect of the last few years, but a patriotic people may forget this if we make prompt provision for the present and the future. What is done should be done quickly. Dependent fathers and mothers are generally above three score and ten. In the course of nature they can only be with us a few years more. The widow with children she is striving to preserve a home for must have it now if it is to be of any use to her. The soldiers of greatest service will not want your bounty but for a few years at most, and their number is growing less at the rate of ten thousand a year.

No one except those who have kept a record of the survivors of some company or regiment since the war can have any correct idea of how rapidly the men who saw severe service in the field are passing away. I am confident that if a census of the survivors is taken by the Government next year, as is now contemplated, that it will be found that the popular estimates of their number have been far too large.

The money required to pension all the soldiers of our Army is not as large a sum as is sometimes represented; but no matter what it costs, the Government owes it to itself to do justice. We have the money. It is not lost when paid out in pensions; it is most evenly distributed in small sums, is used in the purchase of the necessaries of life, and at once goes into circulation in every neighborhood into which it is sent.

DEBTS WE PAY.

War can not be carried on without money. Ours was the greatest war of modern times, and no nation ever borrowed as much money as we did in the four years of war. No nation has ever paid off a great debt like the United States has done since 1865. We announced to the world that we could and would pay all our debts promptly. We have already paid in round numbers to the bondholders of debt and interest the enormous sum of $3,652,000,000.

We have the money and are ready and willing to pay more. But the bonds are not due, and their holders will not sell except at a large premium. We are paying back all the money we borrowed and heavy interest with it. This is right; we ought to pay our debts. But is not the debt to the soldiers just as sacred as the debt to the bondholders? Was not the service in the Army fully as important as the service of loaning money? Was not the promise in 1861 to 1865 to care for the soldier, his widow and orphan, if he would go to the front, just as loud and as positive as the one then made to pay the 5-20 and the 7-30 bonds?

The Government has only paid out about one-fourth as much for pensions as it has for bonds, but we hear men who demand we shall pay every bond with full interest in gold say it is time to stop this pension business. Why do they not say it is time to stop paying bonds? There were two classes of creditors to the Government. I insist we should pay both. One gave money, the other gave ease, health, limbs, and life. Which is most sacred? Which required most sacrifice to give?

Mr. Speaker, when our scarred and veteran regiments, with thinned ranks, carried their tattered battle-flags in front of the Capitol at the grand review after the war I recall one banner which we passed that had inscribed on it:

The only debt the nation can never pay—gratitude to its defenders.

This noble sentiment had been made familiar to soldiers in the field by the public press, by addresses, and private letters. Good Abraham Lincoln sent the thanks of the nation to the soldiers on many a battle-field, and they were not surprised to meet in this public manner such kindly greetings on their return. More than this, they believed it to be the general feeling of the people toward them. But times are changed. To-day in the Congress of the United States it is necessary to plead for justice in behalf of the maimed and disabled men whose valor saved the Government from destruction.

There was a day when Congress would have pledged all the revenues of the Government to the soldiers for pensions if they would only bring back the flag in honor.

Gentlemen, they brought it back not a star erased. They placed it where it waves and will continue to wave, honored on every sea and the symbol of authority and power over the whole land. They brought it back cleansed from the stain of slavery and hallowed by the blood of nearly half a million men, who died that the Government might live.

All I ask for the memory of the heroic dead is that history shall record that they were right and that the cause for which they fell was just and noble. Our duty is to the living; with them we should deal liberally. I have asked for them, as I firmly believe, nothing but justice.

Grants of Public Lands in Aid of Railroads.

REMARKS

OF

HON. OSCAR L. JACKSON,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 22, 1888.

The House being in Committee of the Whole, and having under consideration that part of the sundry civil appropriation bill relating to surveys of public lands—

Mr. JACKSON said:

Mr. CHAIRMAN: I move to strike out the last word.

I desired yesterday to submit some further remarks than I did relative to the public lands for the purpose of having printed a collection of the acts making grants of land to corporations, and especially to railroads, but the number of gentlemen who sought the floor was so great I could not secure a hearing before the time for debate was exhausted. I think a correct statement of the facts will show that it was the Democratic party which originated the policy of making grants of public

lands in aid of the construction of public works. I am not proposing to discuss the question whether it was justified in what it did or not. But I am not willing that the oft-repeated claim of the Democratic party to be the only real protectors of the public domain should go unchallenged.

I am not to-day prepared to submit full lists and statements, but I would like to be heard briefly on the subject. I think it is due to the facts of history that there should be incorporated in the debate which took place on yesterday upon this question a statement showing what party was in power and had control of the legislation of this country when the policy of granting public lands in aid of corporations, and especially to railroad corporations, was first introduced. After the assertions we have heard of Democratic purity, it perhaps would be received, Mr. Chairman, with somewhat of surprise when the real facts become known that the original acts inaugurating this policy were passed prior to the induction into power of the Republican party in 1860. But such is the truth. It is beyond question.

Why, the very act—the well-known act, granting to the Illinois Central Railroad Company lands for the construction of that public highway, the grant being combined with a large number of grants which became known, not always in very complimentary terms, as a "combination," and which enabled all of these acts to become laws, was passed by the Democratic party. It may, perhaps, excite some surprise to know, after what we have heard on the other side, that it was the settled policy of the Democratic party at that time (and this is beyond any question) to grant lands for such purposes. I was a little astonished yesterday at the attitude assumed by the gentleman from Illinois and others. Of course I knew that his party had been trying to make capital of such claims. But he is usually so fair and accurate in his statements that I did not expect him to follow his party in this line.

Mr. TOWNSHEND. Will the gentleman permit me?

Mr. JACKSON. No, sir; I can not yield, my time is so brief. If I had the time I would do so cheerfully.

Mr. TOWNSHEND. I merely want to say that there was not a single acre of land granted to the Illinois Central directly when the Democratic party was in power and control of this Government. There was a grant to the State upon the express condition that if used for railroad purposes within the State, such road should pay 7 per cent. of its gross earnings.

Mr. BUCHANAN. Where is the difference? Was it not a grant?

Mr. JACKSON. The gentleman from Illinois has simply anticipated what I was about to say, and what he would have heard if he had only waited patiently for a moment. I know that the grants were made in the name of the States for the very reason that the gentleman's party, in power at that time, desired to make the power of the States as great as possible. The gentleman's party was at that time so imbued with the importance of this State power and States rights, under color of which the leaders of the party were at that very time plotting and seeking to overwhelm the country in war and break up the Union, that they were willing and anxious to add to this power by every possible means. It is no credit, but to the shame and disgrace of the Democratic party that this was done in that manner.

But whilst the grant was made through the State for the purpose, as I think, of magnifying the importance of the State as against the General Government, yet gentlemen interested in this railroad legislation took great care to see that the legislation was so guarded—yes, I may say so carefully guarded—that the lands donated to the States could only fall into the hands of the railroad corporations. In all of these grants there was an express provision somewhere that the States must apply the lands to the construction of railroads. The result is well known. These lands were donated to railroad companies with a lavish hand with but few safeguards. To-day, after a lapse of some thirty years, many of the roads are not yet built, and apparently never will be.

"But, ah," said the distinguished gentleman from Indiana [Mr. HOLMAN] on yesterday, whose long experience in this House has made him especially acquainted with all subjects of legislation and capable of talking upon them intelligently, "when the Democratic party in 1860 resolved that the Government should lend its aid in the construction of railroads throughout the country they did not mean by the donation of lands." I ask, Mr. Chairman, what had the Democratic party to give but the lands?

The gentleman very well knows that what I have stated is true—that his party had been making these immense grants through the States. His remarks remind me that the party had, I believe, announced in its platforms that it was in favor of giving aid to public works. For years his party had been granting lands in this indirect way to construct railroads, and at that time the Treasury was bankrupt.

We all recollect that the Democratic party left the Treasury at the beginning of 1861 empty. For the preceding few years the country had been passing through a panic. Buchanan's administration had great difficulty in getting sufficient money for the ordinary expenses of the Government.

What had it to give railroads to aid in their construction, except lands? Why, nothing; not a dollar.

Gentlemen say that when the grants were made to the Pacific railroads by Congress that the Democratic party opposed them. To some extent that is true. They were in a minority then, but I do not believe the party can get much credit for principle on the ground that they opposed what the Republican party was doing.

It will not do for the Democratic party to quote its negative action in the later years following 1861 up to 1864 or 1865, for the purpose of proving anything. It does not do them justice, I repeat, to quote their negative votes, for they were in the habit of voting "no" on all important questions about that time. You can not take up any important legislation in that period covered by the years 1861 and 1865 without finding that party recorded solidly in the negative against it, and I apprehend if it had been proposed at that time to re-enact the Decalogue that you would have found the Democratic party voting "no" and appealing to the platforms to sustain it.

Mr. BUCHANAN. And to the record.

Mr. JACKSON. Yes; and as my friend suggests, appealing to the record.

But I simply want to call attention to these land grants, showing the action of the Democratic party upon this question. At some future time I may publish some statistics in detail upon the question. The Republican party, it is true, under a policy sanctioned by the highest and best men throughout the country, made grants of land to railroad corporations for the construction of railroads. It was in the midst of war. Lines of communication to the far West were needed. They resulted in the great development of the country.

I think it is likely that at this late date we can see where some mistakes were made. With the light of experience we could guard against difficulties that have arisen. Some, I doubt not, now think that these grants were mistakes in the light of recent events; but conditions have arisen since the grants were made that none could have foreseen at the time the grants were made, and we are not now actuated by the motives which actuated the men who voted the grants between the years 1861 and 1865. The afterthought is simply better than the forethought.

Immigration.

REMARKS
OF
HON. RICHARD GUENTHER,
OF WISCONSIN.

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 26, 1889,

On the bill (H. R. 12291) to regulate immigration.

Mr. GUENTHER said:

Mr. SPEAKER: In a minority report, as a member of the committee to investigate immigration, I have briefly stated the main reasons that prompted me to dissent from the views of the majority.

I am ready to go as far as any reasonable citizen to restrict, and if possible to suppress entirely, the immigration of all people whose presence would deteriorate our political and social structure. I object most emphatically to having our fair land made the dumping-ground of all the undesirable elements of other countries. I do not want to have all the refuse, the scum, the despicable, vile, and worthless elements of other nations unloaded upon our shores. I do not want to have this country continue to be the shelter of the thieves of foreign countries, the Canada of their defaulters and cheats, a safe haven for all their rascals, and an asylum for their paupers, idiots, and lunatics.

Every country owes it to its own welfare, its integrity, and prosperity to refuse admission to debasing foreign elements, and any measure having this in view will meet with my unqualified approval and heartiest support. I stand ready now, and I always did since I first entered this House as a member of the Forty-seventh Congress, to remedy all defects in our immigration laws and to place immigration under strict Federal surveillance, and in doing so I know that I voice the sentiment of a vast majority of our population, both native and adopted. I propose, in common with the American people generally, in common with the millions of foreign-born citizens, to discuss this proposition to regulate immigration from a calm, unbiased, patriotic, and statesmanlike standpoint.

It is far from my purpose to indulge in flattery, praise, or adulation of those who, like myself, are adopted citizens. In view of the fact, however, that recent occurrences in Samoa have not only aroused the patriotism, but to some extent also the prejudices of a certain class of the American people against a portion of their adopted fellow-citizens, I feel it my duty to assert the truth that the great mass of our adopted citizens take as keen an interest in our welfare, in our national honor, in our dignity, in our prosperity, in our greatness and supremacy, as those whose ancestors landed at Plymouth Rock. It is true that blood will tell. A foreign-born citizen will sympathize with his kin on the other side of the Atlantic when they are in distress; his heart, his

soul, his best wishes will go out to them when they are battling for their rights. He will share the joy of his kinsmen across the water when they triumph over their enemies in a just cause.

But when there arises a question involving the rights, the honor, the dignity, or the welfare of the United States, the country of their choice and adoption, as against any other nation whatsoever, you will find the adopted citizens where they belong, standing shoulder to shoulder with the native-born American, yielding to no one in devotion to their country—this country, America—ready to sacrifice as much as he whose great-great-grandfathers, or even their ancestors, came as immigrants. The foreign-born citizen utterly repudiates the idea that the patriotism of the American citizen, whether native or adopted, should be measured by the length of his residence in this country or by that of his ancestors.

I make these remarks in view of the utterings of certain newspapers and people who in connection with this question of regulating immigration have intimated that Americans, meaning native-born only as distinct from adopted citizens, should frame a law for this purpose or are alone competent to do so. These bigots seem to think that the adopted citizen has not the same interest in our national prosperity as they; that they hold a first mortgage upon every idea for the promotion of our welfare. I think that that kind of talk ought to cease, because it has no foundation in fact. The great mass of the foreign-born citizens take the utmost pride in the country of their adoption.

Their aim is to contribute all they can to make this country a model republic; their desire is to make the word "American" the synonym for intelligence, enterprise, prosperity, happiness, humanity, and for law and order. They have no sympathy whatever with lawlessness, whether committed by the McCoys of Kentucky, the White Caps of Indiana, the assassins of Colonel Clayton in Arkansas, or by criminals of their own nationality. When a handful of crazy anarchists preached their pernicious doctrine on the Haymarket in Chicago, and some fiend, more devilish than the rest, threw that bomb, these zealots, who look upon every one not born in this country as a barbarian, wanted to hold the whole foreign-born population responsible for these outrages, despite the fact that the doctrine and the misdeeds of the anarchists were by no one more severely condemned than by the foreign-born citizens generally, and in no city were these anarchistic law-breakers more speedily and effectively dealt with than in Milwaukee, a city with a population two-thirds of which are foreign-born, or the children of foreign-born parents.

The captain, Mr. George Traemer, himself a foreign-born citizen, commanding a militia company composed almost exclusively of foreign-born young men or the sons of foreign-born parents, implicitly obeyed the instructions of Gov. Jeremiah M. Rusk, and he ordered his men to fire with a result that is well known, and which, in Milwaukee at least, has killed anarchy for all times to come.

The foreign-born citizens want to shut the doors of their country against all lawless characters, and especially against those of their own nationality who will bring reproach and disgrace upon their name, and every measure calculated to check the coming of all such characters meets their approbation.

But, on the other hand, they, in common with that great mass of broad-minded, liberal, native-born Americans, deprecate any attempt to lessen the immigration of honest, industrious, intelligent, law-abiding foreigners who come to this country on their own free will, who sever all the sacred ties that bind them to the country of their birth, who look forward to the land across the storm-beaten waves of the vast expanse of the Atlantic Ocean as the home of the generous, the noble-hearted, the cosmopolitan, the philanthropic, the kind and benevolent American, who, as he so often has been told, reaches out his right hand of fellowship, warm with the full pulsations of a humane heart, and bids welcome to every honest son of toil who wants to found for himself in hospitable America a new and a happier home.

Have all these noble sentiments, so often uttered by you, been but meaningless phrases and Fourth-of-July declarations? Why do you propose to throw obstacles in the way of immigrants who come in good faith and violate none of the provisions of this law? I have no sympathy with that kind of unkind legislation. I do not propose to be influenced by the boisterous clamor of professional labor agitators, who, prompted by narrow and selfish motives, are in favor of restricting immigration generally by imposing unnecessary burdens upon those who seek our hospitable shores to found a permanent home, and are anxious, willing, and able to earn their daily bread in the sweat of their brow, and who will make good, useful, and law-abiding citizens of the United States. Instead of making the coming of such people difficult, I would, wherever it can be done with perfect safety, facilitate their coming in every possible way. If this bill should become law, which I sincerely trust will not be the case, it would keep many immigrants whom we of the Northwest would like to have come to us and settle upon our lands from coming to the United States. Many would choose Canada instead as their future home.

Again, thousands, ay, I believe hundreds of thousands, per year would come via Canadian ports, instead of landing in New York. Canadian brokers, Canadian merchants, Canadian railroads would reap the profits that Americans should make. The effect of such a law would be very detrimental to our people from every standpoint, while the people of Canada would have cause to congratulate themselves that the shortsightedness of American legislators is doing what they never have been able to accomplish by their wisest efforts.

But I will proceed and call your attention to some specific provisions of the bill to which I object. The bill provides that no alien should be admitted to land "who comes, or undertakes to come, on a prepaid ticket." I can see no good reason why an alien, who is not disqualified from immigrating to the United States under all the other provisions of this act, who is a healthy, moral person, not coming under contract to perform labor in this country, should be refused admission solely because some one—a father, brother, or some other relative or friend—had presented him with a ticket.

The word "Nihilist" ought to be stricken from the bill. I would amend by substituting therefor the words:

Or a person seeking to change or overthrow our political, economic, or social system by forcible means.

There are many persons called Nihilists in Russia whose only crime consists in advocating a constitutional monarchy for Russia in place of the autocratic, despotic absolutism of the Czar.

I doubt whether there is a gentleman on the floor of this House who, if he spoke his sentiments on government of civilized nations, would not summarily be sent to Siberia as an administrative exile and would forever be designated a Nihilist by the Russian Government.

Section 3 of the bill provides that no vessel shall bring more passengers than one to every five registered tons of such vessel. I object to this provision as uncalled for, unwise, and unjust to the immigrants as well as to the transportation companies.

The present law, the passenger act of 1882, makes ample provisions for the space to be allotted to steerage passengers, from 100 to 120 cubic feet for each; also for their comfort and sanitary condition, food, treatment, etc. The law has worked well, and I have not heard of a single well-founded complaint by steerage passengers or those interested in their well-being that the space allowed by law is insufficient.

This section would materially decrease the carrying capacity of passengers by vessels and correspondingly increase the passage money. A vessel which under existing law is entitled to carry from 900 to 1,000 passengers would not be allowed to carry more than from 500 to 600.

It seems to me that this provision is not dictated by a desire to promote the comfort or hygiene of passengers, but solely for the purpose of indiscriminately reducing the volume of immigration. This section ought to be stricken from the bill.

Section 4 of the bill of the majority levies a tax of $5 upon every alien who comes to the United States, ostensibly for the purpose of defraying the expenses of executing this act. When it is borne in mind that under the present 50-cents tax for the years 1887–'88 there was collected at New York $202,702.50, and that the expenses for carrying out existing law and for the care of immigrants at Castle Garden and Ward's Island for the same period amounted to $196,905, it is obvious that a tax of from 75 cents to $1 ought to be amply sufficient to meet all the additional cost a more thorough inspection would necessitate, and then even leave a surplus for emergencies.

An admission fee of any sum not needed for the purpose of executing this law or for the protection and care of immigrants is unwarranted; it is dictated by an unfriendly spirit; it is unbecoming the greatness and dignity of our country. It is a piece of littleness, of meanness, of petty extortion that should find no response on this floor and no place in American legislation. Personally I would favor the total abolition of the head-money tax, but I am free to admit that it would be impracticable to do so at the present time, and for that reason only do I advocate any tax at all. The more attention, however, I have paid to the subject the more I have become convinced that a tax of $1 levied upon every immigrant over fifteen years of age would be more than sufficient to carry out the provisions of this act, and I am not certain whether 75 cents would not be adequate. But whether the tax is fixed at 75 cents or $1, any surplus that may accumulate after executing this law should be used solely for the benefit of immigrants, for their care, comfort, and protection.

Section 5 of the bill places the supervision under the control of our diplomatic and consular officers, making it incumbent upon every immigrant to be supplied with a certificate from a diplomatic or consular representative. As I have stated in my minority report, I regard this inspection as utterly impracticable and an unnecessary expense. The consular inquiry would annoy and harass that class of immigrants most who are most desirable.

The plan which I propose is simple, and, I believe, would be effective. It places the burden of proof that an immigrant is entitled to land under our laws upon the immigrant himself and upon the transportation companies. Instead of being a source of expense to the Government, it provides that the transportation companies must elicit all the information whether an alien is entitled to immigrate into the United States.

The provision that aliens, with certain exceptions, must be able to read the questions submitted to them in their native language and answer them in their own handwriting I have inserted after much hesitancy.

But when I considered that this minimum test of educational qualification would exclude the very elements who, by their crowding into

our large cities, have become a serious burden upon the respective communities, and who have enabled selfish employers of labor to force down the wages of American labor and thereby created discontent and uneasiness among our people, I thought that it would be perfectly proper to insist upon such a test, which would simply demand that immigrants must not be utterly ignorant, but must have received so much instruction as to be able to read and write, in the most primitive manner at least, in their own tongue. Many of the States of this Union have now a compulsory-education law.

The children of American citizens are obliged to learn to read and write; why then should we allow people totally ignorant, the most ignorant of all the people of Europe, to come into our country a hundred thousand strong every year?

I have a few minor amendments to the bill which I will offer when the bill is considered by sections.

In conclusion I want to reiterate what I have said before, that it would be more desirable to pass no bill at all than to pass the one submitted by the majority of the committee.

Agricultural Appropriation Bill.

SPEECH

OF

HON. CHARLES W. McCLAMMY,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 8, 1889.

The House being in Committee of the Whole on the state of the Union, and having under consideration the agricultural appropriation bill—

Mr. McCLAMMY said:

Mr. CHAIRMAN: But for the closing remarks of the gentleman from Massachusetts [Mr. BURNETT] I would have been contented to remain silent that a vote on the bill might be had without further delay. But, sir, I feel compelled now to occupy a limited time to reply to that gentleman, and vindicate that great and most important class of citizens of this great Government from the damaging and injurious and unjust effects of the legislation now attempted to be enacted against their interests.

I claim, Mr. Chairman, the right to be heard in defense of the farmer and in the interest of agriculture. I have the honor to represent on this floor an agricultural district composed of a body of intelligent, faithful, and patriotic men, who follow the plow and smell the sweet incense which fills the air where the robin and the lark sing their songs of rejoicing in the fresh and mellow furrow of the fallowed land. These farmers are my friends and associates at home, and it is my pleasure and delight to speak for them here in the Capitol of this nation. For several years it has been the duty, as well as the privilege, of members of Congress to receive and send to their constituents various kinds of agricultural and garden seeds purchased by authority of law for distribution to the people.

Has any delegation of farmers visited the national capital to protest against this seeming beneficent course? Is there any complaint from the agricultural sections of the country against this system? No, Mr. Chairman, no complaint has come up from the people; and the effort to change the law comes, I think, from some of the Congressmen themselves, who do not care to be further worried and bothered with the labor and trouble of sending out and distributing to the people—their constituents—these select seeds, purchased by the Government for the fair and equal distribution to the farmers and gardeners of the country.

I know personally something of the working of the present plan of distribution. I know in what high regard these seeds and their present plan of distribution are held by the agriculturists and the people generally, and I am unwilling to sacrifice their wishes and their interests. The whole question contained in the proposition to strike out the present method of distribution and establish another mode of distribution of these seeds can be put in a nutshell.

It is a thin disguise and an indirect way in which Congressmen may avoid a little labor and work for their constituents, and it is a work of pleasure and delight to me to oppose and expose it. Congressmen do not cease to be freemen because of their duties here, and when duties to the people become burdensome and laborious and tiresome and oppressive it would be becoming and quite respectable for such to forward their resignations and give way for those who are not so easily overworked and tired.

The object of the present law was wise and full of the best possibilities. This is pre-eminently an agricultural country, and its capabilities and powers surpass all the balance of the habitable earth. Stretching from ocean to ocean and from the lakes to the Gulf, in climate, transportation, and fertility of soil we are able with proper efforts to feed the world and establish the granary of the habitable globe, and it should be not only a duty but the highest pleasure of patriotism as Congressmen to aid and add to the efforts of our farmers and gardeners and working classes to develop the land, improve its products, and aid and assist in bringing our country to its highest state of perfection.

Then, Mr. Chairman, what better plan can be established to send out these select and carefully prepared seeds than the one we already have? Members of Congress are for the most part, many of them, fresh from the people. We know the people and the people know us, and will and do hold us to account for our manner and conduct while here as their representatives. Why change the plan for an irresponsible central appointment that may neither know or care for the people?

In North Carolina eleven Congressmen, including the two Senators, stand for the people in this distribution. But if this system is changed and this duty is devolved upon some unknown superintendents of experiment stations to be established somewhere, nobody knows where, and in charge of some one, nobody knows whom, then, sir, we may bid farewell to all benefits to farmers, in a degenerate giving out of these seeds to a few favorites and to such persons as partiality and favoritism may select and rapacity and cupidity may devise.

The Tariff.

REMARKS

OF

HON. JAMES D. RICHARDSON,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 28, 1889,

On the bill (H. R. 9051) to reduce taxation and simplify the laws in relation to the collection of the revenue, and upon the Senate substitute for said bill.

Mr. RICHARDSON said:

Mr. SPEAKER: The Fiftieth Congress is rapidly drawing to a close. The duty Congress owed the people when it assembled in December, 1887, to reduce the taxes to the economical requirements of government, has so far been neglected. This duty was paramount to all others. The importance of reducing the burdens on the country was peculiarly emphasized by the President of the United States in his memorable message addressed to this Congress at its opening. I do not anticipate that words of mine at this late hour will bring about the relief legislation so urgently demanded. The imperative necessity of the situation and an appreciation of the vast responsibility resting on us as legislators, to whom the country alone can look for relief measures, prompt me to offer a word more on this great question. The vast surplus now in the Treasury of the United States which can not be applied to any necessities of Government, amounting to about one hundred million dollars, is a constant menace to economical administration and an invitation to corrupt or extravagant legislation.

This surplus is increasing at least ten millions per month. No such surplus should be in the Treasury. If not needed for governmental purposes this money should be in the pockets of the people from whom it has been improperly wrung. It could then be advantageously employed in trade or business. I insist that the responsibility for the existence of this surplus rests upon the Republican party. This party, recognizing the necessity for the reduction of the revenues in party platforms and its legislative declarations, has studiously refused to pass laws to effect such reduction, and refuses to agree to any act, however reasonable in its results, presented by the Democratic party for that purpose.

The House of Representatives by Democratic votes passed the bill known as the "Mills bill," to reduce taxation and simplify the laws in relation to the collection of the revenue, on the 21st day of July, 1888. This fair and conservative measure was sent to the Senate very soon after its passage by the House. The Senate did not consider this bill, but did consider a substitute for it, which passed that body on the 22d day of January, 1889. The difference between the House bill and the Senate substitute is fundamental. The former measure attempts to reduce the revenue by reducing the taxes or duties on imported goods. The latter attempts the reduction by increasing the taxes or duties on imported goods, and in this way prohibit the importation of goods.

That the revenues can be reduced in this way is admitted. The justice of such manner of reduction is most seriously denied. I shall discuss in as simple a manner as possible the present tariff law, and will endeavor to show in a plain way the difference between a tariff for revenue and a tariff for protection, assuming that Congress has no power to lay taxes except for revenue purposes. That Congress has no such power or authority is not an open question. The courts of the country, the highest in the land, have expressly decided this question, and I will not now argue it.

What is tariff? It is a tax imposed by the Government upon goods imported into our country from abroad. The object of such tax is to raise revenue for the necessities of the Government. It follows

as this is the object and only object for which the tax can be levied and collected no more revenue should be taken than is necessary for purely governmental purposes.

What is a protective tariff? A tariff is called protective because it forces all persons who import dutiable goods to pay the tax, and in this way gives a margin of profit in favor of home manufacturers of the article taxed. In other words, gives them protection. The object, therefore, of protection, or a protective tariff, is to give this advantage to the home manufacturers. If not, why call it protective? It is properly called protective. But first, protection against whom; second, against what; and third, how does protection protect?

First, it is protection against foreign importers. Second, it is protection against low prices. Third, if there is protection given, it consists alone in allowing home manufacturers to charge a higher price for their goods than the same goods imported would cost if there was no tax imposed upon them as tariff or duty. Protectionists say the object of the protective-tariff law is to cheapen goods, and this they say is the effect. Then, I ask, why call it protection? If, as these advocates of protection say, it does cheapen the goods it is meant to protect, then the whole project or idea of protection is as insane as the dream of the wildest lunatic. Who gets the benefit of protection? Of course it is the home manufacturer. Yet, strange to say, these advocates of protection claim that it is not the manufacturer but the consumer of goods who is benefited. It is a fact that the manufacturer adds to the price of his goods the tax imposed on the imported article in nearly every case, yet the consumer of the home article is told he thereby gets the goods cheaper. And stranger still is it that some people believe the story. So with the laborer. He is told that his wages are higher because of the protective tariff. This may be true so far as some of the industries which are protected are concerned, but not so as to laborers generally.

It will not be denied that though in some cases the wages in protected manufactories are higher by reason of protection, yet in no case is this difference in wages anything like the protection given by law. Protection is demanded that labor may be paid the difference between wages in our country and in Europe. Our workingmen are told that the high duty or tariff we pay, all the way from 50 to 150 per cent. on the necessaries of life, is necessary on account of the high wages paid here. Such statements are misleading and false. This is conclusively shown by the census of 1880:

In 1880 the total production of manufactured goods in the United States was in value $5,369,579,191. The wages paid to produce those goods were $947,953,795, which is less than 18 per cent. of the production.

A forcible tariff writer puts it in this way: If our manufacturers are protected 18 per cent., and this is certainly all labor gets, and the foreign pauper labor would be entirely gratis, that we would then be even as far as wages go. But, as foreign labor costs something, any protection over 20 per cent. is simply for the enrichment of monopoly. And when such protection is carried higher than even 50 per cent., then it becomes simply an oppressive tax robbery, and the workingman is made the excuse of the impudent story that such taxes are necessary for his protection. He only gets 18 per cent. of the protection now given by law, while the monopolist gets the remainder, some 40 or 50 per cent. on an average.

The protectionist gets himself into the most absurd positions in defending his theory. The tariff, he maintains, protects the manufacturer by giving him higher prices for his goods. If it does not do this it is not protection for him. This is certain and sure. At the same time he tells the great army of consumers in our land they get these very goods cheaper because of protection. If it does not do this, that is, cheapen goods to consumers, it is surely not protection to them. Then the laborer is told he gets higher wages by reason of this tariff for protection. If this is not true then it is not protection for the laborer. Hence the inevitable result is reached by the arguments of the protectionist, that by reason of protection, the manufacturer of goods gets higher prices therefor, the consumers of these goods gets them cheaper, and the laborer, who works and toils in the manufactory, gets higher wages for his labor.

Protection must bless all alike, or it fails of its object and design as taught by its advocates. They dare not admit that it is partial and not universal in its blessings. Can all these things be true? Certainly not if the laws of nature and the rules of common sense which obtain in every-day life in every other business and calling in the world are observed. And why is it these laws and rules are all to be violated and set aside when one considers the effect of tariff laws? No reason can be assigned which is not chimerical and easily exploded if men would only apply a little common sense in the matter. The time will come when the appeal to the consumer and the laborer in behalf of protection will not avail. They must see that it can not benefit them for the manufacture of goods which they must consume to have their price enhanced by reason of a protective law. If the manufacturer does not get a higher price then he is not protected. If he does get a higher price, from whom does he get it? The only answer is, the consumer.

If the consumer gets his goods cheaper by reason of protection, who loses because of this reduction? Surely the manufacturer. The manufacturers are all clamoring for protection. But why the consumer should do so is inexplicable.

So with the laborer. Pass the Mills bill, says the manufacturer, and down will go wages. I was struck with the little dialogue I read recently between the manufacturer and the laborer. Said the manufacturer: "Patrick, if you vote for these men who pass the Mills bill, I will get your labor for $1 a day; whereas I am now paying you $2 a day." Pat: "Faith, and if you believed that to be true, you would yourself be voting for these very men."

So they tell the consumer that if the Mills bill passes he will be forced to pay the home manufacturer higher prices for his goods, which, if true, would only be a reason why the manufacturer would put forth his voice and his money for the passage of the bill. But he is trying to defeat it; and why? Because he knows protection protects him and gives him higher prices. Why can not the consumer and the laborer see this?

There was a time when the great Clay and other advocates of American industry asked for protection for the "infant industries" of our country on the true ground. They said frankly that thereby the American manufacturers would get higher prices for their goods; that in this way, and only in this way, could our young country encourage and foster the growth of manufactures. The argument made honestly by Clay was that the peculiar object of protection was to benefit the manufacturer; but the claim is now arrogantly put forth that the benefit is to the consumer.

The friends of protection in Clay's time argued for protection as a temporary measure to aid our then "infant industries." They are yet called infant industries. But it is a misnomer. They were then infants only because our country was in its infancy, so to speak. But that time has passed, and there are no infant industries now, because our country has become a full-grown man and is able to compete with the world in every handiwork, art, and industry. The country was an infant, hence we had infant industries. Now our country is not in its infancy, and we therefore have no such thing as an infant industry. If an industry is to be called an infant simply because the men are new who begin it, then so long as new men enter upon this line of work (which will be always), there will be infant industries. Thus you make the argument for a protective tariff which Mr. Clay and his contemporaries said was only temporary relief for home manufacturers, that is, while they were infants, absurd and ridiculous. An infant will be born every time a new man begins to manufacture something, no matter if that something has been manufactured by his neighbors for a hundred years. Mr. Clay taught no such doctrine as this.

The tariff will not, does not, reduce the price of goods. Only in a few instances does it increase the wages of the laborer, and in these cases it does not increase wages to the amount of the difference afforded by protection allowed under our tariff laws. Labor is governed in this way by supply and demand. If there are in a town ten mechanics, and there is a demand for the full work of fifteen mechanics, then the ten will get work at remunerative prices; the manufacturers will bid higher for their labor. But on the contrary, if there are fifteen mechanics in the town and only work enough for ten, the inevitable result is low wages and some of them have no work. They will bid against each other, and this competition will put down the wages they receive. No manufacturer will pay more than the market price for labor, no matter how high the tax and the degree of protection given. Increase the demand for labor, then, is the remedy, if high wages are wanted. How can this be done? Not by contracting our markets; not by reducing the number of buyers of goods we manufacture and have to sell; not by building a Chinese wall around our country, which prevents us from shipping away and realizing therefor paying prices for our agricultural products. We want the markets of the world within which to sell, but those markets are not open to us while we refuse to let in the goods which we need, and which our laborers and consumers would get at low prices but for the subsidy (which is only another name for protection) given to our manufacturers under the form of law.

Free trade is not demanded, but we do need freer trade. We must have a tariff, but it should be a tariff for revenue and not for protection. A tariff law is a revenue law. A tariff for protection ceases to be a revenue law because where protection begins revenue ceases. When the law becomes protective it excludes the importation of goods, and, of course, when importation ceases revenues cease. The very object of the law is therefore defeated when you make it protective, and you have the inconsistency of a revenue law which does not raise revenue, but only affords subsidy to home manufacturers. They are given under the form of law an increased price for their goods, which increase goes alone into their pockets, and not one cent of it into the Treasury of the United States. The consumption of home-made goods in the United States being about five times as much as that of foreign-made goods, as the statistics show, we have the anomaly of a law which forces our consumers to pay $5 in subsidy to home manufacturers to get $1 of revenue into the Treasury.

Much more can be said and not exhaust the subject. Protection can not bless and protect the manufacturer who strives his utmost for high prices for his goods, and at the same time bless and protect the consumer of those very goods who strives his utmost to buy them as cheaply

as possible. The law can not bless the two alike who stand so diametrically opposed to each other in interest, one being a seller and the other a buyer. This is the boast of the protectionists. Such a law would be an anomaly, and the claim of its friends that this is the effect of the present law is unwarranted, unjustifiable, unnatural, and untrue.

With the foregoing simple statements of what a tariff is, I call attention of the House and of the country to the difference between the plans proposed by the two Houses of Congress for the reduction of the revenues. The House bill, as the Committee on Ways and Means happily express it, was framed upon the principle that taxes are burdens borne by the people for necessary support of the Government; that they should at all times be limited by the just requirements of an honest and efficient administration; that in selecting the articles upon which duties are to be imposed and fixing the rate which each is to bear regard should always be had to the pecuniary ability of the consumer; that luxuries and articles consumed by the wealthy should bear a higher rate of duty than the necessaries of life which are consumed by the poorer people; that when the existing rates of taxation bring to the public Treasury more revenue than is required for an efficient administration, the rates should be reduced, the burdens lightened, and the obstructions to commerce and the interference with the business and employments of the people should be remembered as far as possible.

The principle upon which the Senate substitute is framed is that duties are levied primarily to raise revenue for certain favored classes of citizens and incidentally for revenue for the Government; that in imposing duties Congress should select such articles as will bring the largest revenue to the favored classes while they bring to the Government the amount required for annual expenditure; that when existing rates are bringing a surplus revenue to the Treasury the excess should be first expended and new channels of appropriation should be found and reduction postponed as long as possible; that when reduction must be made it should be on those articles that bring the least amount of revenue to the pockets of the favored classes and at the same time make the largest reduction in the surplus revenue of the Government.

The House bill proceeds upon the idea that the proper mode of reducing the surplus and the revenue is to reduce the rate of duty or taxation to a strictly revenue basis; that is, put the rate at the sum which will raise just enough money for public purpose. If too much revenue is had, reduce taxation. The Senate substitute proceeds upon the plan of reducing the surplus and the revenues by increasing the rate of duty or of taxation until the importation of foreign goods is prohibited. When, as stated, this is done; that is, when importations cease, there will be no revenue. This is the point of radical difference in the two pending measures.

The Senate committee in the report which was submitted with the substitute say they have not hesitated to erect or to maintain defensive barriers against the natural right of the people to trade when, where, and with whom they please. The Senate substitute raises and advances the rates on manufactures of cotton, wool, iron, and steel to a point so high as to prohibit importation of these goods, and, as a necessary result, compel the people to buy them from home or domestic manufacturers at protective or combination prices or do without them. The protectionists are becoming bolder in their demands. They no longer contend as in former years that Congress in laying duties should discriminate in favor of the home producer, but they now demand that the tax shall be so high as to prohibit the importation of foreign goods in order that the home market shall be kept for the home producers, where they may combine and sell to the consumers at prices as high as the traffic will bear.

Without a protective tariff prohibitory in its effect it would scarcely be possible for this new enemy to the great army of consumers in the country, the "trust," to organize and exist. We now have trusts in salt, lumber, sugar, bagging, rubber, envelopes, steel, earthenware, Bessemer steel, zinc, paper bags, window-glass, leather, whisky, oil, and other things, nearly all of which are articles protected by the tariff. These trusts are simply associations or combinations of manufacturers or producers banded in their own interests to compel purchasers to pay more for their supplies. They are monopolies. They are nourished and supported by the high tariff. If duties were lowered prices would be lower and the combination prices could not exceed them.

The substitute of the Senate is, in my judgment, radically wrong in another feature. It provides a bounty of 1 cent per pound for every pound of sugar manufactured from cane in the United States. The annual production of sugar in the country from cane is about 300,000,000 pounds. A bounty of 1 cent per pound would require about $3,000,000 to be paid annually as a permanent appropriation. I am opposed to this feature and am unwilling to vote bounties in this way to a special class. Why should this bounty be given alone to producers of sugar? Why not extend it to the producer of corn, wheat, rye, oats, barley, hay, cotton, hogs, mules, sheep, cattle, and, indeed, every other article and animal? If this principle of paying a bounty by the Government to its citizens is to be adopted then let all classes and kinds be fostered, encouraged, and protected.

The bounty system is radically wrong, and is only one of a number of vicious methods in sight for reducing the surplus in the Treasury. The Republican party seems to prefer to make raids on the Treasury for such purposes, and thus empty it of the surplus, rather than pass relief measures for the country in the shape of a reduction of taxation. This is only one of the methods. Another is by passing educational bills, by which nearly one hundred millions are to be taken out of the Treasury. The duty of the State to educate is admitted, but the General Government should not usurp the function of the State in this matter of educating the people. Then there is the bill to refund the direct tax; bills to pay enormous pensions in many special cases in addition to the general appropriation of nearly $90,000,000 for pension purposes.

All or nearly all these schemes are poorly disguised raids on the public Treasury to exhaust its funds and remove from the minds of the people their belief in the urgent necessity for a revision of our tax law and a greater reduction in the rates at present imposed. I have opposed these schemes and shall continue to do so while I occupy a seat on this floor.

In adjusting the tariff rate I shall at all times insist that it shall be placed as low as it can be to raise the revenue for the economical administration of the Government, and I will not lend my vote or voice in favor of any scheme to take money out of the Treasury for any purpose not clearly within the letter and spirit of the Constitution.

Commercial Union with Canada.

SPEECH

OF

HON. ROBERT R. HITT,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889,

On the joint resolution (H. Res. 129) to promote commercial union with Canada.

Mr. HITT said:

Mr. SPEAKER: This joint resolution, for calling up which I desire to thank the gentleman from Iowa, to promote commercial union with Canada, is a timely and practical response, in liberal spirit and full regard of the dignity and independence of all, to a widespread and extending movement now going forward in the Dominion, friendly to us in tendency and aiming at larger and freer intercourse. It is true the present administration of the Dominion is Tory and hostile to commercial union with us. Sir John McDonald, the prime minister and real ruler, desires to bind Canada as closely in trade as in political connection with Great Britain; and every appliance of power and appeal to sentiment have been used against this movement. Yet the material reasons, the business advantages to every one, are so evident that it goes on. In the Canadian Parliament last spring sixty-seven members, representing districts that contain more than half the wealth of Canada, voted for unrestricted reciprocity. The bye-elections since then show the increasing strength of the movement. The executive officers and prime ministers of the provinces, something like our States, have declared for it.

It is time that we give some assurance that such a powerful movement of such immense consequences interests our people, and will be considered in as liberal and practical a spirit on our side.

Since this resolution was introduced by me one year ago, March 5, it has been most carefully, scrutinizingly discussed, and almost universally approved by the press of the country. The Committee on Foreign Affairs, after much consideration, reported it to the House without a dissenting voice, recommending its adoption. It provides, in few words:

That whenever it shall be duly certified to the President of the United States that the Government of the Dominion of Canada has declared a desire to establish commercial union with the United States, having a uniform revenue system, like internal taxes to be collected, and like import duties to be imposed on articles brought into either country from other nations, with no duties upon trade between the United States and Canada, he shall appoint three commissioners to meet those who may be likewise designated to represent the Government of Canada, to prepare a plan for the assimilation of the import duties and internal-revenue taxes of the two countries, and an equitable division of receipts, in a commercial union; and said commissioners shall report to the President, who shall lay the report before Congress.

What is commercial union with Canada? It means as set out in this resolution the adoption by both countries of precisely the same tariff of duties, or taxes to be levied upon goods coming from abroad, abolishing altogether our line of custom-houses on the north by which we collect tariff duties on goods coming from Canada, abolishing their custom-houses along the same line by which they collect duties upon goods we send into Canada, and leaving intercourse as unrestricted between this country and Canada as it is between the States. The line of custom-houses would follow the sea and include both countries. The internal-revenue systems of taxes on liquors and tobacco in the two countries would also have to be made uniform in both. The pro-

ceeds of taxation thus collected would be equitably divided, and the fairest way would seem to be in proportion to population.

The Canadian tariff now levies duties upon goods coming into Canada from all sources, including England. It is not quite as high in the rates of duties as the tariff of the United States; but it is, like the tariff of the United States, a protective tariff, framed for the express purpose of fostering Canadian industries. If Canada entered into commercial union with the United States its tariff, then the same as our own, would no longer be laid upon goods sent from the United States into Canada, but would fall upon everything coming from England and other countries. To illustrate: In the year 1887 we sold to Canada $44,802,732 of goods. Of this amount $30,578,332 consisted of articles on which they levied duties, the average rate being 23.76 per cent., amounting to $7,265,135.73. This burden of over seven millions of tax imposed upon goods we sent to Canada to sell would be swept away.

England, competing with us for the Canadian market, sold nearly the same quantity of goods in Canada during the year, and as they were manufactures of a higher grade, cost, and process, they fell under the provisions of the Canadian tariff imposing still higher rates of duty than those imposed upon the imports from the United States.

The advantages which would accrue to us from commercial union can readily be seen. If in one hundred millions of imports purchased by Canada during the year the United States were able to sell forty-five millions in that market in spite of the duties imposed upon them, competing with the English, who sold goods of nearly similar value, how much greater share of this hundred millions of trade would our people enjoy if they could send their manufactures and other goods into Canada as freely as they now send them from one State to another, while the English manufacturers and merchants, competitors with ours, would have to submit to the tariff when they landed, amounting to from 25 to 40 per cent.?

Is it not evident that the sales we would make to Canada would speedily leap to seventy-five or perhaps a hundred millions of dollars per annum? The advantages which would be reaped by Canadians—farmers, artisans, and mechanics—from the enormous impulse given to business and to every element of prosperity are for them to consider. I am now discussing the proposition only from the point of view of the people of the United States. In all trade arrangements which have been made by our statesmen heretofore with Canada—the reciprocity treaty of 1854 and several subsequent attempts with the same purpose—the result has been one-sided. Reciprocity was provided for natural products which the agriculturists of Canada desired to sell to us, but ours could never sell to them, as that is not a market for agricultural products. They only sell and send away. But good care has been taken to never admit the goods produced by our manufacturers to the great market of Canada. That market, if opened to us by commercial union on terms of perfect freedom, would be to the business interests of this country of enormous value; but our people will never again consent to any partial or one-sided arrangement by which Canadians shall enjoy our market for their products, while our manufacturers shall be to a great extent excluded from Canada, to be still supplied from England.

The advantages we give to Canada should be for advantages received, and I have therefore opposed the policy which would strike off duties amounting to $1,800,000 per annum on Canadian products sent to this country without any concession being made on their part in striking off duties upon goods we send to Canada. If such an improvident policy is pursued, all motive on the part of Canadians to give us any advantage whatever in their markets will be taken away. English business influence and English capital will remain dominant in Canada while our laws are being changed to conform to their interests and wishes. When they permit our iron and steel, cotton and woolen manufactures free entry into their market it will be time to talk of free lumber, free fish, and free salt, but until then no jot or tittle of our tariff upon imports from Canada should be abated.

The assimilation of the Canadian tariff to our own would not be a violent change. An elaborate computation made at my request by the Bureau of Statistics, issued May 31, 1888, giving the rates of duty imposed by Canada upon each article making up the $30,000,000 of dutiable articles which were sold to that country in the last year, averaged 23.76 per cent. The duty estimated under our own tariff which would have been collected had it been applied would have amounted to 26.49 per cent., being a difference of only 2.73 per cent. The difference between our internal-revenue taxation (which like that of Canada falls upon spirits, beer, and tobacco) and that of Canada is also not wide, and like the slight difference in the respective tariffs could be assimilated into one revenue system without any violent change.

The division of receipts from tariff and internal revenue, if based upon the respective populations, would make scarce any change at all. We collected last year by tariff and internal revenue together $6.70 per capita of our population, while Canada collected from tariff and excise $6.65. Let me give the precise facts in detail from the official reports. During the year ending June 30, 1887, our Government collected by the tariff $217,286,896, and from internal revenue $118,823,391, making altogether $336,110,287 from a population, according to the census of 1881, of 50,155,783 persons, making $6.70 from every person in the United States.

During the same year the Canadian Government collected by its tariff $22,378,801, and from internal revenue, or excise as they term it, $6,308,201, making together $28,687,002 which was collected from the population of Canada, that according to the census of 1881 numbered 4,324,810, or a fraction above $6.60 from every person. As the amounts collected from the respective peoples are almost exactly identical per capita, differing by a decimal scarcely appreciable, would it not be the simplest and the fairest way when the revenues are to be all collected under a common tariff and a uniform internal-revenue system to divide the proceeds by population? This would leave the revenues of each Government derived from tariff and internal revenue exactly as they stand now, and each treasury would receive next year from these sources the same sums proportionally for the support of the Governments that they received in 1887. I do not mention receipts from other sources, such as public lands, post-offices, public works, etc. Each Government would manage them to suit itself. Undoubtedly the receipts from duties at Canadian ports might change, because the market of Canada being largely supplied with goods from the United States, the large sums they now collect upon importations from across the sea might be decreased, but the equitable division of revenue by population would maintain the Canadian Government in undiminished financial resources.

The Dominion of Canada, vast as it is in territorial extent, contains but a long string of feebly connected groups of population upon the southern border. The power and value of a country are measured by its strength in men and by their activity, not by square miles within its borders, whether they be capable of high cultivation or wide stretches of icy desolation. The maritime provinces, containing 870,696 people, are separated by an uninhabited waste of hundreds of miles and by the wedge-like State of Maine from the central provinces, Quebec and Ontario, containing 3,282,255. Then comes the long, rocky journey around the lakes to Manitoba, which has probably a hundred thousand people. They again are separated by more than a thousand miles on the west by plains and mountains from British Columbia. Each of these groups of population lies close upon the people of the United States, and enormous effort by great expenditure has been made to introduce interprovincial trade over Government railroads and subsidized roads, but in vain.

The laws of nature and the laws of trade are against it, and the $200,000,000 spent for this purpose could not accomplish it. The provinces had almost the same things to sell. How could they sell them to each other? Each one of them is interested in every way in the affairs, in the markets, in the business of the great near neighbor on the south, to whom they wish to sell, from whom they wish to buy, rather than from any other province, the nearest hundreds of miles away. The products of Canada, from Quebec to the mountains, are so nearly the same that they can not sell to each other nor supply each other's wants. They export agricultural products and wish to purchase their merchandise from abroad, either from England or the United States. The natural lines of commerce are North and South, each supplying what the other lacks, rather than East and West along lines of similar products.

Nature herself sends the Canadians to our market, so near at hand, to purchase what they need, to sell what they have to dispose of. In spite of the tremendous influences against it, the spirit of their government, the dominant social forces there, and the invested English capital, all endeavoring to constrain the people to trade with England, half their commerce is still with us; and in spite of the high duties levied by them upon our goods and by us upon their products, we sold them in 1886 over $50,000,000, largely of manufactured goods. Can there be any question that it would be in the interest of our people to have free admission to that market for the sale of American goods, to have the preference, in fact, in that market by the establishment of the tariff against importations from any other route?

It is said that the price of labor in Canada is now lower than in the United States, and we would have cause to dread the free admission of Canadian products in competition with our own. That criticism would appeal to me as an American and as a protectionist if the price of labor in Canada was made lower than here because of the overpopulation of the country. If there were scores of millions there, as in Europe, contending for existence and pressing for employment, then to let in the flood of their products would be unwise. But, in fact, population in Canada is sparse, and the reason the price of labor in Canada is low is not because there are millions seeking employment and crowding each other, but because business there is stagnant, money is scarce, and profits are low. They suffer for want of a market, for want of capital; enterprise not being encouraged, the price of labor is in some places lower than here. Those who lived in the Western States in the earlier days when we had no access to markets can remember a similar state of things, when abundance of land and raw material and a vague splendid future in sight were all ineffectual to bring good prices for anything. Labor was ill paid, wages were low, money was scarce, business was dull. But when the railroads were opened and the market came to our Western farmers, an era of good prices, general prosperity, and rapid, steady growth ensued, as it would to the vast depressed agricultural regions of Northwestern Canada if a market were afforded them.

The prosperity of our Western farmers did no injury to New Eng-

land or any part of the East. It increased the prosperity of all, afforded them abundant supplies, gave to them a wider market for the products they had to sell, and promoted the growth of both the East and the West with immense strides. So the opening of the great agricultural regions of Canada, now sparsely peopled and depressed in business, will widen our market, give new regions to American enterprise and profitable investment, and benefit all parties. The price of labor in Canada as soon as activity and prosperity touched those lands would rise as in the Western States. This is not a question of admitting the millions of European pauper laborers to our market nor anything akin to it. I have faith that the capital and labor of the United States, sixty millions strong, can easily take care of themselves in the opening of the market with five millions of Canadians.

Would the adoption of a common tariff along the seacoast and unrestricted intercourse over the inland border lead to fraud? Would goods be admitted by Canadian custom-house officials without paying duty and thus evade our tariff? Would it be safe to allow a part of our custom-houses, those along the Canadian border, to be beyond the control and jurisdiction of our Treasury Department? I answer, what ground is there to apprehend fraud? The Canadian custom-house system bears a good name and is well administered. I know it is said that in the countries on the south of us there is much looseness in custom-house systems, and in any such arrangements with them much precaution might be necessary; but there is nothing in the history of Canadian administration to warrant a distrust of their officials by us any more than they might distrust ours. However, there is no practical difficulty in having officers of the United States revenue service in their ports with function of inspection to prevent losses to revenue, or injury to our merchants. That is done to-day by our Treasury Department, which has its officers at Vancouver, in British Columbia, and in Ontario, and in Quebec, and elsewhere throughout Canada, done with the permission of that Government, to protect our custom-house revenue from losses in the transit trade.

Commercial union is in substance a proposition to extend our tariff system, modified reasonably upon consultation, over Canada; to remove the custom-houses of both governments from the frontier and put them along the line of the sea; to have our protective system include the continent from the Gulf of Mexico north; to give to our manufactures and other products as free access to the markets of Canada as they have throughout the States, and allow the Canadians to sell and buy here as freely. Undoubtedly they, in being subjected to the same tariff with us, would in all fairness be consulted as to its provisions; but we, sixty millions, would in all fairness generally have the prevailing voice in determining what the rates should be. The particular methods in which questions of detail should be treated need not now be discussed. The commissioners contemplated by the resolution are for the express purpose of getting all the views and all the facts bearing upon this question.

The amount of our imports from Canada in most of the articles we purchase there is so small compared with the vast consumption of our people that it does not affect the price perceptibly, and as Canada is comparatively depressed in business the prices of articles sold us and on which we lay a tariff are generally lower in Canada by just the amount of our tariff. This is not the case with all articles, but it is true in many cases, and there the Canadians will get an immediate benefit. And, on the other hand, there would be a large absolute gain in market range and in prices for American manufactured goods purchased from us by Canada in place of purchases now made by them in Europe.

The business advantages on both sides are so evident on examination that the more this is discussed the stronger the movement. It is now going forward at such a rate that before long public opinion in Canada and in the United States will be in accord that new and better arrangements than the present can be made; and once the people have reached this conclusion they will quickly find a way of carrying it out.

Already the precise question—a common tariff and excise system—is becoming familiar to the people, and it is discussed in a friendly spirit. We have in the United States perhaps one million Canadians born, and they are excellent citizens. There is a friendly feeling generally. The recent discussions in Canada have awakened discussion here, especially on the business aspect. Less interest is felt in annexation, for we know our country is now very large, and there is enough to do in assimilating the diverse elements we already have. But the enlargement of trade and improved business both north and south of us everybody welcomes, because everybody expects to profit by them.

It is easy to conjure up difficulties of detail that will arise in arranging a common tariff, but these are questions similar to those we have been dealing with a century, and certainly they are very slight compared with the difficulties certain to arise in the future between the two nations if we continue the barrier, 4,000 miles long, with parallel lines of custom-houses and fortifications, between peoples almost exactly alike in business, in feelings, and in race. There will be and there must be an enormous and immense intercourse consequent upon their geographical position and the mutual business interests of both sides; and if vexatious barriers are kept up, irritation and trouble must constantly arise.

Will it be said that England will not consent to any arrangement which would give a preference in one of her colonies to American goods over British goods? Her Government, in a noted instance, did this very thing not many years ago. In 1874, when the reciprocity treaty was being negotiated by Minister Thornton, the English Government instructed him to modify it at the suggestion of the Canadian ministry and make such additions to the list of American goods to be admitted free into Canada as the Canadians desired. He did so, and made out a long list of American articles to be admitted free of duty, so long that it was almost free trade. Not one of these articles coming from England was to be admitted free of duty. This draught of a treaty was sent to Lord Derby, who answered that the whole proceeding was approved, and the English Government assented to the arrangement admitting American goods free to a British colony, where a tariff of 20 to 40 per cent. was to be laid upon the same kind of goods coming from England or any other country than the United States.

Commercial union is not in hostility to England. She has no better customer than the United States, and the entrance of Canada into our commercial system and our business activities would stimulate her prosperity and make her trade in all directions more valuable. The five hundred millions of English capital invested in Canada would be immediately enhanced in value to English owners.

The irritating questions that have arisen between our Government and England have nearly all originated in our relations with Canada, and they have often disturbed our vast business with Great Britain and even endangered peace. They would be removed and that great trade, many hundred millions annually, would enjoy assured permanent peace.

These, in brief, are some of the practical business reasons in immediate view for the step proposed by this resolution. Every intelligent and thoughtful mind will see the far-reaching effects of commercial union upon the two peoples in the long hereafter, the security it will give to continuing peace, the solution it will afford at once to all the exasperating differences that have been in dispute for generations, the vastly extended prosperity it assures to the English-speaking people of this continent dwelling together in harmonious activity, increasing power, and unbroken peace.

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Mr. HITT, from the Committee on Foreign Affairs, March 16, 1888, submitted the following report to accompany joint resolution (H. R. 129):

The Committee on Foreign Affairs, to whom was referred House joint resolution 129, to promote commercial union with Canada, beg leave to submit the following report:

Our commercial relations with Canada have recently awakened a deeper interest and received a more thorough discussion than ever before, on both sides of the border. The tendency of public opinion is plainly towards the enlargement of trade between the two countries. In Canada the movement has advanced from what was a few years ago an effort for partial reciprocity, to a wide expression in favor of unrestricted intercourse and commercial union. The evidence of this fact is abundant.

The Right Honorable Joseph Chamberlain, high commissioner from Her Majesty's Government, is reported to have recently stated in a speech:

"The arrangement between the colonies and Great Britain is essentially a temporary one. It can not remain as it is. * * * Already you have in Canada, the greatest of all the colonies, an agitation for what is called commercial union with the United States. Commercial union with the United States means unrestricted trade between the United States and the Dominion of Canada, and a protective tariff against the mother country. If Canada desires that, Canada can have it."

And speaking of the relation of Canada to the United States and Great Britain on a subsequent occasion the right honorable gentleman further said that—

"Commercial union with the United States meant that Canada was to give preference to every article of manufacture from the United States over manufactures from Great Britain. If the people of Canada desired an arrangement of that kind he did not doubt that they would be able to secure it."

Within in a few weeks a conference was held at Quebec of the prime ministers of all the provinces constituting the Dominion of Canada, and after a very full exchange of views these representatives of the executive powers of all portions of the Dominion unanimously adopted the following declaration:

"This conference, comprising all political parties, is of the opinion that a fair measure, provided under proper conditions, for unrestricted trade relations between the United States and the Dominion of Canada, would be of advantage to all the provinces of the Dominion, and would, in connection with an adjustment of the fishery dispute, tend to happily settle the grave difficulties which have from time to time arisen between Great Britain and the United States."

The chambers of commerce and boards of trade of the leading cities of Canada, and more than fifty farmers' institutes and conventions, have adopted resolutions declaring in favor of commercial union or unrestricted trade between the two countries.

The answer made by their opponents and those most closely attached to English trade and English rule has been that the United States has given no indication that it would receive or even consider any proposal, however friendly in spirit or however favorable to us in its terms it might be.

The joint resolution now submitted does not contemplate any action on our part at present; but whenever the Dominion of Canada shall have declared a desire for commercial union, with a common tariff, like internal-revenue taxes, like duties on articles imported into either country from abroad, and no duties on trade between the United States and Canada, then the President is authorized to appoint three commissioners to meet those who may be designated to represent Canada, in order to prepare a plan for commercial union, by assimilating the tariffs and internal-revenue taxes of the two countries, now not very widely different, and an equitable method of dividing the receipts, which they shall report to the President, who shall lay it before Congress. The whole subject of our relations with Canada is kept under the control of Congress.

It is not deemed necessary to here discuss the great merits of commercial union or the details of arrangement that will be necessary. Your committee believe that the power herein conferred upon the President can do no harm, that it will be wisely used, and will lead to beneficent results, promoting the independence, prosperity, and peace of two great peoples.

The committee therefore recommend the adoption of the joint resolution.

March 1, 1889, the joint resolution was taken up by unanimous consent, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Eulogies on Hon. James N. Burnes.

SPEECH

OF

HON. CHARLES H. GROSVENOR,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 23, 1889.

The House having under consideration the following resolutions, to wit:

"*Resolved*, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. James N. Burnes, late a Representative from the State of Missouri.

"*Resolved*, That as a further mark of respect to the memory of the deceased, and in recognition of his eminent abilities and distinguished public services, the House at the conclusion of these memorial proceedings shall stand adjourned.

"*Resolved*, That the Clerk communicate these resolutions to the Senate."

Mr. GROSVENOR said:

Mr. SPEAKER: My acquaintance with the deceased began with my entry into the House of Representatives of the Forty-ninth Congress, and was not at any time intimate, but always friendly. I shall not, therefore, discuss the character of the deceased from the standpoint of one intimate with him, but I shall give my testimony as the testimony of one who observed him closely and estimated his character and qualities by observation of his daily life in this Hall.

I may turn aside at this point, Mr. Speaker, to say that I know of no position occupied by men which in its very nature and character more surely develops the good or the weak in character than the position which we have the honor to hold here. Charged by the people of our districts in our representative capacity with the duty of speaking for them and in their name upon the great public questions before the country, we are nevertheless exposed to the weaknesses and foibles of men uncertain as to the effect of their personal conduct upon their future standing.

Between the general purpose and desire which we all have to correctly represent the current sentiment of our districts, we can not shut our eyes to the fact that the matter popular and approved by our constituents to-day may become unpopular and be disapproved on another day. So it is that a member of Congress constantly exhibits to his fellows, unconsciously it may be, but certainly and surely, the elements of his true character. If he is a brave man, actuated by conscientious regard for duty and putting duty higher than temporary success, you may look with confidence that his action will be an exhibit of his best judgment upon the great questions involved in legislation. If he is a weak man, afraid to do right, afraid to be governed by principle, trimming and turning and vibrating as the wind of public opinion seems to trim and vibrate, we recognize in such a man a character unworthy of our emulation and by no means fitted to be a teacher of his fellows.

So it comes about that in this Hall the mirror is held up to nature, and in the daily comings and goings of members, their attitude to each other, and their discharge of duty toward the public, we learn to estimate by a standard almost unerring the character of men.

James N. Burnes was a striking figure in this Hall. Massive, robust, grand, as it were, in physical proportions and physical structure, he presented rugged but attractive elements of mental character as well. It was natural, and indeed inevitable, consequently, to the student of human nature that he would attract attention, and he did attract my attention. I early formed the opinion of him that he was a man of sterling integrity; not only a man of integrity in the commercial sense, not alone a man who would pay his honest debts according to his promises, not alone a man who stood by his word in business affairs, but I estimated him to be a man of unswerving fidelity to what he believed to be right—right in commerce, right in business, right in politics.

I never saw him avoid a duty; I never heard him complain that a duty lay before him; I never heard him intimate that he would prefer not to take sides upon this or that, but he appeared to me to be a man who met a duty as an incident that could not be abandoned, could not be modified, an incident of his daily life and an incident of his duty to himself.

It was not long after his entry into Congress that it was easily discerned by the careful observer that he was to take rank above the ordinary member. As the line of battle was formed on each successive day Burnes advanced more nearly to the skirmish line. He found his position more nearly in the line of active duty. He advanced from the mere file-closer of the column to the position of leadership in the duty assigned him.

More than once I approached him in the moment of excitement here to consult about matters of agreement, matters of accommodation to the different sides of the House. I can not remember an occasion, and I am sure one never happened, where the feeling of animosity was so strong that it carried Burnes away from his attitude of absolute fairness and absolute justice. In the moments of greatest excitement he was always judicial, always willing to accommodate, always willing to fight fairly, and he always did fight fairly. He was a man, therefore, of generous impulses and a man with a head that he never lost.

I can not speak of him in his private life at home; I did not know him there. But that duty has been better done by those who knew him better. My testimony is simply the effect that his daily actions here made upon a man who hitherto had been a stranger.

James N. Burnes was one of the men who make party politics bearable. A man who carries on political warfare as a matter of enmity and hostility to others who oppose him makes party politics in this country a nuisance to himself and an annoyance to everybody else. A man who can not appreciate the good qualities of his opponents, who can not estimate the integrity of a man who does not believe as he does, is not only an ineffective political soldier, but is an effective personal annoyance to himself and to every one else. We have brilliant specimens in America of men who have adopted political views either from honest motives or from mercenary ones who forthwith become champions of their peculiar notions in such a way as to offend and drive off others. Men who speak upon the public stump with a challenge and a defiance in the very tone of their voices, men who figuratively carry chips on their shoulders upon the hustings and hurl defiance and thunderbolts at imaginary foes, foes whom they have never seen, foes in many instances that they have constructed from the fertility of their own imaginations, men who select the utterances of isolated political opponents here and there scattered over the country, and hasten to class all their opponents as believers in the same doctrine, constantly ride astride of the hobby of their own imagination and abuse every man who opposes them.

These men are not effective in politics; these men may achieve temporary brilliancy; these men may have temporary supports; these men may have the unthinking crowd cheering them as they intrude themselves constantly before public notice, but such men are not the pillars of strength around which party greatness and party success is formed. The men of judicious minds, with a just appreciation of the opinions and sentiments of all other men, are the men who lay the foundations and build the structures of political party success. Men who aggregate their opponents, not segregate, and discuss the tendency and drift of party politics from the tenor and effect of the history and platform of the party, its present attitude, and who do not seek to take advantage by holding up awful examples of bad members of a party, are the men who grow strong in America and make party politics available as safeguards and assurances to our free institutions.

Such a man was James N. Burnes. He did not rely for his political success or that of his party upon the fact that the party of his opponents contained here and there a bad man, nor was he a sporadic politician—one of this kind, Mr. Speaker, who suddenly, by accident or design, strike a key-note and then attempt to bend all the energies of their party to the vindication of the peculiar music of that peculiar strain. He was a man of sturdy, indomitable devotion to Democratic politics and Democratic policies. It never occurred to him that he could make a sudden utterance of a platitude, and shaking it into an aphorism, make himself a leader of a great political party and oust the men who for more than a quarter of a century had led and developed the principles to which he adhered.

Mr. Burnes was a man of tenacity of purpose. When he once formed a purpose he never abandoned it except for good cause. That he was not succeeding in his first attempts to establish the idea he held was a matter of no consequence to him so long as he believed it was the right thing, and he held on with a will that made opposition difficult.

But he is dead; his lifework is done, and we can do no less than drop here a tear of affection and testify to our high appreciation of his grand qualities of manhood, courage, and virtue. If in politics there was an honest man in this House, a man who believed what he advocated and advocated what he believed, that man was James N. Burnes. If there was a man in this House who held in high esteem the principles of his own party and the attitude of himself and his fellows, and yet had due appreciation and wise and judicious consideration for the men of other parties who opposed him and who accorded to them honesty of purpose side by side with himself, that man was James N. Burnes. Massive in figure, strong in intellectual characteristics, panoplied in virtue and integrity, he passed away—the spirit that God has given returned to the God who gave it.

I will not discuss the question of the future of that spirit. I could not be induced to believe that the death of such a man or any man is the end of that man's career. If I believed that a man died like an animal, and that his future was the same, I would not give a straw for life. I would not use it as a justification for bad morals, bad living, injustice to others; but this struggle, this unceasing, unvarying, unyielding struggle that we are making here would not be worth the making. I will not be driven into a definition of my views as to the future; they would interest nobody. I would not attach specifications to my faith. But I love this world and its surroundings, the men and the women I meet here, the duties and responsibilities I assume here, largely and almost exclusively because I believe that there is a better world beyond.

I do not confine my belief, Mr. Speaker, to the revelation. There is something better than that. There is something more conclusive than

that; it is the inspiration in the soul of man. Tradition may fail; revelation may be a fraud; but human nature, the aspirations of men, the inspirations that grow with his growth, that strengthen with his strength, indicate to him as an unerring proof that beyond this life, beyond this grave, beyond the end of this brother, there is upon another shore somewhere, in some clime, another and a better existence. It is enough for me that I believe the truth of this statement, that it is within me and around me.

And so, Mr. Speaker, when I stand at the grave of our fellow-brother I stand buoyed up with the hope and the confident belief that in another world, in a higher sphere, in a better life, James N. Burnes will continue the growth and development of a character to which to-day we can not avoid, if we would, rendering tribute.

Forfeiture of Unearned Railroad Lands.

SPEECH
OF
HON. RALPH PLUMB,
OF ILLINOIS,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889.

The House having under consideration the bill (S. 1340) to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes—

Mr. PLUMB said:

Mr. SPEAKER: To my mind it is clear that a most proper thing for the House to do is to agree to this bill as passed by the Senate, and in that way secure a saving to the people of as much of the public domain as now seems possible to do; but, sir, there are other and important measures by which much larger saving could be secured.

Mr. Speaker, $20,000,000 have been taken from the United States Treasury and paid to holders of the bonds of the Government in premiums ranging from 7 per cent. to 30 per cent. This vast sum has been so used, not only without the authority of law, but in derogation of the plain provision of the statute which reserves to the Government the privilege of either paying said bonds at par and accrued interest, or refunding them whenever bonds bearing a less rate of interest than the bonds to be redeemed can be sold at par in coin, a condition that now most certainly has transpired.

On the 24th of January, 1888, I had the honor to offer to this House the following resolution:

Resolved, That a committee of five members of this House be appointed by the Speaker, whose duty it shall be to make a careful examination of all the facts relating to the passage, engrossment, and enrollment of the funding act, so called, and all acts in force bearing upon the question of the right of the Government to redeem its outstanding obligations, with a view to taking such steps as may be required to ascertain the true state of the law on that subject, and for that purpose the committee have power to send for persons and papers, examine all records and original documents, and to obtain true copies of the same, as well as to administer oaths; the committee to report to this House with such recommendations as may be deemed advisable in the premises.

The mere introduction of this resolution was objected to by a leading Democratic member, Mr. BRECKINRIDGE, of Kentucky, on a former occasion, but was afterward referred to the Committee on the Judiciary.

Five minutes was asked to explain the object of the resolution, but objection was made by the same gentleman, and the explanation was refused; and nearly eight weeks was allowed to pass away before any report came from that committee, and when it came it was evident that the most important requirement of the resolution had not received the attention of the committee, namely:

To examine all acts in force bearing upon the question of the right of the Government to redeem its outstanding obligations with a view to taking such steps as may be required to ascertain the true state of the law on that subject.

The conclusion of the report was that the resolution lie upon the table, which was done when I was not in my seat, and as I felt, for the purpose of stifling inquiry upon a question of manifest importance.

In this connection it seems proper to add that I respectfully asked to be heard on the merits of my resolution, but the hearing was not granted. I did, however, get consent to print an argument addressed to the committee, but I think I am justified in concluding that my printed argument somehow failed to receive the attention of a majority of its members.

Failing in my first attempt, I tried another method of bringing forward the question of the Government's rights in this matter; this time by a joint resolution, as follows:

Joint resolution to authorize the Secretary to purchase and cancel certain outstanding bonds.

Whereas by the terms of existing law the right to redeem or pay before maturity any of the outstanding interest-bearing obligations of the United States whenever bonds bearing a less rate of interest can be sold at par in coin has been reserved to the Government; and

Whereas the condition upon which such option can be legally exercised now exists: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and hereby is, directed to use any money now in the Treasury of the United States, or which may hereafter accumulate therein applicable to the payment of the public debt, for the payment of any of the outstanding interest-bearing obligations of the Government known as the 4½ per cent. and 4 per cent. bonds at par and accrued interest, said bonds to be called and canceled in the manner prescribed by law.

Had the Ways and Means Committee reported back this joint resolution, as the rules of the House require, the whole subject would have been discussed, and no doubt light would have been thrown on it that would have greatly interested the people of this entire country; but for some occult reason and purpose no report was ever made.

Mr. Speaker, it is not for me to know what motives may have influenced the action of the committee, but I can safely say that had the resolution passed it would have disposed of the surplus in the Treasury in a way so just and so complete that no occasion for attacking the principle of protection would have remained to vex political parties on this floor or in the country.

Mr. Speaker, we are often told by his party adherents on this floor that President Cleveland is an honest man, and, sir, I am free to confess that never in the public life of that gentleman have I known of his making a more determined effort to be honest than on this very question of paying to bondholders premiums at the expense of the tax-payers of the country; and I can but deeply regret that his virtuous purpose was utterly destroyed by cross purposes in the direction of his determination to destroy protection. Read the President's attack on protection in his so-called annual message, and you will be struck with the apparent struggle going on in his honest heart in respect to the legal right to pay premiums on the bonds. Again and again did he refer to the lack of authority to so use the public funds, and repeatedly did he ask for legislation by Congress that would clearly confer on the Secretary of the Treasury the power to pay premiums.

At length a bill was rushed through this House with indecent haste, which, without repealing existing statutes, was intended to confer on the Treasury Department adequate power; but it failed to pass the Senate with a single feature of the original bill left in it, so that when it came back here it was sent to the Ways and Means Committee to keep company with the joint resolution to which I have referred, to sleep there the sleep that knows no waking. Meantime the situation became alarming. The surplus had to be reduced. The Treasury was congested and a financial disturbance was thought to be near. The Administration came into power on the promise to pay out more money on the public debt than there was in the Treasury, but instead it had suffered the surplus to increase beyond anything before known in our history, and something must be done, and done at once; so in the dire extremity that so seriously threatened the country and so seriously strained the honesty of the President the Ways and Means Committee came forward with the following resolution, which was passed by the House:

Resolved by the House of Representatives, That it is the sense of this House that section 2 of the act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1882, and for other purposes, approved March 3, 1881, which is as follows: "That the Secretary of the Treasury may at any time apply the surplus money in the Treasury not otherwise appropriated, or so much thereof as he may consider proper, to the purchase or redemption of United States bonds: *Provided*, That the bonds so purchased or redeemed shall constitute no part of the sinking fund, but shall be redeemed and canceled," was intended to be a permanent provision of law; and the same is hereby declared to have been since its enactment, and to be now, in the opinion of the House, in full force and effect.

Mr. Speaker, the President is not only an honest man, but he is a lawyer as well, and of such good repute, too, that in a few days he will doubtless be at the head of a distinguished firm of lawyers, with an office at the great commercial metropolis of this country, and he knows, as well as we all do, that the resolution just quoted conferred no legal authority whatever on him or the Secretary of the Treasury to pay one single dollar of the twenty millions now paid as premium on the interest-bearing obligations of the United States. Sir, the course of this administration on this question is in strong contrast with what has been recently done by the President in respect to the rights of the settlers on what is known as the Des Moines River Navigation Company's lands in Iowa, in which case the President persists in vetoing the bills passed by Congress to give these settlers a chance for a fair hearing before the courts of the United States for redress for the threatened loss of their homesteads.

In these cases the Government had sold the settlers the identical homes now claimed by the corporation which assails them, and for these lands the settlers have paid their money and received the Government patents therefor, and yet they are being evicted on the claim of the corporation that the law as it stands on the statute-book and the decisions of the courts thus far is on the side of the corporation. Congress proposes, by a bill passed by decided majority in both branches, to give the relief asked for, but our honest President is so faithful to law that he repeats his veto as often as Congress passes the bill; but, sir, in the bond case I have discussed he sees fit to disregard laws which clearly reserve to the people the right to redeem or refund these bonds at par, a fact that evidently did not escape his legal eye, for which reason he earnestly asked Congress to change the law, and so take from his shoulders the

responsibility of what may well be termed a robbery of the tax-payer.

Mr. Speaker, it is by no means a pleasure to me to know that the course of the President and of Democratic leaders on this question is in violation of plain provisions of law and of the interests of the people. The law as it stands was enacted by a Republican administration, and no repeal of its provisions has ever been effected. It is a Republican measure and I advocate it as such.

I can not know how soon the Republican party may follow the bad example of its rival by forsaking the interests of the many and promoting the interests of the few, as has already been done in paying premiums to the holders of the 4½ and 4 per cent. bonds, but, sir, I think it is but fair to presume that the same political party by whose action the Government was made to reserve the right to redeem or refund those bonds at par and accrued interest would have enforced that right had that party been in power when the exercise of it became a practical question.

This solemn promise of the Government to make a possible saving of more than $200,000,000 to the tax-payer was for a consideration of not less than $600,000,000, every dollar of which was a burden laid on the backs of the people at the very time that promise was made, a promise which stands on the statute-books unrepealed. The Democratic party here has not only persistently refused to permit the verity of this proposition to be looked into, but it has by the payment of $20,000,000 in premiums to the bondholder made it enormously difficult to retrace the step, especially so when the history of our legislation shows we have been more careful of the interests of the bondholder than of the tax-payer.

Mr. Speaker, as legislators we shall do well to remember that the time has come for revising this history. If there is to be discrimination it should be in favor of that large class who constitute the body-guard of the Republic, those who by their patriotism protect it in every time of peril and by whose labor its Treasury is always prepared to meet every just demand.

But for one I protest against discrimination, and against favoritism to any class, and it is because of my adherence to this thought that I avail myself of this last opportunity in my official life to put on record here my protest against the continued payment of premiums on the interest-bearing obligations of the Government known as the 4½ and 4 per cent. bonds.

Des Moines River Lands.

SPEECH
OF
HON. JOSEPH WHEELER,
OF ALABAMA.

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889.

The House having under consideration the bill (H. R. 1368) to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes, returned by the President with his objections thereto—

Mr. WHEELER said:

Mr. SPEAKER: On June 12, 1838, the Territory of Iowa was organized. It was mostly a wilderness, the entire Territory having but about 20,000 inhabitants.

On August 8, 1846, the population having increased to about 100,000, Congress enacted a law donating certain lands to the Territory for the purpose of improving the Des Moines River. This act was the beginning of a controversy of more than forty years' duration, which has culminated in the measure now under discussion.

My first intimate knowledge of this bill was obtained in this Congress. As a member of the Committee on Public Lands it became my duty to carefully examine all measures submitted to the consideration of that committee, and when my attention was demanded by this bill, which sought to forfeit the lands to which it referred, I speedily discovered that it contained features I could not approve.

I found that the President, during a previous Congress, had vetoed a similar bill, and I was surprised to be informed in the committee that the President had since admitted he was mistaken, and that if he had known the facts, he would not have interposed his veto. Upon that statement the bill swept through the committee.

After examining his veto I called upon the President in connection with the matter, because I was amazed to find that a paper so sound in law had been recanted by that laborious, painstaking, and vigilant Executive; and when I told him of the current report upon the subject he was astonished, and said there was no question which he examined more closely than this, and none in regard to which he was better satisfied.

When an effort was made to report the bill as a privileged measure I opposed the motion, and the distinguished gentleman from New York [Mr. COX], who had been elected Speaker *pro tempore*, decided the bill was not of a privileged character. I regarded that decision as a termination of the controversy, but took the precaution to request that in the event the ruling of the Chair should be reversed I should be permitted to file a minority report, having previously notified the Committee on Public Lands that such was my intention.

THE BILL RUSHED THROUGH THE HOUSE.

On December 5, 1888, I walked upon the floor of the House and was startled to find the bill under discussion, and in answer to my inquiries was informed that the Speaker [Mr. CARLISLE] had reversed the decision of his predecessor *ad interim*, and that the bill was being put upon its passage.

The gentleman from New York [Mr. PARKER] had not reached Washington, but I learned that his gallant colleague [Mr. WHITE] had endeavored to stem the torrent, and had been battling bravely against his opponents, sustaining his position with arguments, facts, and judicial decisions, but apparently without effect, as they had swept him along before a resistless avalanche of declamation and sentimental sophistries, and the ardent impulses they enkindled. I was forcibly reminded of the written accounts of the Commune in Paris, sweeping law and order under the raging waters of passion.

I succeeded in obtaining the floor, and in the few moments accorded me protested against the measure with all the earnestness and vigor of which I was capable. But the time was so short it was impossible to clearly explain the objectionable features of the proposed legislation.

I then endeavored to amend, and finally to recommit the bill, but so ignorant was the House of the actual merits of the question at issue that the vote was almost unanimous in favor of the passage of the bill. On the vote by tellers to recommit but 4 members beside myself voted yea, while 160 voted no.

I had not heard the fervent appeals in favor of the bill and could not imagine what strange infatuation or hallucination had seized upon this body.

I appealed to Democrats to respect the President's veto, and was astounded to discover the remarkable change of opinion regarding our distinguished Executive which had taken place since the disastrous 6th of November.

I appealed to the House to postpone action upon the bill for a single day to give the gentleman from New York [Mr. PARKER] an opportunity to be heard, but that was refused.

I endeavored, unavailingly, to explain the injustice of asking a reversal of the decision of the gentleman from New York [Mr. COX] while I was absent.

INACCURACIES REGARDING THE MEASURE.

The following day I learned with some surprise that the gentleman from Illinois [Mr. PAYSON] in his earnest speech advocating the bill had given some members of the House the impression that the bill was not similar to the one vetoed by the President, but was framed in accordance with suggestions contained in the veto message. I will read the gentleman's language as published in the RECORD:

* * * In the last Congress when the President vetoed the bill upon grounds which I regard as not very substantial, but which I do not care now to discuss, as this bill meets the point that the President made, that a simple bill allowing action where action can not be had would not be objectionable. This bill does this.

This statement would indicate that the gentleman from Illinois [Mr. PAYSON] had been misled, as a careful comparison of the two bills shows that, in effect, they are substantially the same. To show that the President entertained a similar opinion I will read a paragraph from his veto of the Des Moines bill now before the House:

This bill is to all intents and purposes identical with Senate bill No. 150, passed in the first session of the Forty-ninth Congress, which failed to receive Executive approval. My objections to that bill are set forth in a message transmitted to the Senate on the 11th day of March, 1886. They are all applicable to the bill herewith returned, and a careful re-examination of the matters embraced in this proposed legislation has further satisfied me of their validity and strength.

Some days since, I was thunderstruck when I heard that the President had been told that this bill was entirely different from the one passed last year, and that it met the objections of his veto, whereupon I went to him and asked him if that were true, and he said it was.

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

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. PAYSON. It is clearly out of order for the gentleman now addressing the House to detail to the House what occurred between himself and the President of the United States with reference to this bill.

Mr. WEAVER. I hope he will tell how he convinced the President, and make it a part of his statement. [Laughter.]

The SPEAKER *pro tempore* (Mr. HATCH). The point of order is not well taken. It is a question of propriety to be determined by the gentleman from Alabama himself, how much of any conversation which he may have had with the President of the United States he will detail upon this floor.

Mr. WHEELER. I have not intimated that I attempted to convince the President. He is too good a lawyer to need advice on such a point, and a mere suggestion that a comparison of the two bills would show them to be the same, or substantially so, was all that the occasion called for. I only refer to the matter to illustrate the inaccuracies which have crept into the history and management of this remarkable measure.

THE TWO BILLS COMPARED.

The changes made in the bill under consideration—comparing it with that which was vetoed during the last Congress—were these: 1, the

preamble was omitted; 2, the words "prior bona fide" are inserted after the word "with," in the thirteenth line; 3, the word "and" is substituted for the word "or," in the seventeenth line; 4, the words "or their heirs" are substituted for the words "their heirs or their proper assigns," thereby omitting the words "or their proper assigns," in the twenty-first line; and 5, the words "as soon as practicable and within three years" are substituted for the words "within ninety days," in second line of second section.

These changes do not justify the statement that the bill we are considering meets the points made by the President in his veto message of March 11, 1886. The bill in its new form does not meet one single objection urged against the old one by the President.

The first section of the bill vetoed March 11, 1886, and the one vetoed February 22, 1889, both state that "certain lands are hereby declared to be public lands of the United States."

The second section directs the Attorney-General to institute suits at the expense of the United States in the terms I read:

SEC. 2. That it is hereby made the duty of the Attorney-General * * * to institute, or cause to be instituted, such suit or suits, either in law or equity, or both, as may be necessary and proper to assert and protect the title of the United States to said lands, and remove all clouds from its title thereto.

In his veto message of March 11, 1886, the President said:

This bill declares that certain lands which, nearly twenty-four years ago, the United States entirely relinquished are still public lands, and directs the Attorney-General to begin suits to assert and protect the title of the United States in such lands.

If it be true that these are public lands, the declaration that they are so by enactment is entirely unnecessary; and if they are wrongfully withheld from the Government, the duty and authority of the Attorney-General are not aided by the proposed legislation. If they are not public lands, because the United States have conveyed them to others, the bill is subject to grave objections as an attempt to destroy vested rights and disturb interests which have long since become fixed.

If a law of Congress could, in the manner contemplated by the bill, change, under the Constitution, the existing rights of any of the parties claiming interests in these lands, it hardly seems that any new question could be presented to the courts which would do more than raise false hopes and renew useless and bitter strife and litigation.

It seems to me that all controversies which can hereafter arise between those claiming these lands have been fairly remitted to the State of Iowa, and that there they can be properly and safely left; and the Government, through its Attorney-General, should not be called upon to litigate the rights of private parties.

It is very clear that these objections apply just as forcibly to the bill we are now considering as they did to that which Mr. Cleveland vetoed during the Forty-ninth Congress, and I assert that the bill now under consideration does not meet one single objection urged upon our consideration in the first veto message.

THE PRESIDENT'S SYMPATHY.

The President did not, in that message, manifest any want of sympathy for those settlers who located on these lands under the Browning decision. On the contrary, he carefully pointed out a proper, legal, and entirely adequate means of relief for them, in these words:

It is not pleasant to contemplate loss threatened to any party acting in good faith, caused by uncertainty in the language of laws or their conflicting interpretation; and if there are persons occupying these lands who labor under such disabilities as prevent them from appealing to the courts for a redress of their wrongs, a plain statute, directed simply to a remedy for such disabilities, would not be objectionable.

Should there be meritorious cases of hardship and loss, caused by an invitation on the part of the Government to settle upon lands apparently public, but to which no right nor lawful possession can be secured, it would be better, rather than to attempt a disturbance of titles already settled, to ascertain such losses and do equity by compensating the proper parties through an appropriation for that purpose.

Pursuant to that suggestion, I introduced the bill H. R. 8389, which in my opinion would have insured full indemnity to every bona fide settler who in good faith entered upon these lands under the belief that they were legally subject to homestead entry. That bill would have done justice to all injured parties and could have worked injustice to no one.

The bill now before the House declares a vast tract of land to be public land, and therefore the property of the United States. By far the greater part of these lands are occupied by farmers who purchased from the Des Moines Navigation and Railroad Company years ago. Many of them made their purchases after the supreme court of Iowa and the Supreme Court of the United States had repeatedly decided that the title of that company was valid and unassailable. On these lands they have made homes for their families and in them their entire fortunes are invested.

EVILS OF SUCH LEGISLATION.

With certain limitations, or exceptions of very doubtful meaning, the bill declares that these lands, improved by the toil and self-denial of their honest owners through many years, are in fact public lands; that they are not the property of the citizens whose arduous labors have converted a waste into one of the garden spots of earth, but that those who have wrought this marvel are mere squatters and trespassers on the public domain.

The principal daily paper, published in the very heart of the section where these lands are located, says there are seven hundred such farmers in Webster County alone who would lose their homes should this bill become a law.

This, Mr. Speaker, is not legislation. It is confiscation under nominal legal forms. It will, if the advocates of the bill are successful, establish a precedent which shall not be set while I am a member of this House if it be possible for me to convince the reason or to reach the consciences of my fellow-members.

The gentleman from Iowa [Mr. HOLMES] has exhibited a patent purporting to have been issued to one George Nest on the 15th day of June, 1866. In referring to the issuance of this patent the distinguished gentleman says:

These registers of the land office and the Government officers did not know whether the lands had been withdrawn from market.

THE MOST EFFECTUAL REMEDY.

The proper remedy for this patentee and the few others whom the Government officials improperly and illegally allowed to enter "reserved" land—land not subject to lawful entry—is suggested by the President and supported or indorsed by those who oppose this bill, and that remedy is a money compensation as indemnity for any loss they may have sustained.

The letters and petitions received by the Committee on Public Lands indicate that such an adjustment of the difficulty will be far more satisfactory to all the parties interested than the privileges which are conferred by this bill. There were quite a number of petitions from settlers before our committee last session, but I can not lay my hand upon them just at this time. My friend from Arkansas [Mr. MCRAE] hands me a letter from one Erastus R. Irving, who states that he was led to settle on the land in 1867 by the ruling of Secretary Browning. As evidence of the feelings of such settlers in the matter I will read part of Mr. Irving's letter:

Now, what we want to call your attention to is this: Many of us think an indemnity to the settlers will mete out more satisfaction and justice to them than such a law as the bill the President vetoed last session of Congress. An indemnity would give immediate relief, which has been delayed too long already. The bill vetoed gave us the privilege of going to law in the Supreme Court at Washington. Where is the poor river-land settler that has time or money to attend court in Washington? I know of none. And we think the same influence that has defeated all legislation on the river-land question for the last twenty years will do the same for the next twenty years. All we can see in the bill vetoed by the President is the privilege of lawsuits, and that means lawyers and big pay, so after a number of years the settlers will find the lawyers will own the land or more fees than the land will bring. Yes, give us an indemnity—or why not give us an optional indemity? Then if there are any that desire to have it the old way—of having it brought up year after year in Congress—let them have it, and let us that are entitled to and desire an indemnity have it immediately. Hoping you may see this matter as many of us do, and will introduce or recommend an optional clause in all bills introduced. Why our Representative urges the old vetoed bill we do not understand.

Very respectfully,

ERASTUS R. IRVING.

I think Mr. Irving will find that the old vetoed bill is urged because of the heavy pressure exerted by a strong lobby, the members of which hope to receive a large sum of money if their efforts prove successful.

LEGAL STATUS OF THE QUESTION.

Mr. Irving and others similarly situated know that the courts have invariably decided, in the many cases involving the question, that the land having been "reserved," the title obtained in 1867 is invalid. This is clearly expressed in Bullard *vs.* Des Moines and Fort Dodge Railroad, 122 U. S., 167. On pages 170–171 the court says:

On April 6, 1850, Secretary Ewing * * * issued an order withholding all the lands then in controversy from market, * * * which order has been continued ever since. * * * This court has decided in a number of cases, in regard to these lands, that this withdrawal operated to exclude from sale, purchase, or pre-emption all the lands in controversy.

On page 172 the court says:

During all of this controversy there remained the order of the Department, having control of the matter, withdrawing all the lands in dispute from public sale, settlement, or pre-emption.

After considering the plaintiff's contention that the joint resolution of March 2, 1861, terminated this reservation, the court decides that such was not the fact, and on page 174 says:

We do not think the joint resolution had the effect to end the reservation of these lands from public entry.

And on pages 175 and 176 the court disposes of the entire matter in these words:

The title of the plaintiff, therefore, rests upon settlements upon odd sections of land within 5 miles of the Des Moines River, which were reserved from sale or pre-emption at the time the settlements were made. Two of the settlements, which are the foundation of plaintiff's title, were made in May, 1862, only a few days before the passage of the act of July in the same year; and one of the settlements under which plaintiff claims was made after the passage of that act. The title was transferred by that act to the State of Iowa for the original purposes of the grant of 1846.

The object of this bill is to have a declaration of the court that the title of the plaintiff under those settlements and pre-emptions is superior to the title conferred by Congress on the State of Iowa and her grantees under the act of July 12, 1862. If the lands were, at the time of these settlements and pre-emption declarations, effectually withdrawn from settlement, sale, or pre-emption, by the orders of the Department, which we have considered, there is an end of the plaintiff's title, for by that withdrawal or reservation the lands were reserved for another purpose, to which they were ultimately appropriated by the act of 1862, and no title could be initiated or established, because the Land Department had no right to grant it. This proposition, which we have fully discussed, will be found supported by the following decisions, which are decisive of the whole controversy: Dubuque and Pacific Railroad *vs.* Litchfield, 23 How., 66; Wolcott *vs.* Des Moines Company, 5 Wall., 681; Homestead Company *vs.* Valley Railroad, 17 Wall., 153; Williams *vs.* Baker, and Cedar Rapids Railroad *vs.* Des Moines Navigation Company, 17 Wall., 144; Woolsey *vs.* Chapman, 101 U. S., 755; Dubuque and Sioux City Railroad *vs.* Des Moines Valley Railroad, 109 U. S., 329, 334.

The judgment of the supreme court of the State of Iowa, founded on the same view of the subject as above set forth, is therefore affirmed.

MISTAKES OF EAGER ADVOCATES.

Mr. Speaker, the gentleman from Iowa [Mr. HOLMES] has made some statements here to which I now wish to refer. He has stated that no

deed to this land was ever made to the company. Why, sir, here in the report is a regular indenture making an absolute deed to the company. This was in 1858.

My friend from Iowa [Mr. HOLMES] has not stated the case as clearly as he should. I read the deed as embodied in the report which was made by the gentleman from Illinois [Mr. PAYSON], pages 11 and 12:

This indenture, made this 18th day of May, 1858, by and between the State of Iowa, party of the first part, and the Des Moines Navigation and Railroad Company, parties of the second part, witnesseth that the party of the first part, for and in consideration of $1 paid by the parties of the second part, and in pursuance of the contracts and agreements between the State of Iowa and the said Des Moines Navigation and Railroad Company for the improvement of the navigation of the Des Moines River, in the State of Iowa, and in pursuance of a joint resolution of the General Assembly of the State of Iowa, approved the 22d day of March, 1858, does hereby sell, grant, bargain, and convey to the said Des Moines Navigation and Railroad Company the following-described lands, to wit: All lands granted by an act of Congress approved August 8, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the General Government, saving and excepting all lands sold and conveyed or agreed to be sold or conveyed by the State, by its officers and agents, prior to the 23d day of December, 1853, under said grant; and said company or its assigns shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the General Government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of said grant, entirely released from any claim by or through said company. And it is understood that among the lands excepted and not granted by the State to said company are 25,487.87 acres lying immediately above Raccoon Fork, supposed to have been sold by the General Government, but claimed by the State of Iowa.

To have and to hold the above-described lands and each and every parcel thereof, with all the rights, privileges, immunities, and appurtenances of whatever nature thereunto belonging or appertaining, unto the Des Moines Navigation and Railroad Company, their successors and assigns forever, in fee-simple.

In testimony whereof I, Ralph P. Lowe, governor of the State of Iowa, have caused the great seal of the State of Iowa to be hereunto affixed.

Given under my hand at the city of Des Moines the day and year first above written, and of the State of Iowa.

[L. S.] RALPH P. LOWE.

By the governor:

ELIJAH SELLS, *Secretary of State*,
By JNO. M. DAVIS, *Deputy*.

The report then asserts:

This is the deed under which the navigation company and its assigns claim.

After that, at the December term, 1859, the Supreme Court declared that the grant to the State of Iowa of 1846 did not include the lands above Raccoon Fork.

Mr. WEAVER. And these lands are above the Fork?

Mr. WHEELER. Yes, sir.

The case is reported in 23d Howard, page 66. The style of the case is Litchfield *vs.* Railroad.

Mr. HOLMES. Will the gentleman allow me one question? Will he tell us how much of these lands were ever patented by the United States to this company?

Mr. WHEELER. Well, the deed was made to the navigation company which conveyed all the title of the State of Iowa.

Mr. HOLMES. How much of the land was ever patented to this company by the United States; one acre?

Mr. WHEELER. I can not stop to talk about those things. [Laughter.] I have but a few minutes to discuss this branch of the subject. The deed was made by the State of Iowa to this company for a valuable consideration.

Even if patents were not issued it does not invalidate the title of the land company.

I read from 5th Wallace, page 681. The case is Wolcott *vs.* Des Moines Navigation Company.

This decision holds that the Des Moines Navigation Company have a good title to the lands in controversy, and these are the lands the bill we are considering proposes to declare to be public lands.

The syllabus says that the clause of the act of May 15, 1856, which referred to reserved lands, operated in connection with subsequent legislation to reserve for the purpose of aid in the improvement in the navigation of the Des Moines River an equal moiety, in alternate sections, of the public lands on and within 5 miles of the said river, between the "Raccoon Fork," so called, and the northern boundary of the State.

The decision, page 686, says:

The question as to the true construction of this grant of 8th August, 1846, and in respect to which such great diversity of opinion existed among the executive officers of the Government, came before this court, and was decided at the December term, 1859-'60. The court held that it was limited to the Raccoon Fork, and did not extend above it. (22 How., 66, Dubuque and Pacific Railroad Company *vs.* Litchfield.)

Whereupon, on the 2d of March, 1861, Congress passed a joint resolution providing that "all the title which the United States still retain in the tracts of land along the Des Moines River, and above the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior, as part of the grant by act of Congress approved August 8, 1846, and which is now held by bona fide purchasers under the State of Iowa, be, and the same is hereby, relinquished to the State." And on the 12th July, 1862, Congress enacted "that the grant of lands to the then Territory of Iowa for the improvement of the Des Moines River by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within 5 miles of said river, between the Raccoon Fork and the northern boundary of said State. Such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines and Minnesota Railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa approved March 22, 1858."

If the case stopped here it would be very clear that the plaintiff could not recover; for, although the State possessed no title to the lot in dispute at the time of the conveyance to the Des Moines Navigation and Railroad Company, yet, having an after-acquired title by the act of Congress, it would inure to the benefit of the grantees, and so in respect to their conveyance to the plaintiff. This is in accordance with the laws of the State of Iowa.

The gentleman has said that the company did not do the work. The Supreme Court in its decision says they did the work. In the case of Bullard against Des Moines Railroad, page 171, the court says that "large sums of money have been spent by the company." The decision also says that "no money was used for all this work except what was used by the navigation company."

In alluding to the resolution of March 2, 1861, and the act of July, 1862, the Supreme Court used these words:

That the propriety of some action by Congress, and the demand for it was pressing, is obvious, when we consider that the Des Moines Navigation Company, under contract with the State, had spent large sums of money beyond what they had received from the State, and beyond the value of the lands certified to the State by the Secretary. The work, with all the materials and implements on hand, was suspended, and the danger of the works being swept away and ruined by the floods in the river was imminent.

This decision also says (page 169) that the work progressed for a number of years, several dams and locks being built from the mouth of the river upward, and the means of payment came solely from the sale of lands granted to the State for that purpose.

The exact language of the court (pages 169, 170) was:

The contract for the execution of the work came into the hands of a corporation called the Des Moines Navigation Company. The work progressed for a number of years, several dams and locks being built from the mouth of the river upwards, the means for paying the contractors coming solely from the sales of lands granted to the State for that purpose.

In the Wolcott case, page 689, the decision says:

The improvements of this river were in progress at the time of the passage of the act of 1856, and had been for years, but were suspended soon after, on account of the refusal of the Land Department to certify any more sections under the act of 1846, and, as appears from the certificate of the governor of Iowa, the sum of $332,634.04 had already been expended by these defendants under their contract.

I call especial attention to the fact that the Bullard decision says (page 170):

The State made no appropriations and furnished no means from any other source than this for the prosecution of the enterprise.

Certainly no one will deny that this sum was spent by the company prior to 1856, and it is contended that the total amount expended by them was $1,300,000. The gentleman also says there is no politics in this. Why, sir, the report itself, made by the gentleman from Illinois [Mr. PAYSON], says that there is a great deal of politics in it. On page 25 of the report he declares that it is *the* political question in that country. It says:

The question of the validity of this title has been the principal subject of discussion in the locality for now nearly a generation, and has lost nothing of intensity by the lapse of time. At local elections it is the one supreme issue, overshadowing all others.

The gentleman from Iowa [Mr. HOLMES] says that this navigation company got indemnity lands. My information is to the effect that they did not get one acre of indemnity lands. Those lands were given to the State of Iowa; but that could not affect the navigation company, who had the deed for the lands, having spent, as is claimed, about $1,300,000 in improving the river.

The President in his veto message alludes to this claim for indemnity in these words:

It is claimed, I believe, that in a settlement of land grants thereafter had between the United States and the State of Iowa lands were allowed to the State in lieu or indemnity for some of the lands which it had conveyed to the Des Moines Navigation and Railroad Company. But if the title of the company is valid to lands along the river and above the Raccoon Forks under the deed from Iowa and the joint resolution and act of Congress, it can not be in the least affected by the fact that the State afterwards, justly or unjustly, received other lands as indemnity.

THE SUITS NOT COLLUSIVE.

At the time when the grant was made Iowa was a Territory; there were but twenty thousand people there, and the land was probably worth only about 25 cents to $1 an acre, and the company agreed to take those lands and advanced their money to accomplish the work which the Supreme Court says was done. Something has been said about collusion. The gentleman from Iowa [Mr. HOLMES] and the gentleman from Illinois [Mr. PAYSON] state that these suits were collusive. Here are ten suits in the Supreme Court of the United States, every one affirming the title conveyed by this deed, made thirty-one years ago, giving an absolute title to the navigation company. The decisions also expressly assert that when the act was passed in 1861 and 1862, extending the grants above the Raccoon Fork, it inured to the benefit of the navigation company.

The Bullard case originated in a county court in the State of Iowa. It was decided by a State judge, the decision was affirmed by the supreme court of the State of Iowa, and was finally affirmed by the Supreme Court of the United States. Many of the other cases came from the State courts of Iowa, and the gentleman from Illinois [Mr. PAYSON] and the gentleman from Iowa [Mr. HOLMES] would have Congress believe that during thirty years the courts of Iowa and the Supreme Court of the United States have been guilty of the great impropriety of deciding collusive cases for the purpose of aiding and abetting fraud.

Such insinuations are an insult to the people and the judiciary of the State of Iowa and of the United States.

The advocates of this bill assert that there is no question as to the propriety of its passage. When the gentleman from Illinois [Mr. PAYSON] made the report he was not so confident. In that report he says:

The committee, while believing that the claim of the settlers is well founded, do not claim that the case is free from doubt. It is possible the Government has no title and that that of the navigation company is good in law.

LOBBYISTS EAGER FOR THE BILL.

The gentleman also said something about lobbying. There has been no lobbying that I have heard of to defeat this bill, but I hold in my hand one of the blanks of the "Settlers' Union," which I am informed is a lobbying organization. Parties were sent out there, so I am informed, and got the settlers to make this contract with them, agreeing to give a dollar an acre upon their lands if this legislation could be effected, and that obligation was made a lien upon the land, and that is the explanation of the lobbying that is being done here to get this bill through, to declare to be public lands these lands which the gentleman from Iowa himself [Mr. HOLMES] says are now worth a hundred dollars an acre.

Note to Settlers' Union.

FORT DODGE, IOWA, ——— —, 187-.

Sixty days after the resumption of the so-called river lands, by act of Congress, as Government land, by which acts, as a bona fide settler, I may perfect my title under Government to the following lands, to wit:

The ——— ——— of section No. ——, township No. —— north, of range No. —— west, fifth P. M., Iowa.

I promise to pay to treasurer of Settlers' Union, or bearer, the sum of ——— dollars, being at the rate of $1 per acre on said tract so confirmed by Congress in me by means of resumption of the so-called Des Moines navigation and railroad lands. Said sum so owing by me shall be and become and remain a mortgage lien on said piece or parcel of land claimed by me until said note is paid. Also, said note is and shall be a special lien on any compensation or indemnity that may be granted by Congress and accepted by Settlers' Union or myself in lieu of said land, and be paid as soon as such compensation or indemnity is set apart for such purpose by such act, and retained out of such moneys by the "Settlers' Union" for payment of this note.

But in case the Settlers' Union fails to secure the title as above, or compensation or indemnity, then this note is null and void.

STATE of IOWA, ——— *County, ss:*

On this —— day of —— 187-, before me, a —— in and for said county, personally appeared ——— ———, to me well known to be the identical person whose name is signed to the foregoing instrument, and acknowledged same to be his voluntary act and deed.

Witness my hand and seal the day and date herein written.

It will therefore be seen that under this contract the Settlers' Union could, within sixty days after this bill became a law, collect $1 per acre from all holders of lands who entered into this agreement, and I am informed that the land affected will aggregate 200,000 acres. But I wish it distinctly understood that I only make this statement from information.

THE HOME PRESS ON THE BILL.

I have here a paper from the very field of controversy. It is the Daily Chronicle, of Fort Dodge, Iowa, a recent editorial in which asserts that this bill if passed will work ruin to that country. It says that there are not more than twenty-five men who can be benefited by the bill; that in one county alone, Webster, there are seven hundred farmers who bought their lands of the navigation company after the Supreme Court had six times said the title of the navigation company was good—men who built their homes on those lands, and who, if the title of the navigation company be declared invalid, will be ruined.

Mr. PAYSON. Will the gentleman permit a single suggestion? I know he desires to be accurate.

Mr. WHEELER. Yes, sir.

Mr. PAYSON. Does not the gentleman know that this bill in express terms validates the title of every man who is in possession under the navigation company?

Mr. WHEELER. To the extent only of 160 acres; and it does it in such terms as to make it very doubtful what will be the result. Some of the very best lawyers say that it will not validate the title; and this paper says so. I will read the article:

RIVER LAND BILL—HOW IT WILL AFFECT THE INTERESTS OF WEBSTER COUNTY.

The Chronicle has deferred expressing any opinion upon this important question until all parties had been heard and the views and opinions of those familiar with it and its probable bearing upon the growth and prosperity of our county had been fully canvassed. It has been a subject of discussion abroad by those unacquainted with the facts, as well as at home, and the Chronicle has spared neither money nor time to acquaint itself with the facts and details, that its readers as well as the public at large may understand the significance of the bill and its probable effect upon property interests in this county as well as Polk, Boone, Dallas, and other counties touched by the Des Moines River land grant.

THE HISTORY OF THE GRANT,

without going into detail, is substantially as follows:

Congress in 1846 granted to the then Territory of Iowa, for the purpose of improving the Des Moines River from its mouth to the Raccoon Forks, certain lands, consisting of each alternate section in a strip 5 miles in width on each side of said river. The State, after having entered upon the improvement, made a contract with the Des Moines Navigation and Railroad Company to carry on the work, they to succeed to all the rights of the State under the grant.

Afterwards a question arose as to the extent of the grant, the State and river land company claiming it extended to the extreme limits of the State, the contract between the State and river land company having been entered into under this construction of its terms, but the Government Land Department held it did not extend above the Raccoon Forks, and refused to certify any further lands above said forks, it having already at that time certified about 297,000 acres above the Raccoon Forks (which are the lands in controversy). Thereupon, and in 1858, by a joint resolution of the Legislature of Iowa, a settlement was had between the State and the river land company, by which the State conveyed all the lands thus certified above the Raccoon Forks to the river land company and released said company from any further prosecution of the work.

In 1860 the United States Supreme Court found the original grant did not extend above the Raccoon Forks, thus invalidating the title of the State and its grantees, the river land company, to the land that had been certified above the Forks. But March 2, 1861, Congress released to the State for the benefit of its grantees (the river land company) all lands which had been certified to the State above the Raccoon Forks. During the controversy between the State and river land company on one side and the Government Land Department on the other as to the extent of the grant the lands in dispute had been reserved from entry. Yet notwithstanding such reservation parties entered and located upon many of the lands, and in some instances patents were issued. The Supreme Court again being called upon to pass upon the validity of the river land title held that under the act of Congress of March 2, 1861, it was confirmed and made valid, and that the lands not being subject to entry at the time of settlement (having been reserved from sale and entry) the patents issued to settlers were void.

NO LESS THAN TEN DECISIONS

of the United States Supreme Court have been rendered upon this title, each time confirming the validity of the river land title as against the settler, besides decisions of our State supreme court to the same effect. The bill now before Congress proposes in effect to

DECLARE THESE LANDS AS PUBLIC LANDS

of the United States; it proposes further to issue patents, upon the payment of the usual fees, to all persons "who, with intent in good faith to obtain title thereto under the laws of the United States, entered or remained upon any tract of said land prior to January, 1880, not exceeding 160 acres."

No record evidence of the entry upon the land or of the intention to enter is made necessary by the terms of the bill; nor is it necessary that they should be upon or have remained upon the land any specified time, having gone upon it with the intention of entering, etc., being sufficient.

It again proposes to quiet the title of the river land company and its grantees to all lands "which do not come in conflict with persons who, with intent in good faith to obtain title thereto under the laws of the United States, settled upon said lands prior to January, 1880." To accomplish the purposes of the bill it authorizes the bringing of an action by the Attorney-General within three years after its passage, "to assert and protect the title of the United States," thereby relegating the question to that tribunal, the courts, which have already repeatedly affirmed the title of the river land company. But it is not the intention of the Chronicle to consider the legal question involved in the bill, but only the effect its passage will have upon our national prosperity and property generally throughout our county.

There were certified under the grant and above the Raccoon Forks lands aggregating 297,000 acres. Of these 90,746 acres are located in Webster County. The aggregate number of acres of land in Webster County approximates 450,000, so that one-fifth of the lands in this county are directly affected by the bill.

ONE-FIFTH OF OUR FAMILIES

are owners and occupants of the lands purchased from the river land company and its grantees. The aggregate vote of Webster County for secretary of state at the late election, exclusive of Fort Dodge, was 3,281, deducting 500 for the votes in the smaller towns, and we have approximately 2,781 farmers in our county. Of this number one-fifth, or 756 of our farmers, are directly affected by the bill. A careful canvass of the county shows that there are to-day less than 75 farmers claiming and occupying lands adverse to the river land company (and Webster County contains more than any other county); of this number about 30 are claiming as assignees of the original occupants, having purchased the claims for a mere nominal consideration; about 20 have claims inclosed which they cultivate or pasture, having adjoining farms; the remaining 25 being bona fide settlers who have made improvements under an abiding faith in the Government title, against whom though, with perhaps one or two exceptions, judgments exist for possession, and they may be evicted at any time, nor would the bill prevent this, as it could not stop the process of the court.

We have then in this county approximately

SEVEN HUNDRED FARMERS

who are actual bona fide purchasers from the river land company and its grantees, each and every one of whom, under the present bill if passed and sustained by the courts, would lose their farms, providing they had at any time formerly to purchase been occupied by any one with the intention of entering, pre-empting, etc., as stated in the bill; and what means have they of ascertaining whether their farms were ever so occupied? Absolutely none. They must wait and see if any such claim is made; and what means have they of controverting such claims when made? Absolutely none. When we consider that most all these lands have at some time been claimed adverse to the river land company, the claimants now being scattered to the four winds, we appreciate the magnitude of the dangers. Any one crossing our prairies twenty-five years ago, and who pitched his tent over night on the land now transformed into a beautiful farm, may appear with his family, swear to a state of facts as to his intentions, etc., that would entitle him to the land. We do not think the rights of property should be jeopardized by such loose legislation.

But again, an examination of the records show there are existing to-day in this county over $400,000 of mortgage loans upon these lands, being an average of nearly $5 per acre for all river land in this county, made by our farmers as grantees of the river land company to almost every individual and loan company that lend money in Webster County. The Ætna Life Insurance Company, the Northwestern Mutual Life Insurance Company, the Scott County Savings Bank are a few of the companies the Chronicle saw upon examining the mortgage record. What is to become of these mortgages if the river-land title is not good? A decision of the courts such as the bill seeks to procure

WOULD WORK UNTOLD HARDSHIPS

to hundreds of farmers who have purchased their lands from the company in this county and thousands of farmers in Polk, Dallas, Boone, and other counties touched by the grant. But would not the naked passage of the bill work almost an equal hardship? We have seen that hundreds of thousands of dollars are loaned upon these lands in our county alone to purchasers from the river land company. Under the terms of the bill no action need be brought for three years. Well-informed lawyers say that not less than four years are required to procure a hearing in the United States Supreme Court, its docket being so crowded. Allowing three years for delays and trials in the lower court, a moderate allowance, and we can not hope for a decision short of ten years.

The loans mature, the mortgagees refuse to renew because of the litigation, foreclosures follow, and hundreds of farmers in this county and throughout the extent of the grant lose their farms. It would not do to say the courts will again sustain the river land title, for loan companies will not enter into an examination of facts, or pass upon the merits of a legal controversy. But again the treasurer's books show that there have been paid by the river land company and its grantees in this county alone $277,000 of taxes up to and including the year 1886, the settlers having paid no taxes. This amount with 6 per cent. interest from the time of payments, aggregating in round numbers $500,000, would represent the amount Webster County would be called upon to refund

should the lands be declared Government lands by our courts, for, in the opinion of many of our best lawyers who have been consulted regarding this phase of the question, we can not take the taxes and the land both; if they were Government lands they were not subject to taxation. Webster County had an assessed valuation in 1887 upon real estate of $3,225,150; the amount of the tax which we would be required to refund under a finding of the court as sought by the bill would be equal to nearly one-sixth of the assessed valuation of our real estate—an amount sufficient to

BANKRUPT OUR COUNTY

and every farmer within our border, for this would fall upon all property alike. We ask, can the property interests of our county have such a cloud resting over it and the county itself prosper and grow? Would not the fear of this contingency arising drive emigration from us? Would not the many farmers who are selling their high-priced farms in the East, and seeking homes and cheaper lands in Iowa, pass us by and go into those sections where no such dangers threaten? Would not the fear of such a judgment against the county and its consequent lien upon all landed and property rights practically close the channels of real estate operations in our midst until the questions were finally determined, which would not, we fear, be within the lifetime of many of the Chronicle subscribers?

While there are some few remaining who have suffered hardships by reason of the failure of their title, could not some remedy be provided that would sufficiently compensate them and at the same time work no injustice or hardship upon the many who have purchased, cultivated, and improved their farms under their faith in the river land title as established by the decisions of our courts? Would not the chaos arising from the passage of the bill in the litigation it would produce, the conflict of title, the clamor for the payment of mortgage loans, the fear of a recovery for taxes check our growth and ruin our prosperity, and would not the passage of the bill alone, regardless of any decision of the court, be attended with all these evils? We believe that these are questions vital to our prosperity as a community, that these are dangers now threatening us and should be considered by all those having the good of the whole community at heart.

I think this article shows conclusively that the passage of this bill would inflict untold hardships upon the people of Des Moines valley.

Mr. HOLMES. Does not the gentleman know that the man making that statement has a "large slice of the pork?"

Mr. WHEELER. No; I do not know it and I do not believe it. But even if he did, it would not prove the statements untrue. The paper from which I have quoted is dated January 13, and if the assertions it makes were not true they would have been authoritatively denied long before this date.

Mr. HOLMES. I refer to John F. Duncan, of Fort Dodge.

Mr. WHEELER. This is not from Mr. Duncan. The Daily Chronicle is edited by W. E. Duncombe.

Other papers have expressed similar views. I have made no effort to procure them, but I have the Washington Post of this city, which contains a press dispatch which I will read:

THE DES MOINES LAND BILL VETO.

FORT DODGE, IOWA, *February* 24.

News of the veto of the Des Moines River land bill was received here with general surprise. Lawyers sustain President Cleveland from a legal standpoint, while the opinion of business men as to the merits of the veto are divided.

Mr. McRAE. I want to say, with the consent of the gentleman from Alabama, that the bill itself confines this confirmation of titles to those who are claimants under the homestead or pre-emption laws——

Mr. WHEELER. Exactly. And I think that if the persons sought to be benfited have ever exercised their right to enter land under the homestead law they would be excluded from any advantages under the act. It would be a bad law at best.

Mr. McRAE. And does not pretend to confirm the title of settlers who purchased from the company. I called the attention of the gentleman in charge of the bill to that point when it was under consideration, and he refused to permit an amendment. That class of settlers are not protected.

POSSIBLE INJUSTICE TO OCCUPANTS.

Mr. WHEELER. This paper says that under the terms of the bill any person who crossed the country twenty years ago and spent one night on those lands can, should this bill become law, now come in and swear that he intended to settle, enter the land, and take a title away from a man who paid $100 an acre and spent all his fortune building up a home for himself and his family.

In regard to the statement about some one being dismissed from Congress because he advocated some bill in connection with this matter, I wish to say that I know nothing about it; this is the first time I have heard of it. I do not believe the case if it existed had anything to do with this bill, because if so it certainly would have come to light during some of these discussions.

To refer again to the charge of collusion between litigants in the cases I have cited. Is it possible that a case could come up in the Supreme Court and a decision be had by collusion? Take the Bullard decision. That case commenced in the State of Iowa in a county court. That court held that the land belonged to the navigation company. The case then went to the supreme court of Iowa. That court said that the land belonged to the navigation company. Then it came to the Supreme Court of the United States, which affirmed the decision.

Mr. HOLMES. Did the navigation company earn the land?

Mr. WHEELER. They did earn it.

Mr. HOLMES. How?

Mr. WHEELER. The Supreme Court says that they spent $332,634.04 prior to 1856, and the contract called for the expenditure of $1,500,000, and I presume the officials of Iowa required a compliance with the terms of the contract. If they did not they neglected their duty.

Mr. HOLMES. That is what they were to spend.

The SPEAKER *pro tempore*. The Chair requests the gentleman from Iowa [Mr. HOLMES] not to interrupt the gentleman from Alabama without his consent.

Mr. WHEELER. The Supreme Court of the United States affirmed the Bullard case after affirming nine previous decisions. This article in this paper of January 13, which I have read to the House, shows that the navigation company and their grantees in Webster County had already paid $500,000 as taxes. If their title is declared invalid they will have a claim against the State of Iowa for that amount. This paper also states that all these persons, or most of them, have mortgaged the lands and that the mortgages are being foreclosed because of this very legislation. If there are men who are harmed by conflicting decisions on the part of the Government, let the Government compensate them and not ruin seven hundred farmers in Webster County alone in order to give a possible advantage to twenty-five, the number of persons actually interested. The gentleman from Illinois [Mr. PAYSON] himself says in his report that the number does not exceed two hundred and fifty; and that report was made four years ago. Mr. Viele, a gentleman who is well informed, says that there are but thirteen left who can possibly be benefited by the bill, and this paper says that under no circumstances can the number exceed twenty-five.

Now, is it possible that this Congress will proceed in a line of legislation which is worse than anything ever proposed by the commune of France—taking property from one set of men for the purpose of making it possible that it may be acquired by others?

SETTLERS WOULD DERIVE NO BENEFIT.

Mr. COX. I would like to ask the gentleman a question. Of what benefit would the passage of this bill be to these occupying claimants, or to the remnant of them, in the face of the past decisions and the future decisions of the Supreme Court of the United States in parallel cases?

Mr. WHEELER. As the President says, it would simply hold out delusive invitations to them, and they would be deceived and defeated when they came to the Supreme Court. The President in his message says:

It is by no means certain that this proposed legislation relating to a subject peculiarly within the judicial function, and which attempts to disturb rights and interests thoroughly intrenched in the solemn adjudications of our courts, would be upheld.

He also says:

I do not believe that the condition of these settlers will be aided by encouraging them in such further litigation as the terms of this bill invite, nor do I believe that in attempting to right the wrongs of which they complain legislation should be sanctioned mischievous in principle, and in its practical operation doing injustice to others as innocent as they and as much entitled to consideration.

The State courts have decided the same way as the Supreme Court over and over again; and it seems to me impossible for any case to arise where benefit would result to the parties from this legislation.

The courts have decided that the title of the navigation company under the conveyance made by the State is valid and absolutely unassailable, and certainly no one will contend that Congress can enact a law which would deprive the company of their vested rights judicially established. But suppose the navigation company had never acquired title to these lands. Even then the settler would not have been in any better position, for, as we have seen, the courts have, over and over again, decided that the lands were lawfully "reserved" in 1849, and therefore they were never thereafter subject to entry or pre-emption. It seems to me that no one could be benefited by the passage of this bill except the "Settlers' Union" and the lobby which represents them.

A MODEL AND STAINLESS EXECUTIVE.

Now, Mr. Speaker, when this case was up before, when I was appealing to the House not to pass this bill, and when I spoke of the former veto, I was pained to hear gentlemen around me say, "Oh, who cares for Mr. Cleveland now, he is defeated." Mr. Speaker, I care more for him now than I did in the hour of his triumph. I care more for that great man and admire him more in this day of his defeat, for the grandeur of his action, than I did when men hailed him as the manifest child of a glorious destiny.

Is there a man within the sound of my voice—or throughout this broad land—who can honestly question my assertion that Mr. Cleveland exercised all of his undoubted talents and ability in a sincere and unselfish effort to advance what he believed to be the best interests of the Republic.

Politically he may have made some mistakes. He probably felt that the masses of the people would have a higher appreciation of his honest endeavors to serve them than is shown by the result.

It is melancholy to reflect that there were a sufficient number of voters—nominally American freemen—who for a few dollars could be induced to cast their ballots so as to compass the defeat of so admirable and so blameless a President as Grover Cleveland had proved himself.

No President, sir, ever devoted himself more faithfully and laboriously to his duties; no President was ever more scrupulous in informing himself of the actual merits of every legislative measure submitted for his approval; no President was ever more rigorously consistent in fulfilling every pledge upon which he was elected; no President has

ever vacated his high office with a more stainless record for unswerving honesty, unimpeachable integrity of act and purpose, and unshrinking devotion to duty as he understood his obligations to himself and to the people. [Applause.]

Mr. SENEY. Are you not giving the President taffy?

Mr. WHEELER. No; I am not. Mr. Cleveland merits the loftiest encomium that could be passed upon his official services by the most eloquent gentleman who ever stood upon this floor, and I only regret that I am not equal to the task of dealing fitly with so inspiring a theme.

I appeal to the House to uphold the President, a most careful official, who examined the case thoroughly two years ago and vetoed the bill which had passed through Congress, and who, after three years' further consideration, going over and reviewing the whole matter in all its bearings and aspects, has again vetoed it, entering largely into the complicated questions involved, submitting to us additional and cogent reasons which controlled his action.

HISTORY OF THE CONTROVERSY.

In order that the House may fully understand and vote intelligently on the question now before us, I ask attention to a detailed statement of the legislative and judicial history of this extraordinary and protracted controversy.

This controversy originated in conflicting constructions of the intent and purpose of Congress in making the original grant to the Territory of Iowa, August 8, 1846. The phraseology, it will be seen, is perhaps somewhat ambiguous, and therefore each side to the controversy may claim to have been justified. The original grant is in these words:

An act granting certain lands to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River, in said Territory.

Be it enacted, etc., That there be, and hereby is, granted to said Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines River from its mouth to the Raccoon Fork (so called), in said Territory, one equal moiety, in alternate sections, of the public lands (remaining unsold and not otherwise disposed of, incumbered, or appropriated), in a strip 5 miles in width on each side of said river, to be selected within said Territory by an agent, or agents, to be appointed by the governor thereof, subject to the approval of the Secretary of the Treasury of the United States.

SEC. 2. *And be it further enacted*, That the lands hereby granted shall not be conveyed or disposed of by said Territory, nor by any State to be formed out of the same, except as said improvement shall progress; that is, the said Territory or State may sell as much of said lands as shall produce the sum of $30,000, and then the sales shall cease until the governor of said Territory or State shall certify the fact to the President of the United States that one-half of said sum has been expended upon said improvements, when the said Territory or State may sell and convey a quantity of the residue of said lands sufficient to replace the amount expended, and thus the sales shall progress as the proceeds thereof shall be expended, and the fact of such expenditure shall be certified as aforesaid.

SEC. 3. *And be it further enacted*, That the said river Des Moines shall be and forever remain a public highway for the use of the United States, free from any toll or other charge whatever, for any property of the United States or persons in their service passing through or along the same: *Provided always*, That it shall not be competent for the said Territory, or future State of Iowa, to dispose of said lands, or any of them, at a price lower than, for the time being, shall be the minimum price of other public lands.

SEC. 4. *And be it further enacted*, That whenever the Territory of Iowa shall be admitted into the Union as a State, the lands hereby granted for the above purpose shall be and become the property of said State for the purpose contemplated in this act, and for no other: *Provided*, The Legislature of the State of Iowa shall accept the said grants for the said purpose.

Approved August 8, 1846.

The discussions in Congress at the time of the passage of this act showed that it was well understood that the Territory would soon become one of the States of the Union.

The act admitting it as a State became a law March 3, 1845, more than one year and a half before August 8, 1846, and on December 28, 1846, less than four months after the enactment of the grant, Iowa became a State, and her Senators and Representatives were admitted to seats in Congress.

SPECIFIC PURPOSE OF THE GRANT.

The grant of land was made for the specific purpose of improving the Des Moines River. It seems that Congress did not think it judicious to permit the granted lands to be sold faster than the continued and uninterrupted progress of the work required, and the second section of the act of 1846 contained this provision:

The said Territory or State may sell so much of said lands as shall produce the sum of $30,000, and then the sales shall cease until the governor of said Territory or State shall certify the fact to the President of the United States that one-half of said sum has been expended upon said improvements, when said Territory or State may sell and convey a quantity of the residue of said lands sufficient to replace the amount expended, and thus the sales shall progress as the proceeds thereof shall be expended, and the fact of such expenditure shall be certified as aforesaid.

By the language of the act the improvement contemplated was to extend only from the mouth of the Des Moines River to Raccoon Fork, but a fair and reasonable construction of the words defining and specifying what was donated shows that the grant itself was subjected to no such limitation, for it embraced—

One equal moiety, in alternate sections, in a strip on each side of said river.

Not on each side of any designated part or portion of the river, but "on each side of said river," the intention being, if language is to be construed according to its ordinarily accepted signification, on each side of the river throughout its entire length within the Territory. And this rule of how language must be construed was laid down by Chief-Justice Marshall when he insisted upon that construction—

Which the words of the grant, as usually understood, import. (Gibbons vs. Ogden, 9 Wheaton, 139.)

The facts and conditions touching the public lands in the Territory existing at the time of the grant, which must have been known to Congress, clearly show that it was not intended to confine the grant of alternate sections to that portion of the river between its mouth and Raccoon Fork. The larger part of the lands lying below Raccoon Fork had been entered and disposed of, and the portion remaining in the control of the Government could not possibly have been made to realize a sum sufficient to complete the improvement contemplated. On the other hand, the great bulk of the lands lying above Raccoon Fork were then unsurveyed, and the undisputed title must still have remained in the Government. The actual figures, according to the estimates of the General Land Office, showed that below the Fork the Government owned, in round numbers, 200,000 acres, while above that point the Government owned, in the Territory of Iowa, about 800,000 acres.

THE CONTROVERSY OPENED.

In his latest veto the President states that—

The Acting Commissioner of the General Land Office, on the 17th day of October, 1846, instructed the officers of the land office in Iowa that the grant extended only to the Raccoon Fork.

But it has always been contended by the State of Iowa, and by her Senators and Representatives in Congress, that the grant embraced the designated lands on each side of the river from its mouth to the northern boundary of the State, and this construction has been sanctioned by many of the leading jurists of the United States.

The Legislature of Iowa accepted the grant in January, 1847, and appointed agents to select the lands specified in the grant under the direction of the General Land Office, which agents selected no lands lying above the junction of Raccoon Fork with the river.

The State, in the mean time, had appointed a board of public works, and a contract had been entered into with one O'Reily for the construction of the works designed to effect the improvement of the Des Moines River, under the direction and control of said board.

About this time the question of construction of the terms of the grant arose, and the matter was referred to the General Land Office, and under date of February 23, 1848, the Commissioner, Richard M. Young, gave the board his construction of the grant in these words:

A question has arisen as to the extent of the grant made to Iowa by the act of 8th August, 1846, and the opinion of this office has been requested on that point.

By the terms of the law the grant is of an equal moiety in alternate sections of the public lands remaining unsold and not otherwise disposed of, incumbered, or appropriated, in a strip 5 miles in width on each side of the river, to be selected within said Territory, etc., and the proceeds are to be applied in the improvement of the navigation of that river from its mouth to the Raccoon Forks. Hence the State is entitled to the alternate sections within 5 miles of the Des Moines River, throughout the whole extent of that river, within the limits of Iowa.

This apparently settled the question as to the extent of the grant, but in fact it was the starting point in that remarkable conflict of opinion which has culminated in the bill under consideration. The President disagreed with the Commissioner, and on June 19, 1848, issued a proclamation authorizing the sale of all the lands above the mouth of Raccoon Fork, under which some 25,000 acres were pre-empted and sold; but none of these lands are involved in the existing controversy.

In referring to this the President, in his veto message, says:

On the 23d day of February, 1848, the Commissioner of the General Land Office held that the grant extended along the entire course of the river.

Notwithstanding this opinion, the President, in June, 1848, proclaimed the lands upon the river above the Raccoon Fork to be open for sale and settlement under the land laws, and about 25,000 acres were sold to and pre-empted by settlers under said proclamation.

SECRETARY WALKER'S CONSTRUCTION.

The State of Iowa, through its board of public works, protested against this action of the President, which protest was supported by remonstrances from the Senators and Representatives, who appealed to the Secretary of the Treasury, Hon. Robert J. Walker, in whose Department—the Department of the Interior not having been organized—the General Land Office formed a bureau. The Secretary construed the grant as his commissioner had done—that is, that the grant extended throughout the extent of the river in Iowa, and pursuant to his instructions Mr. Young addressed a letter to the register and receiver of the land office at Iowa City, dated June 1, 1849, which was in these words:

GENTLEMEN: The Secretary of the Treasury having decided that the grant to the State of Iowa under the act of the 8th of August, 1846, extended along the Des Moines River to its source, and that it did not stop at the Raccoon Fork, as this office had previously decided, you are hereby directed to withhold from sale all lands situated on the odd-numbered sections within 5 miles on each side of that river above the Raccoon Fork. Inclosed I send you a diagram, upon which the State selections above that point are colored yellow.

I have also to request that you will make out a list, showing the sales and locations which have been made within these selections, as it is designed to endeavor to procure some legislative action on the part of Congress confirmatory of them. The diagram inclosed extends 83 north, 26 west, being as far as the surveys have progressed in that direction.

It will be observed that this order expressly withdraws from sale, or "reserves," "all lands on the odd-numbered sections within 5 miles on

each side of that river above the Raccoon Fork," and if the officers to whom it was addressed performed their duty properly it constituted the most complete notice to the public that could be devised, warning them that the lands thus withdrawn or "reserved" could not be entered by or disposed of to any person whomsoever. Of course if the local officers neglected their duty and failed to check off the "reserved" sections on their maps and records, or in some other way to indicate unmistakably the fact that the Government had relinquished the right to convey these lands, the notice to the public was imperfect, but surely no one will maintain that the unfaithfulness or inefficiency of an official of the General Government could prejudice the right of the State of Iowa and its grantees. But in this instance there was no such neglect, for it is in evidence that the lands designated in the order were checked off on the maps as rapidly as they were surveyed, and all persons seeking to obtain them by private entry were advised of the fact that they were no longer at the disposal of the Government.

THE RESERVATION LEGAL AND PROPER.

It has been argued that this order of withdrawal from private entry or the "reservation" of these lands was improperly made and could not rightfully be pleaded in bar of any alleged rights subsequently acquired. But in any aspect of the case this position is untenable.

If in the opinion of the distinguished then Secretary of the Treasury the proper construction of the act was that the grant did extend from the mouth of the Des Moines River to the northern boundary of Iowa, due regard for the rights of the Congressional grantee required that the designated lands should be "reserved." And even if the executive officer charged with the decision of the disputed question had doubted whether the grant terminated at the mouth of Raccoon Fork or extended along the entire length of the river to the northern boundary of Iowa, it would still have been his duty to direct the "reservation" of these lands by the local offices so that applicants seeking to obtain them by private entry would be prevented from taking possession of land from which they might be evcited.

Homes within the new State were being eagerly sought, and a faithful and honest officer who was in doubt as to the proper construction of the grant, regardful of the true interests of the new settlers, was bound to protect them against the acquisition of nominal property rights which a subsequent judicial construction of the grant might render absolutely void.

It is evident, therefore, that whether we regard the rights of the State under the grant, or of the settlers who were flocking into it, the "reservation" of these lands was eminently just and proper.

In the veto message now before us the President refers to this executive order of 1849 in these words:

> In 1849, and before the organization of the Department of the Interior, the Secretary of the Treasury decided, upon a protest against opening said lands for sale and settlement, that the grant extended along the entire course of the river.
>
> Pursuant to this decision, and on the 1st day of June, 1849, the Commissioner of the General Land Office directed the reservation or the withholding from sale of all lands on the odd-numbered sections along the Des Moines River above the Raccoon Fork.
>
> This reservation from entry and sale under the general land laws seems to have continued until a deed of the lands so reserved was made by the State of Iowa, and until the said deed was supplemented and confirmed by the action of the Congress in 1861 and 1862.

REVERDY JOHNSON'S CONSTRUCTION.

That deservedly eminent and justly distinguished lawyer, Hon. Reverdy Johnson, Attorney-General in President Taylor's Cabinet, held the same view as did Secretary Walker as to the proper construction of the act of 1846, as will be shown by the opinion rendered July 19, 1850, which I will read:

> The grant of alternate sections of land on the Des Moines River to Iowa by the act of 8th August, 1846, extends the entire length of the stream, as well above as below the Raccoon Fork. The purpose of the grant was to aid Iowa to improve the navigation of the said river from its mouth to the Raccoon Fork, but the grant itself is not limited to the section thus improved.
>
> But the question was disposed of by a former Secretary of the Treasury while the Land Office belonged to his Department, and the subject is now *res adjudicata* and beyond the control of the Secretary of the Interior.

In support of his position that by the action of Secretary Walker the question had been finally disposed of and was beyond the control of the succeeding superior of the Commissioner of the General Land Office, Mr. Johnson cited the case of The United States *vs.* Bank of the Metropolis (10 Peters, 401), where it was held:

> The successor of Mr. Barry had the same power, and no more than his predecessor, and the power of the former did not extend to the recall of credits or allowances made by Mr. Barry, if he acted within the scope of official authority given by law to the head of the Department. This right in an incumbent of reviewing a predecessor's decisions extends to mistakes in matters of fact arising from errors in calculation and to cases of rejected claims in which material testimony is afterwards discovered and produced. But if a credit has been given or an allowance made, as these were, by the head of a Department, and it is alleged to be an illegal allowance, the judicial tribunals of the country must be resorted to to construe the law under which the allowance was made and to settle the rights between the United States and the party to whom the credit was given.

RESERVATION CONTINUED BY SECRETARY EWING.

The Department of the Interior was established by act of Congress approved March 3, 1849, and the General Land Office was transferred from the Treasury to the new Department, Hon. Thomas Ewing, of Ohio, becoming its first Secretary on March 8, 1849, under President Taylor. Shortly thereafter Secretary Walker's construction of the grant of 1846 was challenged, and was reversed by Secretary Ewing in a letter to the Commissioner of the General Land Office bearing date April 6, 1850, from which I will read:

> SIR: Having considered the question submitted to me connected with the claim of the State of Iowa to select, under the act of August 8, 1846, lands for the improvement of the Des Moines River, I am clearly of the opinion that you can not recognize the grant as extending above the Raccoon Fork without the aid of an explanatory act of Congress. It is clear to my mind, from the language of the act of August 8, 1846, itself, that it was not the intent of the act to extend it farther. My construction is confirmed by the report of the committee and the accompanying papers. If in any report to Congress you have recognized the grant as extending to the source of the river it will be proper to correct it, that Congress, if they see fit, may extend the grant. The opinion expressed by the late Secretary of the Treasury on the subject is entitled to great respect; but I can not concur in it, and the law not having been carried into effect by him, his opinion, merely expressed, is open for revision.
>
> The lists of selections and other papers submitted with your letter of the 13th ultimo are herewith returned.
>
> As Congress is now in session and may take action on the subject, it will be proper, in my opinion, to postpone any immediate steps for bringing into market the lands embraced in the State's selections.

One noticeable feature of this letter is the fact that while Secretary Ewing reversed the construction of Secretary Walker, he deemed it judicious and proper "to postpone any immediate steps for bringing into market the lands embraced in the State's selections," his reason being, according to the context, that "as Congress is now in session" he expected that the question of the proper construction of the original grant would be definitely settled by that body.

When Hon. A. H. H. Stuart, of Virginia, became Secretary of the Interior, September 12, 1850, the question of the proper construction of the grant of 1846 was just where it had been left by Secretary Ewing; that is, the General Land Office held that the grant did not extend above Raccoon Fork, but the lands claimed by the State above that point were still "reserved."

SECRETARY STUART'S OPINION.

The question was submitted to Mr. Stuart, and in his decision of July 26, 1851, he held that the grant was coterminous with the improvement, but he did not direct that the lands "reserved" above Raccoon Fork should be opened for private entry. In another letter to the Commissioner of the General Land Office, dated October 29, 1851, he reaffirmed his former decision, adding that as he regarded it more as a judicial than executive question, which could be finally settled only in the courts, the Commissioner should permit the State of Iowa to continue to make selections, under the grant, above the Raccoon Fork. His letter is in these words:

> SIR: I herewith return all the papers in the Des Moines case, which were recalled from your office about the first of the present month. I have reconsidered and carefully revised my decision of the 26th of July last, and, in doing so, find that no decision which I can make will be final, as the question involved partakes more of a judicial than of an executive character, which must ultimately be determined by the judicial tribunals of the country; and although my own opinion on the true construction of the grant is unchanged, yet, in view of the great conflict of opinion among the executive officers of the Government, and also in view of the opinions of several eminent jurists which have been presented to me in favor of the construction contended for by the State, I am willing to recognize the claim of the State and to approve the selections without prejudice to the rights, if any there be, of other parties, thus leaving the question as to the proper construction of the statute entirely open to the action of the judiciary.
>
> You will please, therefore, as soon as may be practicable, submit for my approval such lists as have been prepared, and proceed to report for like approval lists of the alternate sections claimed by the State of Iowa above the Raccoon Fork as far as the surveys have progressed, or may hereafter be completed and returned.

Acting upon these instructions the Land Office allowed the State, under the grant, to select lands above Raccoon Fork as far as they were surveyed, a distance of some 80 miles, and these selections were formally approved by the Secretary in an order of October 30, 1851, which I will read:

> The selections embraced in the within list (No. 3) are hereby approved, in accordance with the view expressed in my letter of the 29th instant to the Commissioner of the General Land Office, subject to any rights which may have existed at the time the selections were made known to the Land Office by the agents of the State, it being expressly understood that this approval conveys to the State no title to any tract or tracts which may have been sold or otherwise disposed of prior to the receipt by the local land officers of the letter of the Commissioner of the General Land Office communicating the decision of Mr. Secretary Walker, to the effect that the grant extended above the Raccoon Fork.

The President deals with this phase of the controversy in these words:

> In April, 1850, the Secretary of the Interior—that Department having then been created—determined that the grant extended no farther than the Raccoon Fork, but in view of the fact that Congress was in session and might take steps in the matter, the Commissioner of the General Land Office expressly continued the reservation.
>
> In October, 1851, another Secretary of the Interior, while expressing the opinion that the grant only extended to the Raccoon Fork, declared that he would approve the selections made by the State of Iowa of lands above that point, "leaving the question as to the construction of the statute entirely open to the action of the judiciary."

This undecided view of the proper construction of the grant, it will be observed, coincides with that held by Mr. Johnson, supported by the opinion of Justice Wayne in The United States *vs.* The Bank of the Metropolis, which I have already cited, and acting upon it the General Land Office permitted the State to continue making selections of the land in controversy, until, by December, 1853, there had been cer-

tified to the State of Iowa 291,572 acres of land lying above the Raccoon Fork, to all of which the State deemed its title just as legal and valid as its title to the lands below the Fork.

THE WORK OF IMPROVEMENT BEGUN.

Prior to this time, December, 1853, the State had taken the initial steps in the work of improving the river, and had entered into a contract with an individual contractor to prosecute the work under the supervision of the board of public works. Experience soon demonstrated the impracticability of carrying out the work on the plan contemplated in the original grant. Sales of the particular lands certified to the State could not be readily effected, though the State was rapidly filling up with settlers. From this it necessarily resulted that there could be no certainty that the funds required for the continuous prosecution of the work would be forthcoming when needed.

As the only means of surmounting this difficulty the State terminated its agreement with the individual contractor, and entered into a new contract with the Des Moines Navigation and Railroad Company, an Eastern corporation possessed of ample means to carry on the work and wait until an actual demand would enable them to dispose of the certified lands.

By the terms of this agreement the Des Moines Navigation and Railroad Company bound itself to expend the sum of $1,300,000 in making the improvements in the navigation of the river between its mouth and Raccoon Fork, and as compensation for the work done and the money advanced the State was to convey to the corporatian all the lands to which it was entitled under the grant of August 8, 1846.

THE LEGALITY OF THE CONTRACT ESTABLISHED.

It can not be questioned that this contract was a proper one to be made, as experience had shown that by no other means could the State of Iowa execute the trust it had accepted from the United States. That the State of Iowa was a trustee of the United States for the accomplishment of a specific and clearly defined purpose there can be no question. The General Government has legally exclusive control of all navigable streams. The Des Moines River had been declared navigable, and therefore it could be improved only by the United States. Recognizing its obligation the General Government selected the State of Iowa as its trustee, in its place and stead, to discharge this particular duty, agreeing, under certain restrictions, to relinquish to its trustee, as compensation for the service performed, certain specified and clearly designated lands, and to convey said lands to its trustee, the State of Iowa. The State, in the execution of the trust, contracted with the Des Moines Navigation and Railroad Company to carry on, at the contractor's cost, the work of improvement which the State, as trustee of the General Government, had undertaken, and as compensation for the work performed and the cost incurred transferred all right and title to all the lands ceded by the General Government to its trustee. By this contract the contracting corporation became the purchaser of all the lands in question, the consideration received by the trustee being the performance of certain work and the advance of a stipulated sum.

Could there be the slightest irregularity or impropriety in such a contract entered into under such circumstances?

I have dwelt at some length upon the propriety, regularity, and absolute legality of this contract, because it laid the foundation for the title to these lands which the Navigation and Railroad Company subsequently acquired, and the validity of the corporation's title has been attacked upon the ground that the contract was not a proper one for the State to have entered into, and that the corporation was not a bona fide purchaser of the lands in question.

I confidently assert that if the Des Moines Navigation and Railroad Company did not, by this contract, become a bona fide purchaser of the lands subsequently conveyed to it by the State, then no individual settler who bought and paid cash for any of the lands certified to the State of Iowa under the grant of 1846 was a bona fide purchaser.

The State contended that it had a valid title to the lands under the grant of 1846, which was known of all men. Under the instructions of Secretary Walker, and two successive Secretaries of the Interior, the lands had been certified to the State by the proper executive officer, duly empowered by law to make such certification. The State of Iowa being the trustee, as vendor, received a full and sufficient and satisfactory consideration for the lands from the purchaser thereof.

If this does not constitute a bona fide purchaser I am unable to conceive what would.

The appearance of the Des Moines Navigation and Railroad Company as a contractor for the work of improvement is referred to by the President in these words:

> In this condition of affairs selections were made by Iowa of a large quantity of land lying above the Raccoon Fork, which selections were approved and the land certified to the State. In the mean time the State had entered upon the improvement of the river, and, it appears, had disposed of some of the land in furtherance of said improvement. But in 1854 the State of Iowa made a contract with the Des Moines Navigation and Railroad Company for the continuance of said work at a cost of $1,300,000, the State agreeing in payment thereof to convey to the company all the land which had been or should thereafter be certified to the State of Iowa under the grant of 1846.

CERTIFICATION OF LANDS STOPPED.

Under this contract the Des Moines Navigation and Railroad began work on the improvement and carried it on uninterruptedly until about November 10, 1856, when the Government officials refused to certify to the State, under the grant, any more lands above Raccoon Fork. As the State was not bound by the contract to give the company any other consideration than the lands it should acquire under the grant of 1846, and the company was bound to expend $1,300,000, the contracting corporation foresaw the possibility of complications in obtaining a settlement with the State, and demanded that a new arrangement should be entered into which would give them protection in the event the Department of the Interior should persist in refusing to certify any more lands above the Fork.

An additional complication of a sufficiently vexed and complex question was also threatened by the fact that even at that early date and in a frontier State people were looking forward to the time when the comparatively slow-moving steam-boats should be supplanted by swiftly-flying trains of cars, and men of sagacity and foresight had begun to question the advisability of expending additional sums of money to secure a water way which in all probability would speedily be practically superseded.

Controlled by these considerations on each side it was not difficult for the parties to come to an understanding, and an accounting was had between the State and the contracting corporation which was mutually accepted. This adjustment of accounts developed the fact that, under the contract, the State of Iowa was indebted to the Des Moines Navigation and Railroad Company in the sum of $332,644.04 for work done and money expended, and to meet this obligation the State agreed to convey to the contracting corporation all the lands that had been certified to the State under the grant of 1846, not already so conveyed.

The amount of the State's indebtedness to the company, $332,644.04, and the land, 266,107.23 acres, with which it was proposed the State should pay said debt, were certified to the President by the governor of Iowa April 28, 1858, according to the requirements of the grant of 1846.

To prevent any confusion of ideas, it may be well at this point to call the attention of the House to the fact that the provision in section 2 of the original grant, requiring that sales of the granted land should stop when the sum of $30,000 had been realized, and should not be resumed until the governor of the Territory or State should certify the fact to the President that one-half of that sum had been expended on said improvements, did not conflict with the certification to the President which I have just recited. The object of the restrictive provision was only to make it certain that the work of improvement was carried on, *pari passu*, with the sales of the granted lands, and it did not require that separate certification should be made for each $30,000 realized from such sales.

THE LANDS CONVEYED TO THE COMPANY.

The adjustment of the accounts between the State of Iowa and the Des Moines Navigation and Railroad Company was submitted to the Legislature of the State, which body, March 22, 1858, affirmed and ratified the settlement, and directed the governor to carry it into effect by executing a conveyance of the lands to the contracting corporation.

The legislative ratification of the settlement is in these words:

Joint resolution containing propositions for settlement with the Des Moines Navigation and Railroad Company.

Whereas the Des Moines Navigation and Railroad Company have heretofore claimed and do now claim to have entered into certain contracts with the State of Iowa, by its officers and agents, concerning the improvement of the Des Moines River in the State of Iowa; and

Whereas disagreements and misunderstandings have arisen and do now exist between the State of Iowa and said company, and it being conceived to be the interest of all parties concerned to have said matters and all matters and things between said company and the State of Iowa settled and adjusted: Now, therefore,

Be it resolved by the General Assembly of the State of Iowa, That for the purpose of such settlement, and for that purpose only, the following propositions are made by the State to said company: That the said company shall execute to the State of Iowa full releases and discharges of all contracts, agreements, and claims with or against the State, including rights to water-rents which may have heretofore or do now exist, and all claims of all kinds against the State of Iowa and the lands connected with the Des Moines River improvement, excepting such as are hereby, by the State, secured to the said company, and also surrender to said State the dredge-boat and its appurtenances, belonging to said improvement; and the State of Iowa shall, by its proper officer, certify and convey to the said company all lands granted by an act of Congress approved August 8, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the General Government, saving and excepting all lands sold or conveyed or agreed to be sold or conveyed by the State of Iowa, by its officers and agents, prior to the 23d day of December, 1853, under said grant; and said company, or its assignees, shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the General Government, but at the cost and charges of said company; and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of said grant, entirely released from any claim by or through said company; and it is understood that among the lands excepted and not granted by the State to said company are 25,487.87 acres lying immediately above Raccoon Fork, supposed to have been sold by the General Government, but claimed by the State of Iowa; and it is further agreed that said company release and convey to the State of Iowa, or its representatives, all materials of every kind and description prepared for or intended for the construction of locks or dams in said improvement, wheresoever the same may be, and the State shall take the existing contracts, but no other liabilities of any name or nature excepting as herein provided, for constructing or repairing the works on said improvement at Keosauqua, Bentonsport, Plymouth,

and Croton, and no other or different, with all liabilities and advantages arising upon said contracts and percentage retained thereon, excepting that the company shall pay all estimates for work done or material prepared up to this date, beyond the percentage retained from the contractors under their agreements; and the said company shall be discharged from all claims against the State or the said improvement, or any of its officers or agents, arising from or growing out of any agreement or liability prior to the 9th day of June, 1854; and said company shall be discharged from all liability for the claims of the officers of the State for services or salaries. The said company hereby agree to pay the State the sum of $20,000, which sum shall be paid to the order of the commissioner of the Des Moines River improvement as fast as he may require the same, to liquidate existing liabilities against said Des Moines River improvement, on thirty days' notice given to said company at their office in the city of New York; and any bonds or certificates of indebtedness against said improvement not exceeding in amount the sum of $11,000, which are now due and unpaid, are to be received in part payment of said sum of $20,000: *Provided*, That no liabilities assumed by the State in this contract shall be a charge against the State in her sovereign capacity, but all such liabilities, if any, shall be chargeable upon and payable out of the remaining lands belonging to the Des Moines River grant: *And provided also*, That if Congress shall permit a diversion of the lands of said Des Moines River grant, or the title thereto shall become vested in the State, so as to become subject to grant, the said remaining lands, after the payment of all the liabilities as aforesaid, against said improvement and the completion of such locks and dams in the Des Moines River as the Legislature shall direct, shall be granted to the Keokuk, Fort Des Moines and Minnesota Railroad Company, to aid in the construction of a railroad, up and along the valley of the Des Moines River upon such terms and in such manner as the Legislature may provide; one-fourth of which said lands shall be applied by said company to aid in the construction of said road above the city of Des Moines: *And provided further*, That if the Des Moines Navigation and Railroad Company shall ratify and accept these propositions for a contract by filing a written acceptance thereof in the office of secretary of state within sixty days from the passage of this joint resolution, then this contract shall be in force and bind both of the parties thereto.

Approved March 22, 1858.

Under this joint resolution of the Legislature of Iowa the governor made a conveyance to the company of all the lands to which the State had title, the terms of which I have already recited. This transaction is thus alluded to by the President:

On November 10, 1856, further certification of lands above the Raccoon Fork, under the grant to the State of Iowa, was refused by the Interior Department. This led to a dispute and settlement between the State of Iowa and the Des Moines Navigation and Railroad Company, by which the State conveyed by deed to said company—

"All lands granted by an act of Congress approved August 8, 1846, to the then Territory of Iowa to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the General Government, saving and excepting all lands sold and conveyed or agreed to be sold and conveyed by the State, by its officers and agents, prior to the 23d day of December, 1853, under said grant."

This exception was declared in the deed to cover the lands above the Raccoon Fork disposed of to settlers by the Government in 1848 under the proclamation of the President opening said lands to sale and settlement, which has been referred to; and it is conceded that neither these lands nor the rights of any settlers thereto are affected by the terms of the bill now under consideration.

In both the legislative ratification of the adjustment of the account between the State and company and the authorized conveyance by the governor special care was taken to except from the operation and effect of the latter all the 25,487.87 acres of land claimed by the State, but disposed of by the Government under the proclamation of President Polk before the lands were withdrawn from private entry and "reserved" by the order of Commissioner Young of June 1, 1849, issued pursuant to the instructions contained in the letter of Secretary Walker of March 2, 1849, and the rights or titles of the holders of these particular lands are not involved in the pending controversy.

RAILROADS SUPPLANT STEAMBOATS.

I have adverted to the fact that even as early as the period when the General Government declined to certify to the State any more of the lands above Raccoon Fork, November 10, 1856, thoughtful and far-sighted men were expecting that railroads would, in the near future, supersede river navigation as a means of travel and transportation, and we see that in the joint resolution of March 22, 1858, a proviso was inserted to the effect:

That if Congress shall permit a diversion of the lands of said Des Moines River grant, or the title thereto shall become vested in the State, so as to become subject to grant, the said remaining lands * * * shall be granted to the Keokuk, Fort Des Moines and Minnesota Railroad Company, to aid in the construction of a railroad up and along the valley of the Des Moines River.

The effect of this proviso was that immediately after the execution of the governor's conveyance of May 18, 1858, an effort was made to secure Congressional approval of the State's construction of the original grant of 1846.

By the conveyance of May 18, 1858, the title to 271,572 acres of land was vested in the Des Moines Navigation and Railroad Company, and its relations with the State being terminated that corporation proceeded to close up its business, and divided the lands it had acquired between the various parties in interest, by whom it has since been held in severalty, selling it from time to time to a large number of purchasers, who are now in possession, and have been cultivating and improving their lands and paying taxes upon them during a period of at least twenty-eight years.

The President refers to this settlement in these words:

The amount of land embraced in this deed located above the Raccoon Fork appears to be more than 271,000 acres.

It is alleged that the company, in winding up its affairs, distributed this land among the parties interested, and that said land, or a large part of it, has been sold to numerous parties now claiming the same under titles derived from said company.

OTHER LAWS "RESERVE" THESE LANDS.

To understand clearly the exact status in law and in equity of the lands thus conveyed to the Des Moines Navigation and Railroad Company, and to understand and appreciate the decisions of the courts I shall hereafter cite, it is necessary we should now consider some of the laws authorizing selections of and settlements and entries upon the public domain under which, at a later date, litigation arose with those claiming title to lands under the original grant of 1846.

The pre-emption law of 1841 authorized any citizen, anywhere in the Union, to enter upon and locate public lands, secured them the title upon proving up their pre-emption claims and otherwise complying with the provisions of the law. There was, however, a proviso in the law respecting lands that were legally "reserved" by proper authority, and the pre-emption or private entry of all such lands was absolutely prohibited.

There was also the act of September 4, 1841, granting 500,000 acres of the public lands to the Territory of Iowa to aid in public improvements, and this act also contained provisions as to lands that had been "reserved."

Then there was the swamp-land act of September 28, 1850—and there was a good deal of swamp land along the Des Moines River—which act also contained prohibitory provisions respecting lands that had been "reserved" by proper authority.

There was also the act of May 15, 1856, granting lands, in alternate sections, to the State of Iowa in aid of certain railroads in said State, under which act railroads were located, running east and west, which intersected and overlapped the grant the State claimed to have been made along the Des Moines River above Raccoon Fork; but this act also contained provisions expressly declaring that lands properly "reserved" could not be acquired under the grant it made.

It is clear that under none of these laws—all enacted prior to the conveyance of the State of Iowa to the Des Moines Navigation and Railroad Company—could a legal title to lands properly "reserved" be acquired by any one; and we have seen that, acting upon the letter of Secretary Walker of March 2, 1849, the Commissioner of the General Land Office had directed the register and receiver to—

Withhold from sale all lands situated on the odd-numbered sections within 5 miles of that (Des Moines) river above the Raccoon Fork.

We have also seen that Secretary Ewing and Secretary Stuart, of the Interior Department, though dissenting from Secretary Walker's views as to the extent of the grant, both directed that the lands claimed by the State of Iowa under the grant should be withheld from the market, that is, "reserved," and that under these orders as to "reservation," 271,572 acres of land above Raccoon Fork were certified to the State of Iowa, and by that State conveyed to the Des Moines Navigation and Railroad Company in acquittance of the State's ascertained indebtedness to that corporation.

How any one cognizant of these statutory provisions expressly prohibiting the acquisition of valid titles to lands lawfully "reserved" by proper authority, and informed as to the facts, can contend that any one but the Des Moines Navigation and Railroad Company and its grantees can have the shadow of a legal title to any part of these 271,572 acres of land is beyond my comprehension.

JUDICIAL LIMITATION OF GRANT.

The next step in this remarkable controversy was a decision rendered by the Supreme Court of the United States in Dubuque and Pacific Railroad Company *vs.* Litchfield, 23 How., 66, in which it was held that the grant of 1846 did not extend above the mouth of Raccoon Fork. The effect of this decision was not only to invalidate the title of the Des Moines Navigation and Railroad Company to the lands situated above the Fork conveyed to that corporation by the State May 18, 1858, but likewise the titles of settlers to some 40,000 acres sold to them by the State. The result was that these settlers united with the Des Moines Navigation and Railroad Company and the Senators and Representatives of the State in an effort to induce Congress to set at rest the conflicting views as to the proper construction of the original grant of 1846 by confirming the titles of the settlers to the lands sold them by the State, as well as the title of the Des Moines Navigation and Railroad Company to the lands conveyed to it by the State in payment of an indebtedness of over $330,000, and to authorize the State to apply all the remaining lands, whether below Raccoon Fork or above it, to the construction of a railroad up the valley of the river.

THE GRANT CONSTRUED BY CONGRESS.

As a result of this combined movement on Congress that body adopted a joint resolution to quiet title to lands in the State of Iowa in these words:

Joint resolution to quiet title to lands in the State of Iowa.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all the title which the United States still retain in the tracts of land along the Des Moines River and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior as part of the grant by act of Congress approved August 8, 1846, and which is now held by bona fide purchaser under the State of Iowa, be, and the same is hereby, relinquished to the State of Iowa.

Approved March 2, 1861.

There are two noticeable features in this joint resolution, the latter of which has been the prolific source of trouble. The first is that the United States relinquish to the State of Iowa any and all title in the tracts of land along the Des Moines River above Raccoon Fork, which have been certified to the State "improperly" as a part of the grant of 1846. The second is that the relinquishment extends only to that part of the grant "which is now held by 'bona fide purchasers', under the State of Iowa."

It was promptly claimed that the Des Moines Navigation and Railroad Company were not bona fide purchasers within the meaning of the law, though it had paid more than $330,000 for the land it held under the State of Iowa. I have already shown that this position is wholly untenable, if not absurd, but none the less has it found ardent supporters.

An important fact to be remembered in connection with this resolution is that up to the date of its passage all the lands claimed by the State to have been included in the grant of 1846 had been withheld from entry—"reserved"—as I have previously pointed out, and if these lands had been certified to the State of Iowa "improperly," the title to them remained as clearly vested in the United States when this joint resolution was approved as it did prior to the original grant of 1846, and they were as free to make a grant of these lands to whomsoever they desired as they might have done originally by avoiding any ambiguity in the language of the original grant.

Whatever the purpose, the effect of this joint resolution was to validate and confirm the title of the Des Moines Navigation and Railroad Company, as I will show from repeated decisions of the Supreme Court.

At the time of the passage of the joint resolution, March 2, 1861, there existed great doubt as to where the title to many of the remaining lands along the Des Moines River and above Raccoon Fork resided. The Supreme Court held in Dubuque and Pacific Railroad Company *vs.* Litchfield, already cited, that the State had acquired no title, and it was thought by many that under the act approved May 15, 1856, granting lands to the State to aid in the construction of certain railroads running east and west, the State was empowered to grant to railroads yet to be located any lands coming within the limit of the grant along the Des Moines River.

This was the uncertain status of these lands north of Raccoon Fork when Congress, in July, 1862, attempted to settle the whole question definitely by an act in these words:

That the grant of lands to the then Territory of Iowa for the improvement of the Des Moines River, made by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within 5 miles of said river, between the Raccoon Fork and the northern boundary of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines and Minnesota Railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa approved March 22, 1858. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, excepting those released by the United States to the grantees of the State of Iowa under joint resolution of March 2, 1861, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *Provided*, That if the State shall have sold and conveyed any portion of the lands lying within the limits of this grant, the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof by virtue of the provisions of this act shall inure to and be held as a trust fund for the benefit of the person or persons, respectively, whose titles shall have failed as aforesaid.

Approved July 12, 1862. (12 United States Statutes at Large, 1862, page 543.)

In this instance, as in that of the joint resolution of March 2, 1861, the fact that the lands in question had been "reserved" gave the General Government absolute power to vest the title in the State of Iowa, though some of them had been occupied by settlers.

THE PRESIDENT THINKS THESE ACTS CONCLUSIVE.

The President's views regarding the joint resolution of 1861 and the act of 1862, resulting from the decision in the Litchfield case, is expressed in these words:

In December, 1859, the Supreme Court of the United States decided that the grant to the Territory of Iowa, under the law of 1846, conveyed no land above the Raccoon Fork, and that all selections and certifications of lands above that point were unauthorized and void, and passed no title or interest in said lands to the State of Iowa. In other words, it was determined that these lands were, in the language of the bill under consideration, "improperly certified to Iowa by the Department of the Interior under the act of August 8, 1846."

This adjudication would seem to conclusively determine that the title to these lands was, as the law then stood, and notwithstanding all that had taken place, still in the United States. And for the purpose of granting all claim or right of the Government to said lands for the benefit of the grantees of the State of Iowa, Congress, on the 2d day of March, 1861, passed a joint resolution providing that all the title still retained by the United States in the land above the Raccoon Fork, in the State of Iowa, "which have been certified to said State improperly by the Department of the Interior as part of the grant by act of Congress approved August 8, 1846, and which is now held by bona fide purchasers under the State of Iowa, be, and the same are hereby, relinquished to the State of Iowa."

Afterwards, and on the 12th day of July, 1862, an act of Congress was passed extending the grant of 1846 so as to include lands lying above the Raccoon Fork.

The joint resolution and act of Congress here mentioned have been repeatedly held by the Supreme Court of the United States to supply a title to the lands mentioned in the deed from the State of Iowa to the navigation and railroad company, which inured to the benefit of said company or its grantees.

No less than ten cases have been decided in that court, more or less directly establishing this proposition, as well as the further proposition that no title to these lands could, prior to said Congressional action, be gained by settlers, for the reason that it had been withdrawn and reserved from entry and sale under the general land laws. It seems to be perfectly well settled also, if an adjudication was necessary upon that question, that all interest of the United States in these lands was entirely and completely granted by the resolution of 1861 and the act of 1862.

The proviso for indemnifying those who had acquired titles to any part of these lands which had proved invalid was necessitated by the uncertainty as to title to some portions of these lands having been vested in and transferred by the State under the railroad act of 1856, to which uncertainty I have just alluded. All such doubt was subsequently removed when the courts decided that these lands having been duly "reserved" by proper and competent authority, they could not be affected by the railroad act. It is true, as a matter of fact, that under this proviso the State did select nearly 500,000 acres of indemnity lands, but the courts subsequently held that this act of 1862 validated, to the full extent for which the State of Iowa had always contended, the original grant of 1846, and invested the State with the title, the lands to be used for the construction of the Keokuk, Fort Des Moines and Minnesota Railroad, which road actually obtained these lands, together with the indemnity lands, and their selection was subsequently confirmed by act of Congress.

THE HARVEY SETTLEMENT.

The State now appointed a commissioner to investigate, determine, and settle with the United States the exact amount or quantity of land it had received under the various acts and grants: (1) Under the 500,000-acre grant of 1841; (2) under the original river grant of 1846, and (3) under the railroad grant of 1856.

The settlement was effected—the indemnity lands just spoken of being included—and the adjustment was submitted to and approved by the State Legislature.

One would have thought that the act of July 12, 1862, followed by an adjustment of the land account between the State and the General Government, would have terminated the controversy. But such was not the case. The controversy was still to be carried on in the courts, was then revived in Congress, where, as we see, it is still to be found.

THE WOLCOTT CASE.

At the December term, 1866, the Supreme Court announced its decision in the case of Wolcott *vs.* Des Moines Navigation and Railroad Company, 5 Wall. 681. The plaintiff had received from defendant a warranty deed of conveyance to one of the tracts of land above Raccoon Fork of date August, 1859, being part of the land conveyed by the State of Iowa to defendant under the deed of May 18, 1858, which I have already cited. Plaintiff claimed there had been a breach of warranty, and that defendant had never had any title to the land assumed to be conveyed.

The court held, first, that the title was valid under the joint resolution of March 2, 1861, and the act of July 12, 1862, and that these acts inured to the benefit of the grantees of the State and to their grantees. After citing the history of the controversy, the joint resolution of 1861, and the act of 1862, the court said:

If the case stopped here it would be very clear that the plaintiff could not recover; for, although the State possessed no title to the lot in dispute at the time of the conveyance to the Des Moines Navigation and Railroad Company, yet, having an after-acquired title by the act of Congress, it would inure to the benefit of the grantees, and so in respect to their conveyance to the plaintiff. This is in accordance with the laws of the State of Iowa.

The court then decides that the withdrawal of these lands from sale by the executive officers of the Government was a perfectly valid act, although the original grant did not extend above the mouth of Raccoon Fork, and that it brought them within the proviso of the railroad act of May 15, 1856, granting land to the State of Iowa for railroad purposes which excluded from the operations of that act any lands "reserved," or "withheld by competent authority."

The decision of the court was that the title of the Des Moines Navigation and Railroad Company was a valid title, and judgment was rendered against the plaintiff.

In Des Moines Navigation and Railroad Company *vs.* Burr, 5 Wall., 689, the decision of the court was to the same effect.

The title of the Des Moines Navigation and Railroad Company to the lands conveyed to that company by the State of Iowa, in payment of a large debt, was thus judicially decided by the highest court in the Republic, and the decision was that the title was perfectly valid. This was a judicial settlement of the protracted controversy, and one would have thought it finally closed. But the judicial settlement of a purely legal question was very shortly disturbed by the opinion of an executive officer, and the controversy was reopened and has been continued ever since with singular acrimony.

SECRETARY BROWNING REOPENS THE CONTROVERSY.

In a letter addressed to Mr. Joseph S. Wilson, Commissioner of the General Land Office, dated May 9, 1868, the Secretary of the Interior, Hon. O. H. Browning, held that by the joint resolution of March 2, 1861, Congress relinquished to the State of Iowa only those lands which had been improperly certified to the State under the original grant of 1846 and which were then held by bona fide purchasers from said State; that, as the resolution did not cover all the lands claimed by the State under the original grant, Congress passed the act of July 12, 1862, which was a new grant to the State of the lands claimed above Raccoon Fork, to be held and applied in accordance with the original grant,

except that a portion of the lands might be used to aid in the construction of a railroad up the Des Moines Valley, it being provided that if any of the lands so newly granted have been sold or otherwise disposed of by the United States—saving and excepting those expressly released under the joint resolution—an equal amount of lands within the State are to be set apart and certified in lieu thereof. The Secretary then finds that a settlement had been made between the State and the United States under this new grant and the several acts prior thereto, which settlement showed that the State had received 558,000 acres of land, which was all it was entitled to under the indemnity proviso of the act of July 12, 1862, and consequently the title to the lands in alternate sections along the river, under the original grant, was not confirmed or validated, and arrives at the conclusion which I will read:

The Supreme Court of the United States at the December term, 1866 (5 Wallace, 681), rendered a decision to the effect that said proviso operated to exclude from the railroad grant the odd-numbered sections within 5 miles of the Des Moines River, above the Raccoon Fork, and that the same passed to the State under the acts granting lands to aid in improving said river.

At the date of that decision the Des Moines River grant had been finally adjusted.

The State had, as before remarked, received all the land to which she was entitled on account thereof, and she is thus estopped from setting up a claim. Although this fact does not appear in the record of the case, I have shown that it is incontrovertibly established by the records of your office.

It is the duty of the Department in administering the acts of Congress to give full effect to the settlement, otherwise the State would first obtain, in lieu of lands which she alleged had been "otherwise disposed of," an indemnity amounting to an equal quantity of such lands, and then, when her right to land selected by way of indemnity had been recognized and confirmed to her, she would assert her title to the lands she alleged had been disposed of. The effect of this would give her more than she originally claimed. The effect of that decision is, therefore, only to exclude from the railroad grant lands lying north of the Fork, and to restore them to the public domain, at least so far as to subject them to the operation of the pre-emption and homestead laws. Further, by act of June 2, 1864 (13 Stat., 98), amendatory of the grant of 1856, additional lands were granted to the State and new provisions were ingrafted upon the original law.

One of these, the last proviso to the fourth section, excludes from the railroad grant any land "settled upon and improved in good faith by a bona fide inhabitant under color of title derived from the United States or the State of Iowa, adverse to the grant," and the railroad company are authorized to select other land in lieu of tracts so settled upon and improved. These bona fide inhabitants need not necessarily be pre-emption settlers, but they must be bona fide settlers claiming from the United States or the State of Iowa. Consequently, the State could have no valid claim under the railroad grant to any tract settled upon and improved in good faith by a bona fide inhabitant. Furthermore, it is certified by the executive of the State, that the State has not transferred this tract, and he relinquishes any title or color of title to it by virtue of its having been approved and certified under that grant.

EFFECT OF THE BROWNING DECISION.

Under this construction, and inferential instructions, of Secretary Browning, on May 20, 1868, the Commissioner of the General Land Office vacated the original order under which these lands were withheld from the market—"reserved"—and issued an order which I will read:

GENTLEMEN: Under date of the 9th instant the honorable Secretary of the Interior reversed the decision of this office of July 23, 1867, rejecting the claim of Herbert Battin to the southwest quarter section 3, township 83 north, range 27 west, and awarding the same to the Iowa Central Railroad Company, from which ruling an appeal was taken by J. Browns, esq., representing the Des Moines River Navigation Company.

In view of this decision of the honorable Secretary the Des Moines company will not be regarded as having an interest touching any pre-emption or homestead claim to lands not embraced in the settlement of May 21-29, 1866, with the State of Iowa on account of the various grants of land for the improvement of the Des Moines River. A copy of the decision of the Secretary is herewith inclosed for your information and that of all persons interested in this or similar cases.

The pre-emption cash entry No. 21240, of Herbert Battin, covering the tracts described, has this day been relieved from suspension, approved, and filed for patenting.

By this decision of the Secretary of the Interior, the executive branch of the Government undertook to void the title of the Des Moines Navigation and Railroad Company to any of the lands granted to them by the State of Iowa under the several acts of Congress, unless they were included in the adjustment of 1866, known as "the Harvey settlement," and the effect was to declare invalid the company's title to the 271,000 acres of land for which it had paid the State $332,000; and this, too, right in the teeth of the decision of the Supreme Court that the company—

Having an after-acquired title by the act of Congress, it would inure to the benefit of the grantees, and so in respect to their conveyance to the plaintiff (Wolcott).

By thus setting aside a judicial decision of a purely judicial question Mr. Browning led all those who had entered upon these "reserved" lands to believe that their titles were perfectly valid, when in fact and in law they were trespassers, and induced others to enter upon and locate other of these lands, thus laying the foundation of the bitter and protracted litigation and controversy which has endured to the present moment.

This action of Secretary Browning was followed upon August 28, 1868, by an order which practically threw all those lands open to private entry, so far as the executive branch of the Government could do so, and as a result of this executive action many of these lands were entered and some patents actually issued.

THE JUDICIARY AGAIN INVOKED.

The courts were again appealed to, and at the December term, 1869, the Supreme Court handed down the decision in the case of Hannah Riley, appellant, *vs.* William B. Welles, which again established the validity of the Des Moines Navigation and Railroad Company to the lands in question, and expressly declared that settlers upon these lands occupied them—

Without right, and the possession was continued without right, the permission of the register to prove up the possession and improvements and to make the entry under the pre-emption laws, were acts in violation of law and void, as was also the issuing of the patent.

In this case appellant claimed under the pre-emption law of September 4, 1841, while appellee claimed to hold a valid title as grantee of Wolcott, one of the grantees of the Des Moines Navigation and Railroad Company. As the case is not to be found in the reports, I will read the full text of the decision, which is in these words:

December term, 1869. Hannah Riley, appellant, *vs.* William B. Welles. No. 379. Appeal from the circuit court of the United States for the district of Iowa.

Mr. Justice Nelson delivered the opinion of the court:

This is an appeal from the circuit court of the United States for the district of Iowa.

This case is not distinguishable from that of Wolcott *vs.* The Des Moines Company (5 Wall., 681). Welles, the plaintiff below, derives his title by deed from this company, the same as Wolcott in the former case. The suit in that case was brought to recover back the consideration money from the Des Moines company, the grantors, on the ground of failure of title. The court held that Wolcott received a good title to the lot in question under his deed.

In that case it was insisted that the title was not in the Des Moines company, but in the Dubuque and Pacific Railroad Company.

In the present case the defendant claims title under, and in pursuance of, the pre-emption act of September 4, 1841. Her husband took possession of the lot in 1855, and she was permitted by the register to prove up her possession and occupation May, 1862. The patent was issued October 15, 1863.

It will appear from the case of Wolcott *vs.* The Des Moines Company that the tract of land, of which this lot in question was a part, had been withdrawn from sale and entry on account of a difference of opinion among the officers of the Land Department as to the extent of the original grant by Congress of lands in aid of the improvement of the Des Moines River, from the year 1846 down to the resolution of Congress of March 2, 1861, and the act of July 12, 1862, which acts we held confirmed the title in the Des Moines company. As the husband of the plaintiff entered upon the lot in 1855 without right, and the possession was continued without right, the permission of the register to prove up the possession and improvements, and to make the entry under the pre-emption laws, were acts in violation of law, and void, as was also the issuing of the patent.

The reasons of this withdrawal of the lands from public sale or private entry are stated at large in the opinion in the case of Wolcott *vs.* The Des Moines Company, and need not be repeated. The point of reservation was very material in that case, and we have seen nothing in the present one, either in the facts or in the argument, to distinguish it.

The decree below affirmed.

The decisions in the cases of Railroad Company *vs.* Fremont County, 9 Wall., 89, and Railroad Company *vs.* Smith, *Id.*, 95, were to the same effect.

THE NAVIGATION COMPANY'S TITLE REAFFIRMED.

At the December term, 1872, the Supreme Court announced the decision in Williams *vs.* Baker. Williams, the appellant, claimed title under the railroad act of 1856, and Baker, the appellee, under the Des Moines Navigation and Railroad Company. The court declared that certified lists, such as were issued to the State of Iowa under the grant of 1846, were proper evidences of the title of the State under such acts, and held that the proviso in the railroad act withholding the land in dispute from entry excluded all the lands previously certified to the State of Iowa under the grant of 1846 from the operations of the railroad act; and that the subsequent joint resolution of 1861 and the act of 1862 confirmed and validated the original grant to the State, and vested the title to the lands in question in the Des Moines Navigation and Railroad Company as grantee of the State. After referring to former decisions, the court reaches the conclusion which I will read:

We therefore reaffirm, first, that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines River grant of 1846; and, second, that by the joint resolution of 1861 and the act of 1862, the State of Iowa did receive the title for the use of those to whom she had sold them as part of that grant, and for such other purposes as had become proper under that grant.

This decision finally and irrevocably settled the fact that under the joint resolution of 1861 and the act of 1862 the State of Iowa did receive an absolute title to the lands in controversy, and therefore the grantees of the State possessed an unassailable title, and since then the General Land Office has made no further attempt to disturb the settlement.

Unfortunately, however, they could not arrest the evil they had precipitated when the decision of the Supreme Court upon a purely judicial question was set aside, and suits almost without number, to settle the title to lands entered under the Browning order, were instituted. At one time, notwithstanding very many cases had been compromised and withdrawn, hundreds of cases remained on the docket of the circuit court of the State of Iowa. Test cases were agreed upon and carried to the Supreme Court of the United States, and in every instance the decision was in favor of the validity of the title held by the Des Moines Navigation and Railroad Company and its grantees.

THE HOMESTEAD COMPANY'S CASE.

At the same term, December, 1872, the court handed down its decision in the case of the Homestead Company *vs.* Valley Railroad Company, 17 Wall., 153. The Valley Railroad Company was the successor of the Keokuk, Fort Des Moines and Minnesota Railroad Company, the original beneficiary of the indemnity act of 1862, which company commenced the construction of the railroad up the Des Moines

River valley, a work which was completed by its successor, the Valley Railroad Company. The adjustment of the public-lands account between the State of Iowa and the United States known as the Harvey settlement and the indemnity proviso of the act of 1862 are both involved in this case. I will read a part of this decision:

It is therefore no longer an open question that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines River grant of 1846, and that the joint resolution of 2d of March, 1861, and act of 12th of July, 1862, transferred the title from the United States and vested it in the State of Iowa for the use of its grantees under the river grant.

The court then proceeded to consider the claim of the Homestead Company to any portion of the indemnity lands granted the State by the act of 1862 and secured pursuant to the Harvey adjustment, and held that the Homestead Company was not entitled to any of these lands and that the title thereto was in no way affected by the settlement between the State and the United States. It was held further that the effect of the act of 1862 was merely to extend the original grant of 1846 above the Raccoon Fork, and only placed the State in the position it would have held regarding these lands had there been no ambiguity in the phraseology of that grant.

THE RAILROAD ACT INTERPRETED.

In Wolsey *vs.* Chapman (101 United States, 755), decided at the October term, 1879, in which Wolsey claimed title as from the State under a patent for lands ceded to the State under the act of 1841, granting the Territory 500,000 acres for internal improvements, it was held that the lands above Raccoon Fork having been lawfully withheld from entry—"reserved"—by competent authority they came within the proviso of the act of 1841 exempting from the operation and effects of that act all lands properly "reserved." It was also held that the joint resolution of March 2, 1861, inured only to the benefit of the grantees under the act of 1846, and Wolsey not being a purchaser under that grant, he had no valid claim. Held, also, that the Harvey settlement affected no rights but those of the State and the United States, that the settlement in question did not invalidate or impair the title vested in the Des Moines Navigation and Railroad Company, and that the State of Iowa had an absolute right to convey the lands to that company. The opinion of the court upon this latter point is expressed in these words:

As to the right of the governor to convey the lands in question to the Des Moines Company under the joint resolution of March 22, 1858, authorizing a conveyance upon settlement with the company:

The original contract between the State and the company contemplated a conveyance of all the river-grant lands not sold by the State on the 23d of December, 1853. This should be construed in the light of the fact that the act making the river grant provided for sales of the granted lands to furnish the means of making the required improvement, and if this contract stood alone, we should have no hesitation in holding that the sales referred to were such as had been made in the execution of the trust under which the lands were held, but if there could be any doubt upon that subject, the resolution which authorized the settlement removes all grounds for discussion. By that resolution all the lands which had before that time been approved and certified to the State under the river grant were to be conveyed to the company, excepting such as had been sold or agreed to be sold by the officers of the State prior to December 23, 1853, "under said grant." The land now in controversy had been so certified, and it had also been sold under that grant. Therefore, the governor was expressly authorized to include it in his conveyance.

At the same term the court decided Litchfield *vs.* Webster County, 101 United States, 773, to the same effect.

At the October term, 1883, the court handed down its decision in Dubuque Railroad Company *vs.* Des Moines Valley Railroad Company, 109 United States, 329, in which the Dubuque company claimed under the railroad act of 1856 and the Des Moines company under the original grant of 1846. The absolute validity of the Des Moines company's title was again affirmed, as will be seen by the decision, which I will read:

The following are no longer open questions in this court:

1. That the grants of land to the Territory of Iowa, etc., made by the act of August 8, 1846, did not extend above the Raccoon Fork; Dubuque Railroad Company *vs.* Litchfield, 23 How., 66.

2. They did not pass under the railroad statute of May 15, 1856.

3. The act of July 12, 1862, transferred the title from the United States and vested it in the State of Iowa for the use of its grantees under the river grant. Citing Wolcott *vs.* Des Moines Company, 5 Wall., 681; Williams *vs.* Baker, 17 *id.*, 144; Homestead Company *vs.* Valley Railroad Company, *id.*, 153; Wolsey *vs.* Chapman, 101 U. S., 755, 767.

THE LAST UTTERANCE OF THE SUPREME COURT.

So far as my investigations have been carried, the last decision of the courts in this protracted litigation is the case of Bullard *vs.* Des Moines and Fort Dodge Railroad, 122 United States, 167. This was an action in equity in a State court in Iowa to quiet title to land. Complainant set up a pre-emption title. Respondent claimed under the act of July 12, 1862. The bill was dismissed; on appeal the decree was affirmed by the supreme court of the State, and complainant sued out a writ of error.

Mr. Justice Miller delivered the opinion of the court. In his admirable history of the controversy growing out of the original grant of 1846, the learned justice recites that law, the execution of the contract with the navigation company, the beginning and progress of the work of improvement under that contract, and emphasizes the fact that in the prosecution of this work of improvement—

The State made no appropriations and furnished no means from any other source than this—the sale of lands certified to the State under the grant—for the prosecution of the enterprise.

The conflict of construction of the original grant is then recited, and particular stress is laid on Secretary Ewing's order withholding the lands in dispute from market, "which order," observes the learned justice, "has been continued ever since," and the court in a number of cases has decided—

that this withdrawal operated to exclude from sale, purchase, or pre-emption all the lands in controversy.

The court then refers to the complication resulting from the railroad act of 1856, the decision in the case of the Dubuque and Pacific Railroad Company *vs.* Litchfield, 23 Howard, 66, in which it was held that the grant did not extend above Raccoon Fork, as claimed, the call upon Congress for the passage of an act—

which would secure the grant to the State and its grantees in the full extent which they (the Congressional delegation from Iowa) believed Congress had originally intended by the act of 1846—

The propriety of such action by Congress in view of the proved indebtedness of the State to the company, the suspension of work on the improvement, and the damage and loss likely to result therefrom, and then recites the joint resolution of March 2, 1861, and the act of July 12, 1862.

At this point the learned justice recurs to the lawful "reservation" of the lands from—

public sale, settlement, or pre-emption—

Which had been held to be effectual against the railroad grant of 1856 because of the restrictive proviso, which is recited, and the cases wherein this had been decided are cited.

The order of the Commissioner of the General Land Office of May 18, 1860, continuing the reservation of the lands notwithstanding the decision of the Supreme Court in Dubuque and Pacific Railroad Company *vs.* Litchfield, is then cited in connection with the argument that the joint resolution of 1861 "ended the withdrawal of these lands," upon which the court remarks:

We do not think the joint resolution had the effect to end the reservation of these lands from public entry—

And concludes that the resolution went to the extent of—

securing to innocent purchasers under the State, so far as the United States could do so, their title to the lands that they had bought under the sanction of this action of the Department.

The broader and larger question of the title to the lands within 5 miles of the Des Moines River above Raccoon Fork, which had not been certified to the State and which were declared by the decision of Dubuque and Pacific Railroad *vs.* Litchfield not to be included within the grant of 1846, Congress retained for further consideration, and at its next session after this joint resolution was passed it completely disposed of the whole subject, so far as it was in its power to do so, by validating the grant of 1846 to the full extent of the construction claimed by the State of Iowa. If the order of the Commissioner of the General Land Office of May 18, 1860, was in force up to the passage of the joint resolution it is not possible to perceive why it terminated then.

The opinion of the court is that the act of July 12, 1862—

was, for the first time, a conclusion and end of the matter so far as Congress was concerned.

THE COMPANY'S TITLE IS RES AJUDICATA.

The title of the plaintiff is asserted to rest upon settlements upon lands which were reserved from sale at the time the settlements were made, the title to which lands had been transferred to the State of Iowa, and the learned justice reaches the conclusion which I will read:

The object of this bill is to have a declaration of the court that the title of the plaintiff under these settlements and pre-emptions is superior to the title conferred by Congress on the State of Iowa and her grantees under the act of July 12, 1862. If the lands were at the time of these settlements and pre-emption declarations effectually withdrawn from settlement, sale, or pre-emption, by the orders of the Department, which we have considered, there is an end of the plaintiff's title, for by that withdrawal or reservation the lands were reserved for another purpose, to which they were ultimately appropriated by the act of 1862, and no title could be initiated or established, because the Land Department had no right to grant it. This proposition, which we have fully discussed, will be found supported by the following decisions, which are decisive of the whole controversy.

And fortifies it by citing many of the decisions to which I have previously referred.

This closes the judicial history of this remarkable controversy, and if the question can not properly be classified as *res adjudicata* it would be difficult to say what matter may not be properly reopened.

INFLAMMATORY DISPATCHES PROVEN TO BE UNTRUE.

The gentleman from Illinois [Mr. PAYSON] in his speech, to which I had no opportunity to reply, had two very inflammatory dispatches read, alleging that James B. Weaver, attorney for the Des Moines company, had stated he had seven hundred judgments in his possession, and that in the first week in March every one of them would be served and evictions made. One of the dispatches was from the Chicago Tribune of February 26 and the other from the Washington Evening Star of February 27. By leave of the House I print with my remarks an article from the Iowa State Register of February 28, utterly denying the truth of both of the dispatches to which I have referred. The article is in these words:

A CORRECTION—KEEPING THE RECORD STRAIGHT IN REGARD TO THE DES MOINES RIVER LANDS.

The dispatch yesterday morning from Fort Dodge created some comment around the city and much surprise. Mr. J. B. Weaver, jr., returned from Webster County last evening, where he had been on business, and on being shown the dispatch stated that it is wholly false and that he knows of no reason why it should have been sent out unless to try and influence Congress in pending

legislation. The following card was handed for publication by Colonel Gatch, who has been for many years the attorney for Mr. Litchfield:

"*Editor Register:*

"The report telegraphed from Fort Dodge to the Register and Chicago papers, and published in yesterday's Register, as to contemplated evictions by Mr. Litchfield from Des Moines River lands, is a sheer fabrication. Mr. Litchfield has, instead of seven hundred as stated by the lying correspondent, probably forty or fifty judgments for possession against parties who made no claim of title in defense, and who have now no claims for improvements, all that were filed having been disposed of. Last fall writs of possession were issued and executed in fifteen or twenty of these cases, when, the weather becoming inclement, their further execution was suspended, but with the intention of having the remainder executed as soon as the weather would permit, regardless of what Congress or the President might or might not do in the matter of the bill then pending, but which has since been passed and vetoed, knowing, as every lawyer knows, that nothing that Congress can do can affect his title so repeatedly held valid by the Supreme Court of the United States. Mr. Weaver's presence at Fort Dodge had nothing whatever to do with the contemplated evictions, and he pronounces the report, so far as related to himself, wholly untrue.

"C. H. GATCH."

The Navy.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

February 2, 1889.

The House having under consideration the bill (H. R. 12239) making appropriations for the naval service for the fiscal year ending June 30, 1890, and for other purposes—

Mr. WHEELER said:

Mr. CHAIRMAN: I move, *pro forma*, to amend by striking out the last word. I adopt this method of submitting a few remarks because, as we all know, it is often found to be the case, as it has been to-day, that when the members of the committee have elaborated their views upon a bill there is but little time left for any one else to say anything upon the questions involved in the proposed legislation.

The subject upon which I desire to speak is the resolution introduced by myself to provide for a board of visitors on the part of Congress to the naval torpedo station and War College on Goat Island. The resolution to which I allude is in these words:

Resolved, etc., That a joint committee of two members of the Senate and three members of the House of Representatives, to be known and designated as a Board of Visitors, be appointed by the President of the Senate and the Speaker of the House of Representatives, whose duty it shall be to attend the commencement exercises at the Navy War College and naval torpedo station, near Newport, R. I., and, by such means as the board may deem best adapted to the purpose, inquire into the methods and system of instruction in vogue in said college, the proficiency and standing of the students, and the advantages to the public service resulting from the maintenance of said college, and report the same to Congress at its next ensuing session, together with any suggestions they may desire to make with a view to increase the efficiency of the college and rendering it a more valuable agency in providing learned and skilled officers for the Navy of the United States.

SEC. 2. That the mileage and other necessary and indispensable expenses of the board of visitors hereby created shall be paid in the same manner and at the same rate as similar expenses of the board of visitors to the Naval Academy.

Mr. ROGERS. I thought you had had a day set apart for the consideration of that subject.

Mr. WHEELER. I have not had a day set apart because the Committee on Ways and Means and the Committee on Appropriations have absorbed so large a proportion of the time of Congress.

Mr. Chairman, for the last three hundred years the great military men of the world have endeavored to formulate what they call the art of war, or grand tactics. A few works have been published on this subject, one of the most noted being that by Jomini, an officer who was very prominent during the great war period from 1796 to 1815. An attempt has been made during very late years to prepare a similar work which would enunciate the principles that should govern naval warfare, but as yet no authoritative work has been published on that subject. A few years ago some of the enterprising officers of the Navy succeeded in getting a meager appropriation of $10,000 for the establishment and maintenance of a War College near Newport. Up to that time all that could be learned with regard to this most important subject was to be obtained by reading of the naval battles which are recorded in the history of the world; and from them something could be adduced of what actions brought with them success and what actions and maneuvers have been followed by disaster.

I do not think I am wrong when I say that appearances indicate that the Navy will perform a very great part in future wars; and I think all will admit that the important question before the American people is not only the building up of a Navy, but the taking of every means in our power to educate our officers to manage these great machines of war which are now being floated upon the ocean.

When our young Republic had but five millions of people, with no Army, with no Navy, surrounded by the powerful military nations of the earth, Washington declared that we must avoid entangling alliances and foreign intrigues; and it is remarkable that this expression of the Father of our Country has been echoed in every Congress from that time to the present. The last time I heard it was yesterday, it being laid down as the doctrine which should govern our country at the present time.

Now, Mr. Chairman, I say that this expression should no longer be quoted as an axiom of our foreign policy, or, at least, our people should remember that it has no application to a nation which to-day is the most powerful on earth, and which ought to establish and maintain such a policy as should perceptibly influence if not control the action of every people on earth in dealing with anything outside of their own borders.

[Here the hammer fell.]

Mr. HERBERT. I fear from a remark of my colleague [Mr. WHEELER] that he thinks I have been, in some way, guilty of discourtesy.

Mr. WHEELER. By no means.

Mr. HERBERT. I was not aware of any such thing, and had no such intention. I asked whether anybody else desired to speak, and my colleague did not respond. Now I desire to be recognized in order that I may yield my time to my colleague. I certainly did not intend to cut him off from the opportunity of speaking.

Mr. WHEELER. I am much obliged to my colleague. I did not mean to make any such intimation as he suggests.

The CHAIRMAN. The gentleman from Alabama [Mr. HERBERT] asks that his colleague [Mr. WHEELER] be permitted to proceed five minutes longer. Is there objection? The Chair hears none.

Mr. WHEELER. I am much obliged to my colleague.

Mr. HERBERT. I would ask for ten minutes if the gentleman desired it.

Mr. WHEELER. I do not think I shall occupy any more time than is suggested by my colleague.

I had no intention, Mr. Chairman, when I entered the Hall to-day of making a speech, and my reason for now addressing the House is that within the last half hour I have received a letter from Admiral Luce, from which I will read a paragraph, because it pertains to this subject. He writes from the steamer Galena, Key West, Fla., January 30, 1889:

UNITED STATES STEAM-SHIP GALENA,
Key West, Fla., January 30, 1889.

MY DEAR GENERAL: I was very much gratified by reading in a paper just received from the North a notice of joint resolution No. 235, introduced recently by you, providing for the appointment of a joint committee of the two Houses, to attend the commencement exercises of the Naval War College. I trust with all my heart the resolution may be adopted. For I am morally certain that such a committee as you propose will find the plan upon which that college is based such as to commend itself to the most unqualified approval of Congress and the country. Your committee will find that the institution of the college was a step, and a very great step, in the direct line of progress, and that its continuance is essential to the full development of modern naval science in this country.

It is a curious fact that in these days, when the popular cry is "Protection for home industries," that Congress should in each annual appropriation bill for the Navy insert an item "for cost of special instruction abroad," and yet give no encouragement for "special" instruction at home. Congress, by the deficiency bill approved March 3, 1883, appropriated $900 for tuition of two naval cadets at the Royal Naval College, Greenwich, England, and absolutely refused in 1887 to appropriate a penny for the maintenance of a like institution in this country. Moreover, since 1882 Congress has not failed to recognize in the most substantial manner, namely, by its annual appropriations, the great value to our Navy of the English Naval College; nor, with equal constancy, has it failed to turn a deaf ear to the advocates of the American Naval College.

Your resolution, my dear general, is the first note of encouragement we have had. I sincerely trust you will push it through to a favorable vote.

* * * * * * *

Very truly yours,

S. B. LUCE,
Commanding United States Naval Forces, North Atlantic Station.

General JOSEPH WHEELER,
United States House of Representatives.

The omitted portion of the letter refers very pleasantly to an episode of the war in which the distinguished admiral and myself were both actors.

When I was interrupted by the expiration of my time I was alluding to what I think should be the policy of the United States, a republic of sixty to seventy millions of inhabitants, the most powerful and enterprising people on earth in everything which makes a country great.

I do not wish to be understood as advocating rash or aggressive action, but only that when any one of the rights of our people is infringed or any American interest is jeopardized, we shall be prepared, in the most courteous manner, but with unflinching firmness, to demand the fullest redress, from which demand we will not recede, even to the millionth differential of a line.

I do not criticise our officials. They may have been as firm as the action of Congress would seem to suggest or permit, particularly when we consider the defenseless condition of our coast cities and the inferiority of our naval ships and their deficiencies of armament.

Two years ago I very minutely called the attention of Congress to this subject. We are now doing something toward naval armament, but even now other nations are annually appropriating ten times the amount we apply to that purpose.

Two years ago there were afloat in foreign navies one hundred and twenty-nine guns capable of throwing a projectile 10 miles and upward. The caliber of these high-powered guns ranges from 12 to 17 inches, and they can throw a shot or shell weighing 2,000 pounds. In addition to these fearful engines of destruction there were also to be found in foreign navies at that time sixty-six guns capable of throwing projectiles weighing from 900 to 1,250 pounds a distance of 9 miles. The largest of the guns I refer to requires nearly 1,000 pounds of powder for its charge; 83 pounds of powder are used to explode the immense mass of metal which constitutes the projectile, and they can be fired every ten or fifteen minutes. In this connection I beg the attention of the House while I read a table giving the nationalities and names of the vessels carrying these guns. The official reports from which this table has been compiled is more than three years old, and it is believed by those familiar with the subject that the number of these heavy guns in actual service has been largely increased.

GUNS AFLOAT RANGING POSSIBLY TEN MILES OR UPWARD.

Nation.	Ship.	Maximum armor.	Draught.	Guns.	Caliber.
		Inches.	*Ft. in.*	*No.*	*Inches.*
England	Conqueror	12	24 0	2	12
	Colossus	18	26 3	4	12
	Edinburgh	18	26 3	4	12
	Collingwood	18	26 3	4	12
	Rodney	18	25 3	4	13.5
	Benbow	18	27 0	2	17
	Camperdown	18	27 3	4	13.5
	Howe	18	27 3	4	13.5
	Anson	18	27 3	4	13.5
	Hero	12	24 0	2	12
	Renown	18	27 3	2	16.25
	Sanspareil	18	27 3	2	16.25
France	Amiral Duperré	21.6	26 9	4	13.4
	Dévastation	15	24 11	2	10.6
	Foudroyant	15	24 11	4	13.4
	Terrible	19	24 7	2	16.5
	Tonnant	17½	16 9	2	13.4
	Vengeur	13½	16 9	2	13.4
	Am. Baudin	21½	26 0	3	16.5
	Formidable	21½	26 0	3	16.5
	Furieux	19½	21 7	2	13.4
	Indomptable	19½	24 7	2	16.5
	Caiman	19½	24 7	2	16.5
	Requin	19½	24 7	2	16.5
	Marceau	17½	27 3	2	13.4
	Hoche	17½	27 3	2	13.4
	Magenta	17½	27 3	2	10.6
	Neptune	17½	27 3	3	13.5
	Brennus	17½	26 8	4	13.4
	Charles Martel	17½	26 8	4	13.4
Italy	Italia	18.9	30 3	4	17
	Lepanto	18.9	29 6	4	17
	Ruggiero di Lauria	17.7	25 11	4	17
	Andrea Doria	17.7	29 6	4	17
	F. Morosini	17.7	25 11	4	17
Germany	Salamander	8	10 2	1	12
	Natter	8	10 2	1	12
	Hummel	8	10 2	1	12
China	Ting Yuen	14	20 0	4	12
	Chen Yuen	14	20 0	4	12
Russia	Catherine II	24	27 0	4	12
	Tchesme	24	25 0	4	12
	Sinope	24	25 0	4	12
Denmark	Tordenskiold	8	15 0	1	13.8

GUNS AFLOAT RANGING POSSIBLY NINE TO TEN MILES.

England	Inflexible	24	25 4	4	16
France	Friedland	7⅞	29 4	2	10.6
	Redoubtable	14	24 10	4	10.6
	Duguesclin	9⅞	24 10	4	9.5
	Bayard	9⅝	24 10	4	9.5
	Turenne	9⅝	24 10	4	9.5
	Vauban	9⅝	24 10	4	9.5
	Fulminant	13	21 4	2	10.6
	Tonnerre	13	21 4	2	10.6
Italy	Duilio	21.7	28 0	4	17
	Dandolo	21.7	28 9	4	17
Germany	Sachsen	17.25	19 8	4	10.2
	Baiern	17.25	19 8	4	10.2
	Wurtemberg	17.25	19 8	4	10.2
	Baden	17.25	19 8	4	10.2
	Wespe	8	10 2	1	12
	Viper	8	10 2	1	12
	Biene	8	10 2	1	12
	Mücke	8	10 2	1	12
	Scorpion	8	10 2	1	12
	Basilisk	8	10 2	1	12
	Cameleon	8	10 2	1	12
	Crocodil	8	10 2	1	12
Brazil	Riachuelo	11	20 0	4	9

Any one of these vessels could easily take up a position beyond the range of any gun we possess and have any vessel in our Navy entirely at her mercy. Any one of these vessels carrying the highest-powered guns could float in 30 feet of water off Coney Island and destroy the cities of Brooklyn and New York without fear of injury from any gun we have.

Another could find 30 feet of water within 5 miles of Faneuil Hall and rain these massive shots and shells upon Boston and the many prosperous towns which constitute its suburbs.

Another could easily find a point 3 or 4 miles northeast of Portland, Me., from which in more than 30 feet of water she could easily destroy the largest city upon our extreme eastern coast.

New Bedford, Providence, New Haven, Norfolk, and Baltimore are all equally exposed and equally powerless to even resent, much less successfully resist, an attack from an enemy's vessel carrying these high-powered guns and having a draught of 15 feet and upward. And it must be remembered that some of the vessels armed with guns of 10 miles' range draw but 10 to 15 feet of water.

Even the capital city of the Republic would be vulnerable to such an attack, for though it is 200 miles from the sea vessels of 19 feet draught can come up to the city.

And all the cities on or near our Atlantic and Gulf coast—Richmond, Charleston, Savannah, Pensacola, Mobile, New Orleans, Galveston, Brownsville, Clarksville, Brazos Santiago, Appalachicola, St. Marks, Tampa Bay, Cedar Keys, Key West, St. Augustine, Jacksonville, Fernandina, St. Mary's, Port Royal, Georgetown (S. C.), Smithville, Wilmington, Beaufort, Plymouth, New Berne, Edenton, Annapolis, Hampton Roads, Lewes, Atlantic City, Little Egg Harbor, Perth Amboy, Bridgeport, New London, Stonington, Bristol, Newport, Fall River, Vineyard Haven, Nantucket, Provincetown, Barnstable, Plymouth, Lynn, Marblehead, Salem, Gloucester, Rockport, Newburyport, Portsmouth, Saco, Bath, Camden, Bucksport, Bangor, Belfast, Rockland, Eastport, and Calais—are in the same deplorably defenseless condition, and would fall an easy prey to a single hostile vessel armed with such guns as I have described.

If we look at our Pacific coast we find the same discreditable inability to defend our seaboard cities from naval bombardment. San Francisco could not escape even were her magnificent harbor—one of the finest in the world—rendered inaccessible to an enemy's vessel; the city could still be shelled by vessels carrying high-powered guns, from a distance of six or seven miles, with water sufficient to float the deepest ship ever constructed. And what I have said of San Francisco is equally applicable to Port Townsend, Steilacoom, Seattle Harbor, Olympia, New Dungeness, Astoria, Kalama, Portland, Newport, Empire City, Crescent City, Trinidad, Mendocino, Benicia, Vallejo, Santa Cruz, Monterey, San Luis Opispo, Santa Barbara, and San Diego, with this modification of the statement: They do not all afford 30 feet water within six or seven miles; but there is, within that distance from each of the cities or towns on the Pacific coast, sufficient water to float a vessel which could destroy them in absolute safety.

In my speech on this subject of two years ago I gave the tonnage used to transport armies on several occasions, showing that only 3 or 4 tons per man was required, and that about double that tonnage per man would suffice to transport soldiers with their horses, stores, ordnance, and other equipage.

Some gentlemen will say that the course I think it advisable we should adopt might involve us in war. I am as much opposed to the evils and ravages of war as any one upon this floor, but I say if such a course involves this country in war, then the sooner it comes the sooner the skill of our officers and the valor of our soldiers will terminate the conflict in one of the greatest triumphs, military and naval, ever achieved by any nation, and from that moment the power and vigor of this country in war as well as its energy in peace will be more fully recognized, appreciated, and understood.

It will not cost us anything. It will bring about a development of our resources, and the opening and building up of our commerce and trade all over the world, the profits of which during one single year would pay all the expenses of the greatest conflict in which we could be engaged.

The CHAIRMAN. The gentleman's time has expired.

Mr. HERBERT. How much more time does the gentleman desire?

Mr. WHEELER. Two minutes.

Mr. HERBERT. I ask that the gentleman's time be extended.

There was no objection, and it was ordered accordingly.

Mr. WHEELER. In some remarks I made last summer, after careful calculation, I showed that the products of our farms and factories exceeded all possible power of purchase by Americans to the amount of $5,000,000,000 annually, and the only possible way to meet this unfavorable commercial and industrial condition is either to reduce the days of labor to not more than two or three days in the week, or to open to the enterprise of our laborers the markets of the world, where 1,000,000,000 people are waiting to purchase the products of our arts and industries. And this can best be brought about by the United States so asserting its rights, so manifesting its dignity and power, that on sea and land she will ever command the reverential respect, as she has already won the admiration, of all the nations of the earth. [Applause.]

Rivers and Harbors.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, January 2, 1889.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 11765) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes—

Mr. WHEELER said:

Mr. CHAIRMAN: There are few questions to be acted upon by Congress so intimately connected with the material interests of the people as the improvement of the rivers and harbors of the country.

Our forefathers provided in the Constitution that—

The Congress shall have power * * * to regulate commerce with foreign nations and among the several States—

and that body has ever retained the full control of all the navigable waters of the United States.

The Supreme Court has uniformly held that this express grant of power necessarily carries with it the power to regulate the instrumentalities of commerce, the means whereby it is carried on, and to control or govern the acts of persons engaged in commerce between or among the several States.

It is, therefore, manifest, from legislative practice and judicial construction of the Constitution, that Congress alone can improve the navigation of our rivers, deepen our harbors and make them more safe, and do whatever is requisite to facilitate commerce within our own borders as well as with those nations which send their vessels across the ocean to the great centers of trade upon our gulf and ocean seaboard.

As nations advance in civilization they necessarily increase their efforts to secure greater facilities for transportation and intercommunication.

LARGE EXPENDITURES BY FRANCE.

Eighty years ago the average depth of the river Seine, in France, was only 2½ feet. As the people of that country progressed in civilization they found this insufficient to meet their greater requirements, and works were begun and prosecuted which secured a depth of 4 feet. Continued progress demanded better means of communication, and the work was carried on until a depth of 5 feet was attained. But the people moved forward with steady strides toward a higher civilization, while the river channel remained unchanged, and the work of improvement had to be resumed and prosecuted until a depth of 6½ feet was secured. With this greatly better water way the commerce of the country was greatly stimulated, and to meet the requirements of the altered conditions of trade, the work of improving the river was again undertaken and persevered in until from Paris to the sea the Seine at low water had a depth of 10½ feet—sufficient to enable vessels of 800 tons burden to ascend the river from the ocean to the wharves of the capital city.

The river Rhone, which has a fall averaging 32 inches per mile from Lyons to the sea—a distance of 200 miles—was not a navigable stream until improved by the government. Now vessels ascend to Lyons, and works now being carried on will secure not less than 5 feet 3 inches at low water from that city to the Mediterranean, and at most seasons the depth will be much greater.

A report made by M. Kuntz, a member of the national assembly, states that prior to 1878 France had expended $230,000,000 upon her canals, rivers, and harbors, and yet, so impressed are the French people with the advantages to the country resulting from an outlay of the public money for this purpose, that a further prosecution of works of this character is advocated at an estimated cost of nearly $200,000,000.

France has about 30,000 miles of railways, and it must be recollected that her area is only 204,030 square miles—about three-fourths of the size of the State of Texas. With this area it might be presumed that the 30,000 miles of railroads would furnish her people with about all the means of national intercommunication they would need, but experience has satisfied the statesmen and publicists of that country that these means must be supplemented by, and subjected to, the salutary competition of improved water ways, and they unhesitatingly and ungrudgingly determine to devote these immense sums to insure the people of France uninterrupted and unimpeded water communication between interior points and between the centers of manufacture and trade and the sea.

In 1887 France expended 176,046,604 francs (about $35,209,321) upon public works, a very considerable portion of which sum was applied to still further improving her rivers and harbors.

THE EXAMPLE OF ENGLAND, BELGIUM, AND HOLLAND.

The United Kingdom of Great Britain and Ireland has a smaller actual railway mileage than France (19,332 miles), but in proportion to the areas of the two countries it is much greater, the area of the United Kingdom being but 121,571 square miles, little more than one-half that of her Gallic rival. Her rivers are mostly arms of the sea, having great depth of water and requiring but slight improvement to make them available for purposes of intercommunication and commerce. And yet, with so little necessity to resort to artificial means for the betterment of the advantages nature had lavished upon them, that cultured and progressive people, realizing and appreciating the importance of availing themselves to the utmost of all possible means of fostering, developing, and stimulating the internal interchange of their products and their exchanges with foreign nations by perfecting their means of water communication and improving their harbors, have already expended for this purpose a sum nearly as great as has been applied to the rivers and harbors of the United States, though we have a territory more than thirty-two times larger. According to the "Statesman's Year Book" for 1888, page 230, the expenditures for public works were £1,708,524 ($8,542,620, about).

It would take three hundred countries the size of Belgium to equal the area of the United States, and yet that country has expended upon rivers and harbors one-fifth as much as has been devoted by us to that purpose.

The area of Holland is but 2,128 square miles. Multiply that eighteen hundred times and the product would be about the area of this country. And yet this nation of enterprising though thrifty merchants have expended for public works about one-fourth of the sum we have spent for the same objects.

GERMANY, RUSSIA, AND ITALY.

Germany, with an area much less than that of our single State of Texas, and with 25,000 miles of railroads, has almost entirely reconstructed the river Danube, and, in addition to that great work, on a stream not larger than the Clinch, that people have expended $20,000,000. And yet members of this House criticise Congress for extravagance in improving Clinch River when the total amount expended has been only $15,000.

Russia has the best natural inland navigation of any civilized country except our own, having about 19,000 miles of navigable streams and in addition double that length of water ways available for rafts and flatboats. But as civilization has advanced among the Russians they have expended millions of dollars to improve their arteries of commerce, and have supplemented this vast and expensive work by constructing nearly 1,000 miles of canals, one single canal, the St. Petersburg, having cost over $7,000,000.

From the "Statesman's Year Book" for 1888, page 422, I learn that in 1887 Russia expended 25,642,469 rubles (75 cents of our money) for public works—about $19,231,852.

Italy is not abundantly supplied with water courses, being able to boast of only about 1,100 miles of navigable streams, the Po being the longest and most important. That country has, however, at great expense, constructed 435 miles of navigable canals, beside which they have 7,000 miles of railroad. Yet the spirit of improvement may be said to have just commenced, as I find from the "Statesman's Year Book," page 344, that in 1887 that country expended for public works 81,152,562 lire. A lira being about equivalent to 20 cents in our money gives in round numbers $16,230,000.

EXPENDITURES IN THIS COUNTRY.

I will now submit to the House a carefully-compiled tabulated statement showing the total expenditure of the United States for this great purpose:

Table showing the aggregate appropriations for the improvement of rivers and harbors during the century beginning 1789 *and ending* 1889.

States.	Total amount.	States.	Total amount.
New York	$18,898,736.28	New Jersey	1,768,038.00
Michigan	12,502,877.25	Kentucky	1,668,000.00
Wisconsin	6,413,541.74	Rhode Island	1,351,950.00
Texas	5,690,700.00	Indiana	1,109,953.92
Ohio	4,581,147.29	Minnesota	851,250.00
Massachusetts	4,378,749.08	Arkansas	835,400.00
Illinois	4,040,205.00	Mississippi	719,525.00
Delaware	3,958,164.69	Vermont	715,480.20
North Carolina	3,824,398.92	Tennessee	681,500.00
California	3,515,750.00	Louisiana	664,400.00
Maryland	3,096,062.50	New Hampshire	394,560.00
Oregon	3,033,950.00	Montana Territory	300,000.00
Virginia	2,971,389.00	Missouri	76,500.00
West Virginia	2,666,675.00	Washington Territory	58,500.00
Georgia	2,624,205.41	Idaho Territory	15,000.00
South Carolina	2,473,500.00	Miscellaneous	64,807,153.90
Connecticut	2,437,176.83	Surveys	5,858,430.40
Maine	2,260,134.48	Repairs, etc	4,107,877.12
Alabama	2,140,001.52	Dredging machines, etc	1,251,257.54
Florida	1,921,850.09		
District of Columbia	1,866,500.00		
Pennsylvania	1,828,792.23	Total	182,049,156.69
Iowa	1,770,000.00		

The item of $64,000,000, designated as "miscellaneous," is for rivers which traverse more than one State, or harbors which are adjacent to or between more than one State, and therefore can not be accurately apportioned. I have also prepared a table showing the amount expended in the improvement of the individual rivers, which I will read. These rivers flow through or between two or more States, and the table shows some other expenditures which can not properly be charged to any single river or any one harbor.

Table showing the expenditures on certain rivers from 1789 *to* 1889.

Name of river or harbor, etc.	States adjacent, etc.	Date of first appropriation.	Total amount appropriated from March 4, 1789, to January 1, 1889.
Arkansas River	Arkansas, Indian Territory, and Kansas.	July 3, 1832	$372,875.00
Bayou Bartholomew	Arkansas and Louisiana	Mar. 3, 1881	28,000.00
Black River	Arkansas and Missouri	June 14, 1880	61,000.00
Cattahoochee and Flint Rivers.	Alabama, Florida, and Georgia.	Feb. 24, 1835	145,000.00
Choctawhatchee River	Alabama and Florida	Mar. 2, 1833	112,000.00
Coosa River	Alabama and Georgia	Aug. 14, 1876	515,000.00
Cascades of Columbia River (canal).	Oregon and Washington Territory.	Aug. 14, 1876	1,442,500.00
Columbia River	do	June 10, 1872	330,000.00
Cumberland River	Kentucky and Tennessee.	July 3, 1832	1,041,000.00
Cumberland Sound	Georgia and Florida	June 14, 1880	405,000.00
Current River	Arkansas and Missouri	June 10, 1872	7,000.00
Cypress Bayou	Louisiana and Texas	June 10, 1872	112,000.00
Dan River	Virginia and North Carolina.	June 14, 1880	50,500.00
Delaware River	Delaware, New York, New Jersey, and Pennsylvania.	July 4, 1836	2,012,000.00
Entrance to the Dismal Swamp Canal.	North Carolina and Virginia.	July 4, 1836	35,000.00
Escambia River	Alabama and Florida	Mar. 2, 1833	72,500.00
French Broad River	Tennessee and North Carolina.	Aug. 14, 1876	51,500.00
Little Narragansett Bay	Connecticut and Rhode Island.	Aug. 14, 1876	36,000.00
Menomonee Harbor	Michigan and Wisconsin	Mar. 3, 1871	175,000.00
Mississippi River		Mar. 3, 1879	36,713,380.53
Mississippi and Missouri Rivers.		July 2, 1836	100,000.00
Mississippi and Ohio Rivers.		May 24, 1824	677,711.64
Mississippi, Missouri, and Ohio Rivers.		July 3, 1832	223,000.00
Mississippi, Missouri, Ohio, and Arkansas Rivers.	Mississippi, Missouri, and Arkansas.	Aug. 23, 1842	2,750,000.00
Missouri River	Dakota, Iowa, Kansas, Missouri, Montana, and Nebraska.	Aug. 30, 1852	4,439,000.00
Monongahela River	Pennsylvania and West Virginia.	June 10, 1872	327,900.00
New River	Virginia and West Virginia.	Aug. 14, 1876	112,000.00
North Landing River	Virginia and North Carolina.	Mar. 3, 1879	55,500.00
Falls of the Ohio and Louisville Canal.		Aug. 30, 1852	1,291,562.91
Ohio River	Ohio, Pennsylvania, West Virginia, Kentucky, Indiana, and Illinois.	Mar. 3, 1827	5,211,479.25
Osage River	Missouri and Kansas	Mar. 3, 1871	200,000.00
Ouachita River	Arkansas and Louisiana	Mar. 3, 1871	327,500.00
Pawcatuck River	Rhode Island and Connecticut.	Mar. 3, 1871	50,000.00
Red River of the North	Minnesota and Dakota	Aug. 14, 1876	193,000.00
Red River of the South	Arkansas, Louisiana, and Texas.	May 23, 1828	1,513,265.50
Rock River	Illinois and Wisconsin	July 7, 1838	1,000.60
St. Croix River	Wisconsin and Minnesota.	June 18, 1878	83,500.00
St. John's and St. Mary's Rivers.	Florida and Georgia	May 23, 1828	78,000.00
Staten Island Channel	New York and New Jersey.	June 23, 1874	184,000.00
Tennessee River	Kentucky, Tennessee, and Alabama.	Mar. 3, 1827	3,376,456.94
Wabash River	Indiana and Illinois	May 23, 1828	615,500.00
Waccemaw River	North Carolina and South Carolina.	June 14, 1880	44,400.00
Warrior and Tombigbee Rivers.	Alabama and Mississippi.	June 10, 1872	336,000.00
White, Black, and St. Francis Rivers.	Arkansas and Missouri	Mar. 2, 1833	2,500.00
Yellowstone River	Dakota and Montana	Mar. 3, 1879	118,750.00
Repairs and extensions of public works on rivers and harbors.		July 25, 1868	3,500,000.00
Repairs of harbors on the Lakes.		June 11, 1844	270,000.00
Preservation and repair of harbors and river improvements.		Mar. 3, 1841	85,000.00
Repair and contingencies.	Atlantic coast	Apr. 30, 1852	110,000.00
Transportation, fuel, etc		Aug. 30, 1852	12,127.00

Table showing expenditures on certain rivers, 1789 *to* 1889—Continued.

Name of river or harbor, etc.	States adjacent, etc.	Date of first appropriation.	Total amount appropriated from March 4, 1789, to January 1, 1889.
Surveys	Atlantic coast	June 23, 1866	60,000.00
Do	Pacific coast	June 23, 1866	50,000.00
Do	Northwestern lakes	June 23, 1866	175,000.00
Do	Western and Northwestern rivers.	June 23, 1866	275,334.40
Do	Atlantic and Pacific coasts lakes and rivers.	July 11, 1870	1,790,000.00
Hydrographic survey of the lakes.		July, 3, 1841	2,955,379.00
Youghiogheny River to Cumberland.		June 23, 1874	210,000.00
Norfolk to Atlantic Ocean.		June 18, 1878	20,000.00
Steam-dredging machines for the lakes.		July 2, 1836	122,682.96
Snag-boats and dredgeboats.		Aug. 30, 1852	796,000.00
Construction of an iron steamer.		Aug. 5, 1854	60,000.00
Charts, etc		Mar. 3, 1849	108,000.00
Removal of sunken vessels.		June 14, 1880	207,233.15
Purchase and management of Louisville and Portland Canal.		Mar. 3, 1873	1,250,000.00
Purchase of Shreve's patent.		Jan. 13, 1881	50,000.00
Total			78,136,038.28

THE TENNESSEE RIVER.

It will be noticed that $3,376,456 has been expended upon the Tennessee River, and the larger part of this sum has been used in removing the barrier which, for all time, has separated the 400 miles of navigable water above from that below the obstruction.

I now ask attention to a rapid summary of what has been accomplished on this special work.

As far back as 1824, Mr. Calhoun, then Secretary of War, referred to the improvement of the Tennessee River so as to connect the upper waters with those below Muscle Shoals as a work of such value as to be subordinate in importance to but two national works of improvement, and directed a survey to be made as the first step in undertaking the work.

General Andrew Jackson frequently crossed the Tennessee at Muscle Shoals, and during a considerable period owned and cultivated land near the head of the obstruction. When he became President he had the river resurveyed at that point by Colonel Long, of the Corps of Engineers.

In 1828 Congress determined to remove the obstruction and enacted a law appropriating 400,000 acres of land to carry out the important project. A large sum, estimated as high as $2,000,000, was expended in constructing a narrow canal 14½ miles in length, but before improvements were begun at other points one of the dams gave way, and there being no money available for the continuation of the work, or to even make the slightest repairs, the entire work was abandoned.

DESCRIPTION OF THE CANAL.

A few years since the work of improvement was resumed and much has been accomplished. Commencing about 12 miles below Decatur, Ala., the plan adopted to secure sufficient water required excavations through solid flint rock which formed an impassable reef in the bed of the river. This involved the blasting and removal of over 1,000,000 cubic feet of the hardest rock. Four miles below the initial point of the work a rock wall, 2½ miles in length, was built to confine the water between the wall and the southern shore. A canal 1¼ miles long, with two locks, was then constructed, which carried the work to a point whence, with but little additional labor, navigation could be secured for a distance of 7½ miles. Here the main canal, 14½ miles long, begins. The fall of the river within this distance of 14½ miles is 84½ feet. At some points the fall is very great, being as much as 18 feet in a single mile, and for short distances the fall is at the rate of 40 feet to the mile.

Altogether there are eleven locks, 60 feet wide and 300 feet in length, between the gates. They vary in lift from 5 feet to 12 feet, and are all of the most superior workmanship and will last while the rock of which they are built shall endure.

To aid members of the House to fully realize how detrimental these shoals are to the interests of the citizens affected by this obstruction, I would like to ask how long the people would tolerate an impediment to the navigation of the Hudson 40 miles above New York, or in the vicinity of Philadelphia in the Delaware?

Yet, so wonderful has been, and will be, the development of the Tennessee Valley that, with 5 feet of water, unobstructed, from Chat-

tanooga to the Ohio River, it is as certain as any future event can be that within a few years the tonnage transported on the Tennessee River will approximate, if it does not equal, the large aggregate now carried over either of those great highways of trade.

A MAGICAL TRANSFORMATION.

When the present work of improving this great water way was inaugurated the products which it was expected would seek this avenue to find a market were presumed to be confined to cotton and cereals. In the last few years, however, the industries of the localities designed to be immediately benefited have undergone a most surprising transformation. During the last ten years iron and coal mines have been opened, and great manufacturing cities of 60,000 inhabitants are now seen where, at the beginning of that period, there were only broad fields of yellow corn or continuous rows of the South's great fleecy staple. As if by magic these hives of mechanic skill and the artisan's persistent and toilsome, though beneficent, labors have sprung into existence.

The forge stands to-day where but yesterday the plow ran noiselessly through the loamy soil; the furnace chimney soars now to the stars that a short while ago shone down upon the quietude of a purely agricultural scene. And with the completion of the improvement which the people of my district demand as their right, and toward which I now ask the representatives of the people to devote a portion of the public treasure now lying idle in the money vaults of the nation, this miraculous development will be followed by still greater marvels of American industry and enterprise, with the result that ere many years have waned the tonnage on the Tennessee will be increased many hundred fold—perhaps many thousand fold.

A FORCIBLE ILLUSTRATION.

To illustrate: Four years since Sheffield was a corn-field, and the seven great furnaces in that place and on the opposite bank will furnish more tonnage than the aggregate of the entire cotton crop of the United States, and that would be a tonnage at least one thousand times greater than the cotton produced in the country above the shoals and which is tributary to the Tennessee River. To enforce this proposition I will read a letter from the energetic and distinguished manager of the Florence Improvement Company:

FLORENCE, ALA., *December* 31, 1888.

DEAR GENERAL: In reply to yours, making inquiry about the tonnage that would seek water transportation if the Tennessee River was so improved as to allow steam-boats to reach this point all the year, it is difficult to form anything like an exact estimate, more especially since the work on the Muscle Shoals Canal will soon be completed, and open up such a large extent of country with its mines of coal, ore, and marble, its forests of timber, and its extensive agricultural products. I feel confident that the prediction of Judge Nixon, of Tennessee, made many years ago, is now being rapidly fulfilled. He said that it would not be a quarter of a century before the banks of the Tennessee River from the Muscle to the Colbert Shoals, would be lined with furnaces, rolling-mills, cotton-mills, and almost every other kind of manufacturing enterprise.

The Florence Improvement Company have located nearly a million dollars of capital in industrial enterprises at this place in the last six months; and the prospect is that it will be double that amount in the next six months. One of the greatest inducements, perhaps the greatest, which enterprising men see in locating their plants here is the Tennessee River, when assured that all obstructions to navigation will be removed.

You will not fail to observe that I am building the Florence Northern Railway, and it might seem that the railroad and river would conflict; and to some extent they will, but I favor cheap and easy transportation, and if railroads can not compete with the river they ought not to be built. The country needs the river, and the opening of the Colbert Shoals will give as much employment for as many steam-boats as run the Ohio River below Cincinnati. It may look strange, but the seven furnaces now nearly completed at Sheffield and Florence will give more tonnage than the whole cotton crop of the United States. A calculation will show the correctness of this statement.

Now, it is not unreasonable to suppose that in less than five years there will be three or four times as many furnaces in this locality, to say nothing of the other manufactories, mines, and quarries that will give employment to steam-boats, barges, etc.

I give you this general estimate of the amount of business which would be on the river if all obstructions were removed; the furnaces at present built would load two or three steam-boats every day with their products.

We very much hope that your efforts to secure the appropriation for this most important work will be successful. I know of nothing that would prove so great a benefit to so large a section of country as the opening of the Tennessee River for first-class boats all the year.

Very truly, your obedient servant,

W. B. WOOD.

General J. WHEELER, M. C.,
Washington City.

A PROPHECY INDORSED.

The prediction referred to in this letter is abundantly supported by many very distinguished citizens. Among them I will mention the sagacious and enterprising General Samuel Thomas, who has carefully studied the resources of our country, and as a result of his investigations prophesies that the time will come when the Tennessee Valley will be the center of manufacturing industry, not of the South or of this country alone, but of the entire world.

In March, 1888, a convention was held at Decatur to consult as to the best means of securing the speedy completion of the work at Muscle Shoals. That enterprising and sagacious gentleman, Maj. E. C. Gordon, who has done so much in the way of developing the resources of the South, was appointed chairman of a committee selected by the convention to memorialize Congress. In presenting the memorial he accompanied it with a letter, which is in these words:

WASHINGTON, D. C., *March* 21, 1888.

To the Congress of the United States:

I beg leave, in this manner, to submit the accompanying memorial, prepared and presented by order of a convention representing nearly every State in the Union, held at Decatur, Ala., January 18, 1888, asking for a liberal appropriation for the Tennessee River improvements, now already so far advanced.

Representing also the committee appointed by that convention, I beg leave to add a few remarks to the point made in the memorial herewith submitted.

One or two illustrations will serve to demonstrate that the one and one-half millions of dollars, or thereabouts, necessary to complete the work already begun, is only a very small proportion of the annual amount saved to the people in the several States interested.

It will be seen from the memorial that seventy-eight iron furnaces, either already built or in process of construction, in the territory contiguous to the Tennessee River in Alabama, Tennessee, and Georgia, will have, in 1889, an estimated capacity of 1,500,000 tons of pig-iron. Without trying your patience with figuring out details, it can be easily demonstrated that at least $1 per ton average in the cost of transportation can be saved to the commerce and prosperity of that region by the opening of the Tennessee River—a saving of fifteen hundred thousand dollars annually on the transportation of pig-iron alone—all of which will find its way into the ordinary channels of commerce and add to the welfare and prosperity of the entire population of the country. In every case these iron furnaces are located so as to easily reach the river by short existing railway lines or are built upon its banks.

It will serve to show the vast importance of the iron industry of that region when it is seen that, assuming the production in 1889 will reach 1,500,000 tons annually, and estimating the average selling price of the iron at the furnaces at $14 per ton, it will place in circulation from production $21,000,000 annually.

The impetus given to the coal and coke industry by the opening of the Tennessee River to navigation will doubtless double the present output within twelve months, with constantly accelerated production, and will save in the cost of transportation not less than 12½ cents per ton average, or an equal to $750,000 upon the productions of the second year.

Another item to which I beg leave to call your attention, and by which to briefly illustrate the importance of this work as a national enterprise is, as to saving upon the 500,000 bales, at least, of cotton, worth $22,500,000, which will naturally find its outlet by the Tennessee River. An investigation will demonstrate that with the opening of the Tennessee River 40 cents per 100 pounds, or $2 per bale, will be saved to the planting interest contiguous to the Tennessee River, or an equivalent of $1,000,000 annually saved to the farmers and laborers of that region.

While the coal, iron, and cotton-producing industries included in the 46,200 square miles of territory drained by the Tennessee River amount in productions to more than $45,000,000 annually in these three items alone, yet the great importance of these industries is surpassed by the enormous lumber-producing capacity, the general manufacturing interests, and the agricultural resources other than cotton of that most favored region, and which industries, as great as they are now, will go on increasing in volume and value of their production in proportion to the increase in the facilities for cheap transportation; while the cost of living would be greatly cheapened to the people by the less cost of transportation on all articles of necessity and luxury bought and brought in from other regions, and this saving would amount to millions of dollars per annum to the people of the many States directly interested.

In anticipation of the opening up to navigation of this great national highway, not only are the older towns, such as Chattanooga and Knoxville, greatly prospering, but new ones are springing up and growing into great importance along the banks of the Tennessee River at Sheffield, with its five large furnaces in process of erection, and Florence with two, and other industries in course of erection, with a population growing commensurate with these great enterprises, where a few years ago only agricultural pursuits were known; and when you remember that the town of Decatur, which, a year ago, was a little village of 1,000 people, now has a population of 7,000, and with manufacturing industries employing 3,500 skilled mechanics in process of erection, while growth and prosperity characterize the whole region, will give you some idea of why the citizens of the several States interested, and especially the citizens of that portion of the new South, are so earnest in their appeals to the Government to open up to navigation, with all reasonable expedition, that great national highway.

I beg leave to suggest that the opinion of the citizens represented in the convention above referred to was to the effect that the opening up of the national water ways to commerce was one of the most effectual, if not the most potent, means by which the commerce between the States can be satisfactorily regulated, and that such a policy, fully known to the Congress of the United States, has been in accordance with the wisest and best statesmanship since the formation of the Government to the present time.

A copy of the memorial referred to, published in the Times newspaper, Chattanooga, Tenn., page 3, column 3, March 18, 1888, accompanying also a memorial from the Chattanooga Chamber of Commerce, is herewith submitted.

Respectfully,

E. C. GORDON, *Chairman.*

THE RIVER CONVENTION MEMORIAL.

To the Congress of the United States:

At a convention held in the city of Decatur, Ala., January 18, 1888, the undersigned were appointed a committee to memorialize you to obtain necessary appropriation to remove the obstruction to the navigation of the Tennessee River.

We submit:

First. It is the sixth in size and third in national importance of any river in the United States.

Second. Since 1868 it has been recognized by the Government as of national importance, and has been embraced in the river and harbor bills.

Third. Two million seven hundred and fifty thousand dollars has already been expended; $180,000 additional is required to complete the improvements at Muscle Shoals and remove the obstructions (except that known as Colbert Shoals) from its mouth to the head of navigation.

Fourth. One million dollars is required for removing the obstruction at Colbert's Shoals, which are located 300 miles from its mouth and 30 miles below Florence, Ala.

Fifth. When opened according to the present plan, adopted long since by the Government, it will afford to commerce as follows:

Main River, Knoxville to Loudon, 60 miles.
Main River, Loudon to Kingston, 24 miles.
Main River, Kingston to Chattanooga, 110 miles.
Main River, Chattanooga to Boiling Pot, 19 miles.
Main River, Boiling Pot to Bridgeport, 41 miles.
Main River, Bridgeport to Guntersville, 74 miles.
Main River, Guntersville to Decatur, 51 miles.
Main River, Decatur to Brown's Ferry, 10 miles.
Main River, Brown's Ferry to Florence, 39 miles.
Main River, Florence to Waterloo, 33 miles.
Main River, Waterloo to Paducah, 222 miles.
Main River, total navigable, 737 miles.
Tributaries, Hiwassee River, 33 miles.
Tributaries, French Broad River, 90 miles.
Tributaries, Powells River, 159 miles.
Tributaries, Clinch River, 315 miles.
Tributaries, Emory River, 7 miles.
Tributaries, Duck River, 68 miles.
Tributaries, Little Tennessee River, 15 miles.
Tributaries, total navigation, 685 miles.
Main river and tributaries navigable 1,442 miles.

Sixth. When completed the Government plan will offer to commerce navigation as follows:

Six feet of water all the year round from its mouth to Decatur, Ala., 378 miles.

Five feet of water the year round, Florence to Chattanooga, 135 miles.

Three feet of water all the year round, Chattanooga to Knoxville, 191 miles.

Two and one-half feet of water all the year round on its tributaries, 685 miles.

Total main river and tributaries navigable, 1,442 miles.

Seventh. In addition to the above, tributaries to this river which should be improved by slack-water navigation not yet recommended or adopted amounting to more than 600 miles.

Eighth. Navigable river in the present plan now adopted by the Government and slack-water navigation, which should be adopted, 2,042 miles.

Ninth. When completed it will open up 2,042 miles of the river with the 35,000 miles navigable waters of the Mississippi River and its tributaries.

Tenth. This river is free from ice. It passes through a limestone formation where its bottom is not at any point a shifting sand. Obstructions once removed do not require again to be cared for.

Eleventh. Area drained by this river and its tributaries, 46,200 square miles. It traverses eight States. It is longer, drains a greater area, is a more reliable water stream than the Ohio or Upper Mississippi. It bisects about 1,300 miles of veins of iron ore, 11,000 square miles of coal, every variety of marble and cololitic limestone, zinc, lead, 10,000 square miles of virgin forest, containing the finest qualities of hardwoods of America practically untouched; its valleys producing the largest crops of breadstuffs, and other food products, its ridges and mountains producing the finest fruits of America, renders it one of the richest undeveloped portions of the United States.

Twelfth. Coal output tributary to this river in 1880 was 1,010,000 tons. The same during 1887 was 3,000,000 tons. Gain, 300 per cent.

Thirteenth. Pig-iron produced contiguous to this stream and its tributaries in 1880, 150,000 tons. The same during the year 1887, 592,076 tons. Gain, 300 per cent.

Fourteenth. Twenty-two new furnaces in process of construction, to be completed in 1888, will increase the product 660,000 tons annually.

Fifteenth. Forty-nine furnaces now in blast; twenty-two new furnaces being erected. Estimated product for 1889, when new furnaces are in blast, 1,500,000 tons, an increase of 1,000 per cent. in less than ten years.

Sixteenth. Experience has demonstrated that the opening and improvement of the navigable waters of the United States is the most effective interstate-commerce law Congress can adopt for the protection of those residing and doing business on the rivers of the United States which are now navigable or capable of being made navigable. The American people will never consent that any individual, private corporation, or State shall levy any toll or tribute upon commerce carried over any of the navigable waters of the Government. For this reason none other than the Government can improve these rivers. We ask the Government to do so, and it is the duty of the Government to apply a part of the accumulating surplus now in the Treasury for that purpose.

E. C. GORDON,
Chairman of Committee.

Very recently a convention was held in Knoxville, Tenn., composed of delegates from many States of the Union. A committee of sixty-nine prominent citizens, headed by Hon. C. W. Charlton, was appointed to present a memorial to Congress, urging the great importance of this work.

The resolutions adopted by the convention, and which are embodied in the memorial, are in these words:

RESOLUTIONS OF THE RIVER CONVENTION.

Whereas the Tennessee River with the tributaries is third in size and national importance, and drains an area nearly as large as the New England States of the richest undeveloped part of the globe, and has received less in proportion to its claims than any other river now recognized in the Government plan for the improvement of the rivers and harbors; and the small amount asked can, therefore, and ought to be at once expended;

Therefore, we, the representatives of the people who reside in that portion of the United States drained by the Tennessee River and its tributaries, in convention assembled at Knoxville, this day respectfully petition the American Congress:

1. That all navigable rivers be made national highways free from any toll.

2. That all obstructions to the navigation of the Tennessee River and its tributaries, as high as the same can be improved by slack-water navigation, be removed therefrom.

3. That said river with its tributaries be improved so as to give us at least 4 feet of water all the year round from its mouth to Chattanooga; at least 3 feet of water all the year round from Chattanooga to Knoxville, and by slack-water navigation to the headwaters of all its tributaries.

4. That no bridge be allowed to cross said river or its tributaries, so as to interfere with the free use of the same as hereinbefore set forth.

5. *Resolved*, That a committee, consisting of eleven at large and one from each county and city represented, be appointed to prepare and submit to Congress, now in session, a memorial in our name, setting forth the claims of our river and its tributaries to their consideration and petitioning as hereinbefore set forth.

Resolved, That our Representatives and Senators be requested to aid us and our memorialists to obtain what we ask.

Resolved, That the Legislatures of Kentucky, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Tennessee, be requested to take action favoring the improvement of our rivers.

After presenting an exhaustive exhibit of the wonderful and until recently little understood resources and wealth of Tennessee, the committee conclude in these words:

Without further consumption of your time and attention, we will conclude by briefly summarizing what we have said.

A SUMMARY STATEMENT.

First. The upper waters of the Tennessee River open to the world the best and largest coal-fields in the United States.

Second. To these same waters are easily accessible the best and largest deposits of iron ore east of the Mississippi.

Third. The coal-fields and iron deposits are nearer together than any others of like quality and quantity in North America, if not in the world.

Fourth. On the waters of this same great river are hundreds of quarries of the most beautiful and most durable marbles in America, and immense forests of the best merchantable timber.

Fifth. This river and its main tributaries can be made, at small expense, capable of cheaply transporting all of this coal and iron, marble and timber, to the markets of the world.

Sixth. While the seven great States of Tennessee, Mississippi, Alabama, Georgia, North Carolina, Virginia, and Kentucky will be directly benefited by the improvement of these rivers, nevertheless, in the indirect benefits the whole people of the United States will prove to be largely the partakers.

And for these reasons, and in obedience to the resolutions under which we act, we respectfully memorialize your honorable bodies to make prompt and adequate appropriations for the removal of all obstructions to the navigation of the Tennessee River and its tributaries, as high as they can be improved by slack-water navigation, so as to give 4 feet of water all the year round from Paducah to Chattanooga; at least 3 feet of water all the year round from Chattanooga to Knoxville, and a good slack-water navigation on all the tributaries up to their headwaters.

It will be observed that the Knoxville convention confine themselves almost entirely to a discussion of the resources of Tennessee. They do not exaggerate them, and they clearly show that if their tonnage alone was involved the largest appropriation ever suggested for improving the Tennessee River would be advisable. But when we couple this with the fact that Alabama will give five times the tonnage supplied by Tennessee in ore and coal, all will admit that the paramount importance of the question has passed beyond the sphere of discussion and argument. This wonderful development has been followed by a demand for the improvement of the river below Florence and Sheffield.

COLBERT AND BEE TREE SHOALS.

In its natural condition the navigation of the river below Florence was good during from eight to ten months of the year, but for from two to four months the reefs and obstructions entirely closed the river to all transportation. Some little work of improvement was done many years ago, but it has not proved to be of any appreciable advantage.

I do not think that I can better illustrate the necessity for the continued prosecution of this work, and the importance of the proposed work at Bee Tree and Colbert Shoals, than by reading a letter which I prepared, and a copy of which I sent to every member of Congress.

This matter being of importance to other States, other Representatives joined with me in the petition.

The letter was in these words:

HOUSE OF REPRESENTATIVES, *Washington, D. C., March 1, 1888.*

MY DEAR SIR: The report of the Chief Engineer, General J. C. Duane, of date October 22, 1887, in reference to the importance of improving the Tennessee River at Colbert Shoals, says (Report, page 231):

"The funds now available and amount asked for can be profitably expended in completing the work of opening the canal and in improving the channel at Bridgeport and Guntersville Bars, and at other points, especially at Colbert Shoals, which is urgently recommended by the engineer officer in charge as worthy of immediate consideration and action, owing to the necessity of its improvement in connection with the early opening of Muscle Shoals Canal."

Col. J. W. Barlow, in his report, bottom of page 1743, especially urges improvement of Colbert Shoals, so that the canal can be more fully utilized, and near middle of page 1744 he speaks of the value of this improvement as well nigh incalculable.

The importance of improving Colbert Shoals was so manifest that after this report was made the Secretary of War directed a survey of that portion of the river.

The report of Col. J. W. Barlow, transmitting such survey reached Washington in January, 1888, and is printed in appendix to the report of the Chief Engineer, page 1747.

The report says:

"Without a corresponding improvement at Colbert and Bee Tree Shoals the costly canal and locks around the Muscle Shoals will be comparatively useless during a large share of the year.

"Above Colbert Shoals large iron manufacturing interests have been recently developed, which demand water transportation for their products, and this having been provided by nature in an almost perfect condition, there is needed but a comparatively small improvement to make it entirely satisfactory.

"The force of this statement will be realized upon consideration of the fact that from the Muscle Shoals to the mouth of the river the distance is 255 miles, and with the exception of the obstructions offered by Colbert and Bee Tree Shoals, the impediments to navigation are of an insignificant character; in fact, the river is navigable to the foot of these shoals throughout the entire year. The propriety, therefore, of an adequate improvement here to connect the lower section of the river, some 235 miles in length, with the 400 miles above seems manifest."

The letter from the Secretary of War, dated March 3, 1888, transmits a letter from General Duane, which states that Colonel Barlow strongly recommends that $923,175 be appropriated in this bill for the completion during the year ending July 1, 1889, of the works at Colbert and Bee Tree Shoals.

General Duane himself recommends that $500,000 be appropriated for this work. This was in addition to the $500,000 recommended by him for the Tennessee River below Chattanooga.

We have the honor to most respectfully urge that the $1,000,000 thus recommended and asked for by the Chief Engineer for the year ending July 1, 1889, for this work be appropriated.

If the entire amount of $1,000,000 can not be appropriated in this bill, we respectfully urge that this important work be given at least as large a pro rata as is appropriated for any other work.

We are impelled to make this request from the fact that the improvement of the Tennessee River at this point materially affects large interests of citizens residing on or near the Tennessee and Ohio Rivers, and in a great measure all citizens who are interested in traffic from the Northwest to the South Atlantic coast.

These improvements of the Tennessee River being on solid rock bottom the work proposed will be permanent and everlasting.

This work is not local in its character, but its completion will be beneficial to more than half of the States in the Union.

A convention composed of citizens from nearly every State met in Decatur, Ala., in last January, and passed resolutions asking Congress to make this appropriation. The proceedings of the convention are transmitted herewith.

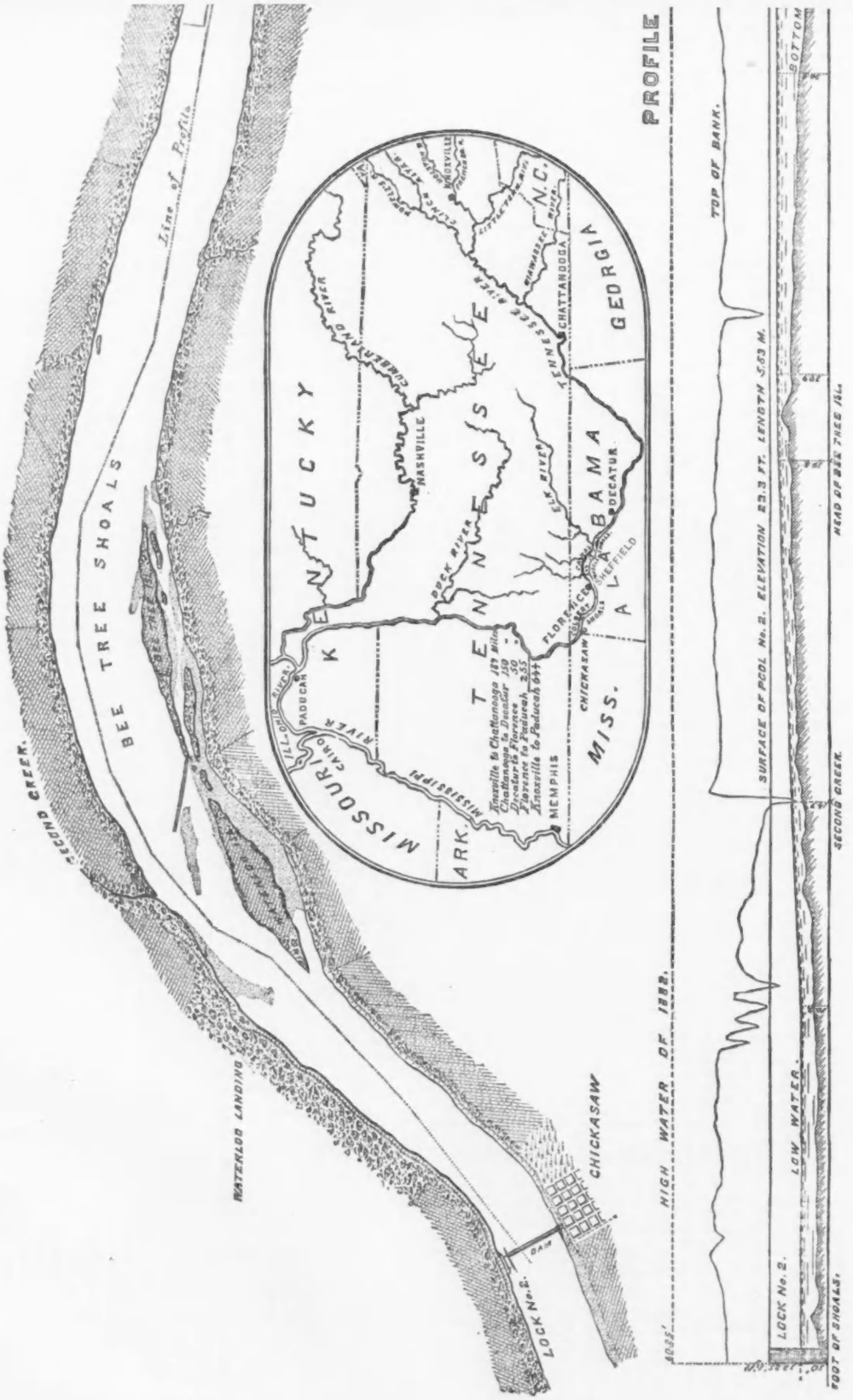
Very respectfully,

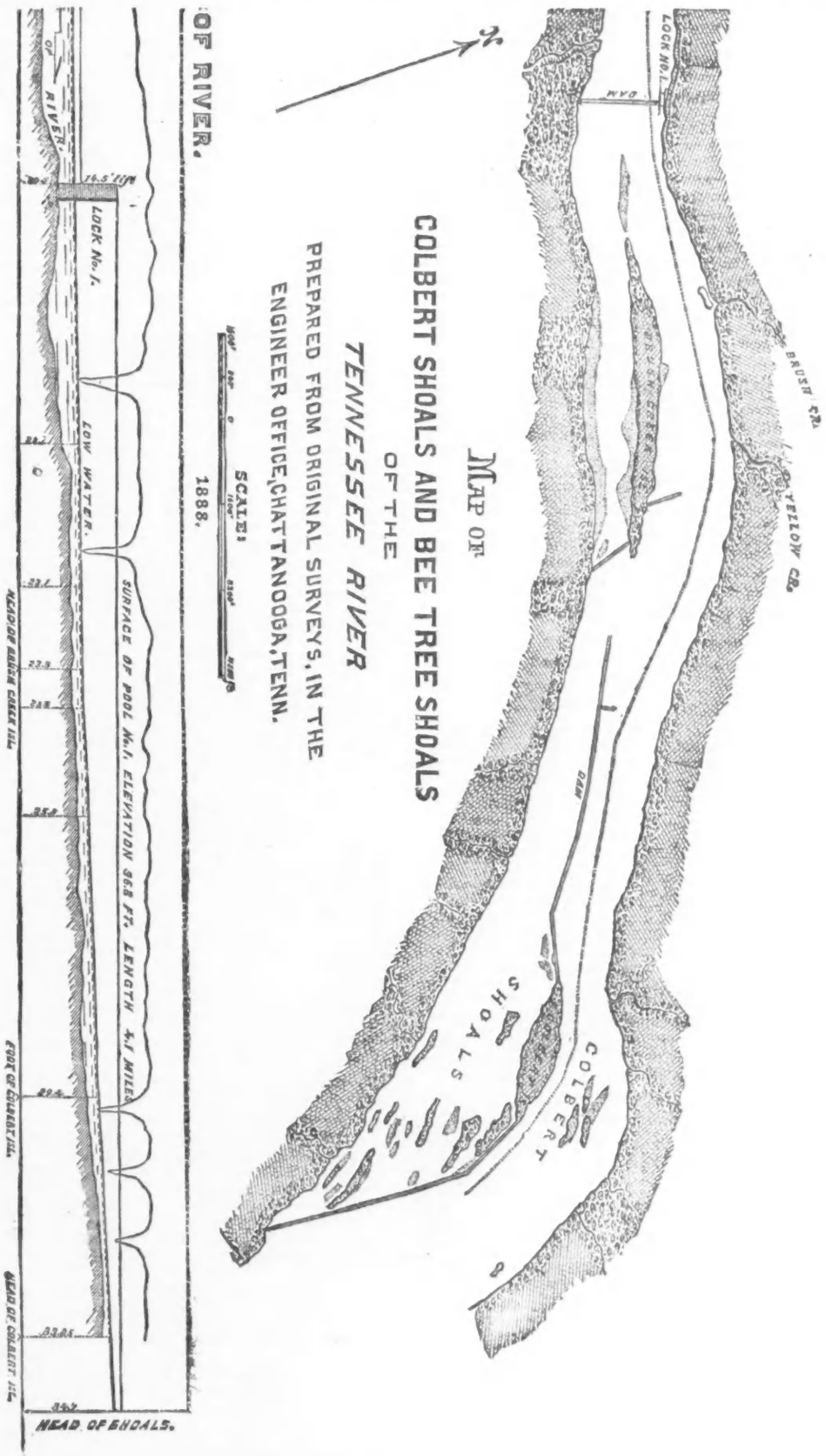
JOS. WHEELER.

I am happy to state that the Chief Engineer and the Secretary of War in their report for this year both recommend that $1,000,000 be appropriated for improving the navigation at Colbert and Bee Tree Shoals.

If this could be done it would be difficult to estimate the great advantages which would accrue to a large area of our country, and at the proper time I will ask the House to consider the propriety of increasing the appropriation so as to conform to the views of these distinguished officials.

In order to give Congress a better understanding of the proposed work I beg to call attention to a map.


SECOND CREEK.
BEE TREE SHOALS
Line of Profile
WATERLOO LANDING
CHICKASAW
LOCK No. 2.
DAM
KENTUCKY
TENNESSEE
MISSISSIPPI
ALABAMA
GEORGIA
N.C.
MISSOURI
ARK.
MISS.
NASHVILLE
CHATTANOOGA
MEMPHIS
PADUCAH
DECATUR
FLORENCE
SHEFFIELD
CHICKASAW
Tennessee River
Cumberland River
Rock River
Elk River
Tuscumbia
Florence
Muscle Shoals
Tennessee to Chattanooga 149 miles
Chattanooga to Decatur 149 "
Decatur to Florence 50 "
Florence to Paducah 355 "
Knoxville to Paducah 644 "
PROFILE
TOP OF BANK.
SURFACE OF POOL No. 2. ELEVATION 23.3 FT. LENGTH 5.53 M.
BOTTOM
HIGH WATER OF 1882.
LOW WATER.
LOCK No. 2.
SECOND CREEK.
HEAD OF BEE TREE ISL.
FOOT OF SHOALS.


MAP OF
COLBERT SHOALS AND BEE TREE SHOALS
OF THE
TENNESSEE RIVER
PREPARED FROM ORIGINAL SURVEYS, IN THE
ENGINEER OFFICE, CHATTANOOGA, TENN.
SCALE:
1888.
LOCK No. 1.
YELLOW CR.
BRUSH CR.
COLBERT
SHOALS
OF RIVER.
LOCK No. 1.
LOW WATER.
SURFACE OF POOL No. 1, ELEVATION 36.8 FT. LENGTH 4.1 MILES
HEAD OF BRUSH CREEK ISL.
FOOT OF COLBERT ISL.
HEAD OF COLBERT ISL.
HEAD OF SHOALS.

It will be seen that at the extreme low stage of water we have but 11 inches of depth as it passes over the reefs in the locality I have indicated. It is therefore proposed to build a lock and dam at each reef so as to raise the water sufficiently for navigation at all seasons.

At the lower point an effort will be made to construct the dam between an island and the south bank. This channel would then be used only during low water, and the main river would be left unobstructed during the period when there was sufficient depth without causing a rise by artificial means. If this plan can be adopted it will give a marked advantage during the high-water period in saving the time which would otherwise be lost in passing through the lock.

A JUDICIOUS EXPENDITURE.

The bill we are considering proposes to appropriate for the improvement of all the rivers and harbors in the United States a sum which would not exceed 30 cents per capita of our population, while the benefits which all must derive from the expenditure can hardly be estimated. Those residing along the line, or in the vicinity, of the water-ways which the labors of our admirable Corps of Engineers will have made navigable throughout their entire length will be able to ship their surplus at such reduced rates as will annually save hundreds of dollars to these producers.

Those gentlemen who oppose this bill on the ground of alleged economy do not reflect that the judicious expenditure of money to improve our means of intercommunication by water, by lessening the cost of transportation and thereby reducing the price of the products transported, must prove of immense benefit to the laboring people—people of the most moderate means.

Honest and well-considered expenditure like this is real economy, and it is real, not false, or seeming economy which the Democratic party is bound to uphold.

There is one consideration connected with the opening of the Tennessee River which should be borne in mind. The bottom of that stream is solid rock, and its banks are not subject to washouts and changes. Work that is finished on such a stream is permanent, durable, lasting, and there is no danger that money expended in improving that river will be lost—provided the work be not suspended half or one-quarter finished and allowed to deteriorate for want of sufficient appropriations to prosecute it steadily and continuously.

That is not the case with some rivers upon which vast sums have been expended. A sand-bar removed in the summer is often re-established by the floods of the succeeding winter; a channel cut through at great expense may be filled up by one angry freshet a few months later.

If because of these admitted and undeniable facts some gentlemen should be disposed to condemn and oppose the whole system of river improvement, they must see that such objections can not apply to the Tennessee. Work completed there ten years since is the same to-day, and a century hence will find it unimpaired.

GREAT DEVELOPMENT ON THE TENNESSEE RIVER.

Congress does not need to be reminded of the wonderful progress of the great South, and no sage can be needed to foretell its more wonderful future.

One year since I mentioned that pig-iron could be produced in Alabama for from $8 to $9 per ton; that the average price paid in England for the pig-iron imported thence in 1887 was $15.58 per ton; and that the average price of anthracite foundry pig-iron in Philadelphia during the first four months of last year was $20.56 per ton. I beg now to call the attention of the House to a table showing the quantities of coal, iron ore, pig-iron, finished iron, and steel produced in the various countries of the world, the enormous consumption of these staples, and the percentage of these products furnished by the United States.

Country.	Coal.	Iron ore.	Pig-iron.	Finished iron.	Steel.
	Tons.	*Tons.*	*Tons.*	*Tons.*	*Tons.*
Great Britain	162,119,812	*14,110,013	7,441,927	1,701,312	3,145,507
United States	120,146,739†	†11,300,000	6,417,148	2,311,160	3,339,071
Germany (including Luxemburg)	*73,637,596	9,299,500	3,907,364	1,507,100	1,685,400
France	*20,014,597	†2,600,000	1,580,851	774,250	440,956
Austria-Hungary	*20,779,441	†2,000,000	679,224	318,978	276,920
Belgium	19,216,031	†200,000	754,481	532,103	206,390
Russia	*14,650,000	†1,500,000	‡498,400	‡291,800	‡225,140
Spain	*1,000,000	†6,000,000	‡159,225	†75,000	†10,000
Sweden and Norway	†300,000	*872,499	*442,457	*250,000	*78,231
Italy	†220,000	*220,014	*12,291	*161,633	*23,760
All other countries	17,000,000	†2,000,000	†160,000	†125,000	†35,000
Total	429,084,216	50,102,006	22,053,269	8,048,336	9,466,375
Percentage of the United States	28	22	29	28	35
United States	120,146,739	11,300,000	6,417,148	2,311,160	3,339,071
Great Britain	162,119,812	14,110,013	7,441,927	1,701,312	3,145,507
Total all other countries	146,817,665	14,691,993	8,194,293	4,035,864	2,981,797

*1886. †Estimated. ‡1882. §1885. ‖1884.

Considering how recently industrial pursuits of the manufacturing or mechanical class have been developed in Alabama, that State has reason to congratulate herself upon the proportion she contributes of some of those products to help make up the gratifying percentage of the United States. A few years ago she had scarcely any manufactures whatever. In 1887 she produced 292,762 tons of pig-iron, and in 1888 449,492 tons. Last year nearly thirty new furnaces were started within her borders, and the day is not far distant when she will lead all the States and all the countries of the earth in this industry.

COTTON MILLS ON THE TENNESSEE RIVER.

The 139 feet fall of the Tennessee River will necessarily be made available very shortly to spin the cotton which is grown upon its banks and convert that great staple into cloth. When that is done America will supplant England as the chief seller of cotton goods in the great marts of the world, and to fully understand and appreciate the entire significance of this revolution in trade we have only to remember that England's exports of cotton goods average $100,000,000 annually, while our yearly average does not exceed the comparatively pitiful sum of $12,000,000.

No one can doubt that the great bulk of this trade will eventually belong to the South.

As a means of showing at a glance the extent and magnitude of this cotton-goods trade of the world I have prepared a tabulated statement of the consumption of raw cotton by England, by the other European peoples, and by the United States during a period of twenty-one years, from 1866-'67 to 1886-'87.

[Consumption—bales 400 pounds.]

Years.	Europe.			United States.			Total world.
	Great Britain.	Continent.	Total Europe.	North.	South.	Total United States.	
1866-'67	2,590,000	1,703,000	4,263,000	746,000	76,000	822,000	5,085,000
1867-'68	2,369,000	1,739,000	4,099,000	894,000	65,000	959,000	5,058,000
1868-'69	2,465,000	1,461,000	3,926,000	965,000	88,009	1,053,000	4,979,000
1869-'70	2,663,000	1,584,000	4,247,000	913,000	99,000	1,012,000	5,259,000
1870-'71	2,805,000	1,906,000	4,711,000	1,009,000	100,000	1,109,000	5,820,000
1871-'72	3,015,000	2,057,000	5,072,000	1,108,000	132,000	1,240,000	6,312,000
Average 6 years	2,646,000	1,740,000	4,386,000	939,000	94,000	1,033,000	5,419,000
Per cent. 6 years*	†17.8	†20.8	†19.0	†48.5	†76.3	†50.9	†24.1
1872-'73	3,084,000	2,032,000	5,116,000	1,157,000	152,000	1,309,000	6,425,000
1873-'74	3,128,000	2,064,000	5,192,000	1,299,000	141,000	1,440,000	6,632,000
1874-'75	3,088,000	2,240,000	5,328,000	1,169,000	159,000	1,328,000	6,656,000
1875-'76	3,176,000	2,403,000	5,579,000	1,344,000	159,000	1,503,000	7,082,000
1876-'77	3,183,000	2,378,000	5,581,000	1,418,000	161,000	1,579,000	7,140,000
1877-'78	3,038,000	2,509,000	5,547,000	1,558,000	167,000	1,725,000	7,272,000
Average 6 years	3,116,000	2,271,000	5,337,000	1,324,000	157,000	1,481,000	6,868,000
Per cent. 6 years†	‡1.5	‡23.5	‡8.4	‡34.7	‡9.9	‡31.8	‡13.8
1878-'79	2,843,000	2,506,000	5,439,000	1,615,000	169,000	1,784,000	7,223,000
1879-'80	3,350,000	2,750,000	6,100,000	1,779,000	202,000	1,981,000	8,081,000
1880-'81	3,572,000	2,956,000	6,528,000	1,884,000	234,000	2,118,000	8,646,000
1881-'82	3,640,000	3,198,000	6,838,000	1,931,000	266,000	2,197,000	9,035,000
1882-'83	3,744,000	3,380,000	7,124,000	1,993,000	382,000	2,375,000	9,490,000
1883-'84	3,666,000	3,380,000	7,046,000	1,865,000	379,000	2,244,000	9,290,000
Average 6 years	3,469,000	3,043,000	6,512,000	1,845,000	272,000	2,117,000	8,629,000
Per cent. 6 years‖	†28.9	†30.2	†29.5	†15.5	†124.3	†25.8	†28.6
1884-'85	3,433,000	3,255,000	6,688,000	1,608,000	301,000	1,909,000	8,597,000
1885-'86	3,628,000	3,446,000	7,074,000	1,890,000	388,000	2,278,000	9,352,000
1886-'87	3,707,000	3,588,000	7,295,000	1,972,000	451,000	2,423,000	9,718,000

*This line gives the increased percentage in the consumption of 1871-'72 compared with the consumption of 1866-'67.

†Increase.

‡This line gives the increased percentage in the consumption of 1877-'78 compared with the consumption of 1872-'73.

§Decrease.

‖This line gives the increased percentage in the consumption of 1883-'84 compared with the consumption of 1878-'79.

The percentage of increase in the consumption—that is, the manufacture—of raw cotton in this country is very gratifying, and especially so is the marked increase of manufacturing in the South, but as we furnish fully three-fourths of the raw cotton manufactured in Europe, the actual proportion of our manufactures is really insignificant. This will be apparent from a table I submit as part of my remarks, showing the quantity of raw cotton furnished to Europe by the different cotton producing countries of the world during the years 1884, 1885, and 1886, the figures representing the number of bales:

Country.	1884.	1885.	1886.
United States	4,170,150	3,850,760	4,417,570
Brazil	315,390	234,330	223,960
Egypt	425,160	482,340	419,870
West India, etc	141,970	148,210	124,050
East India	1,617,510	967,720	1,332,550
Total	6,670,180	5,683,360	6,518,000

It has been suggested that the South will at no distant day find India a formidable competitor in the production of raw cotton. But a careful examination of the subject does not, in my opinion, justify any such apprehension. I have investigated the question as thoroughly as I was able, and find that after years of most determined efforts the cotton-grower in India has not been able to produce more than 50 pounds of inferior staple per acre, while in our more favorable climate, and with a soil far better adapted to cotton culture, we readily produce an average of from 175 to 200 pounds to the acre.

As the exact statistics bearing upon this question may be interesting and instructive, I submit a tabular statement, which I will read:

Years.	Acreage planted in the United States.	Pounds produced in the United States.	Average net pounds per acre in the United States.	Acreage planted in India.	Pounds produced in India.	Average net pounds per acre in India.
1879–'80	12,680,000	2,615,600,000	206½	10,708,002	586,638,640	54½
1880–'81	16,123,000	3,038,645,000	188½	11,204,630	569,152,528	50¾
1881–'82	16,851,000	2,455,221,600	145⅝	12,924,196	735,230,072	56⅞
1882–'83	16,276,000	3,266,075,290	200⅝	13,851,179	809,535,104	58⅜
1883–'84	16,780,000	2,639,498,400	157⅜	13,352,536½	500,925,600⅝	37⅝
1884–'85	17,426,000	2,624,835,900	150½	12,397,055½	536,740,378	43⅓
1885–'86	18,379,444	3,044,544,933	165⅝	13,533,025	775,561,093½	57⅓

VALUE OF MANUFACTURED COTTON.

During the cotton year ending September, 1879, Great Britain manufactured 2,843,000 bales of cotton of 400 pounds each, equivalent to 2,254,000 bales of 500 pounds each. The average price of uplands cotton in New York for the year 1879 was 10⅜ cents per pound; but as England consumed considerable India cotton, as well as American cotton of a lower grade lower than upland, I think we may safely assume that, delivered at the mills, it did not cost her spinners more than an average price of 10 cents per pound for her raw material, at which price the aggregate cost was $112,700,000.

In his Cotton-goods Trade of the World, Mr. Blaine asserts that after these 2,843,000 bales of cotton of 400 pounds each were converted into fabrics England sold them for $561,170,000—five times the cost of the raw material.

Last year's cotton crop in the United States was about 7,000,000 bales, which, at an average price of 10 cents per pound, would be worth $350,000,000, and if we could manufacture it all and sell the fabrics to the world at five times the value of the raw material it would realize to the country the almost inconceivable aggregate of $1,750,000,000.

We of the South must not admit that we are inferior to Englishmen in pluck, energy, and enterprise, and in my humble judgment we should without delay commence to compete with that country in supplying the world with cotton fabrics. We have the cotton at our doors, while England must transport it across the sea; and this is but one of our manifold advantages.

If we should manufacture all our 7,000,000 bales of cotton and thus increase its value in the same proportion that it is increased in England, the result would be that the South would speedily become tenfold more wealthy than any other people on the globe.

If we can not attain all we desire, we can approximate that end, and should we succeed in dividing this trade with England we would still be the wealthiest of all the wealthy people of the earth.

One of our greatest needs is American ships and American sailors to bear their part in securing for us that great commerce with foreign peoples without which no country can hope to reach its maximum prosperity.

Des Moines Lands.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, December 5, 1888.

The House having under consideration the bill (H. R. 1368) to quiet titles of settlers on Des Moines River lands, in the State of Iowa, and for other purposes—

Mr. WHEELER said:

Mr. SPEAKER: I was very much surprised on returning from the office of the Attorney-General to find this bill under consideration. At the last session of this House the question was raised as to the privileged character of this bill. A decision was rendered that it was not privileged. An appeal was made, but no argument was presented on the question, except by Mr. PARKER and myself. We are the only persons who spoke on the subject. I am told on my return to the House this afternoon that the decision has been overruled and the bill precipitated before the House.

At the time the appeal from the ruling of the gentleman from New York [Mr. COX], the Speaker *pro tempore*, was taken, I made a special request that in case the decision should be reversed I should have permission to file a minority report. I prepared that report and have been waiting for the decision so as to have the report filed and printed and brought properly before the House.

It seems to me, Mr. Speaker, that in a case of this kind, where the lands were disposed of by the Government some thirty years ago, and where the Supreme Court of the United States has, in some ten decisions, extending through the last twenty-five or thirty years, declared the validity of every right that is sought now to be assailed, this House ought to deliberate before proceeding to vote upon a measure which will have the effect to unsettle those rights.

When this bill was before the House at the last session numerous petitions were sent to the Committee on Public Lands, protesting against its passage—petitions from the very settlers whose rights this bill professes to protect.

Mr. HOLMES. Have these petitions ever been made public or seen by anybody?

Mr. WHEELER. Those petitions were exhibited and seen by some members of the committee, and were intended to be made public and presented to the House in case this bill came up, but on sending to the Committee on Public Lands we were unable to procure them, the report being that they were locked up, and the clerk gone so they could not be had.

Now, Mr. Speaker, before a vote is had upon this bill, I shall ask the House to postpone action upon it for one week, or at least for one day. It is due to the House that all the facts should be submitted to them before they are asked to vote on a bill of this magnitude, involving as it does the interests of thousands of settlers and also the interests of many persons who have invested their all in these lands. It will be recollected that in the last Congress this same bill passed the House and was vetoed by the President, and I say with confidence that it can be demonstrated to the House that every position taken by our distinguished Executive in that veto is based upon the soundest principles of law and justice.

After that veto had been sent to the House and had been sustained here, a bill was introduced which sought to do justice to every settler, to every claimant, and to every party having any connection with this matter. That bill still awaits action, and I am confident it would have been brought before the House by the Committee on Public Lands had they imagined that the previous ruling of the Chair would not be sustained.

Mr. HOLMES. Will the gentleman tell us whether the condition has ever been complied with by this company, and whether they ever earned the lands?

Mr. WHEELER. I do not know that I can discuss that matter in the short time I am entitled to the floor. It is a transaction which occurred some thirty years ago. But I will say this, that the Supreme Court of the United States in more than ten different decisions, with every fact brought before them, have decided that that company is entitled to those lands.

Mr. HOLMAN. Do not all those cases go upon the single proposition that those settlers were settlers on lands which were reserved and that they were not entitled to take the lands either under the pre-emption or the homestead law, and therefore had no standing in court? Was not that the sole ground of those decisions?

Mr. WHEELER. I do not think so. It was the ground in some cases, but in the course of those ten decisions every phase of the matter that has ever been brought before this House was presented and passed upon by the court. There have been probably twenty or more decisions.

Mr. PAYSON. Does the gentleman remember any case where the constitutional provision of the State of Iowa was ever presented to the court?

Mr. WHEELER. I can not say that I do. It is not material to the questions involved in the bill.

Mr. PAYSON. The gentleman says he knows of twenty cases; does he really know of more than five that were ever presented——

Mr. WHEELER. I think there have been at least twenty cases in the State courts of Iowa and the Supreme Court of the United States.

Mr. PAYSON. Presented in the Federal courts? I will say to the gentleman from Alabama, who is generally so accurate, that this time he is very badly off, as there have been just five cases.

Mr. WHEELER. In a paper which I prepared for the minority report there are set forth, I am quite confident, a great number of cases, some of them by the Supreme Court of the United States and six or seven of them by the circuit court of the State of Iowa.

Death of Hon. Nicholas T. Kane.

REMARKS
OF
HON. CHARLES TRACEY,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889,

On resolutions of respect to the memory of Hon. Nicholas T. Kane, late a member-elect to the House of Representatives from the State of New York.

Mr. TRACEY said:

Mr. SPEAKER: In asking that these resolutions be adopted I desire, for the information of the Fiftieth Congress, to give some details in the history of my predecessor, and to comment upon his useful career. Nicholas T. Kane was born in Ireland forty-two years ago, and when but two years old was brought by his parents to West Troy, N. Y., where the family took up a permanent residence. Although still a boy when the war broke out, young Kane, at the age of seventeen, enlisted with his older brother in Captain Bridgeford's company, Twentieth New York Cavalry.

Before one year had passed the elder brother was killed while bravely leading a charge in battle. Nicholas continued in the Army and was mustered out after three years' service. He took part in many engagements and was distinguished for his courage and devotion to duty. Returning to the home of his parents he sought employment and found work as a spinner at the Kenwood Mills, near Albany. For years after he worked hard at Stillwater, Greenwich, Hudson, and Cohoes, N. Y., and for a time in Rhode Island.

Ambitious, as well as industrious, he saved his wages until, in 1878, he leased, and later on bought, woolen mills at Sandlake, N. Y. In this undertaking he prospered, and after paying off the debts on his property he purchased mills at Albia, N. Y., and also became interested in other manufacturing enterprises. Although on some accounts it was not altogether convenient for him to live at West Troy, he was so much attached to his home and companions that he became the owner of a beautiful residence in that village.

His aged parents continued to reside with him until their decease, a few years ago, and his devoted wife still lives at the homestead, continuing the works of charity which, up to the time of her husband's death, she had carried on in common with him.

As his business grew Mr. Kane became the employer of many hundred people. It is a remarkable fact that during the troubled times which brought strikes and bitter feeling throughout that section of the country, Mr. Kane retained the affection and respect of all the working people. Capable and upright in business life it was natural that he should be called upon to interest himself in public affairs. He served three terms in the board of supervisors of Albany County, the last term as chairman of the board.

In the Forty-ninth Congress the Nineteenth district of New York was represented by a gentleman belonging to the Republican party, and such extraordinary popularity did he possess that the Democratic party managers were fearful of not being able to reclaim the district. At this juncture Mr. Kane was selected as the man who might possibly succeed. After a vigorous campaign he was victorious, but the labors of the contest probably hastened the progress of the disease of which he died. Concerning everything that affected the interests of his village he was earnestly solicitous.

The United States Government had for some years contemplated establishing a gun factory for the Army at one of the arsenals, and I do not doubt a belief that, if elected, he could press to success the project of selecting the Watervliet arsenal, at West Troy, was a great incentive to Mr. Kane in deciding to enter the field for Representative in Congress. He visited Washington early in 1887, and then hoped to be able to take his seat the following December. But his health steadily declined, although, aided by his strong will, he did at intervals surprise his physicians by unexpected temporary improvement. Finally he saw that it was useless to hope for recovery, and then the end came rapidly. He met it bravely, clear-minded to the last.

The strong will-power asserted itself the day he died, and in the beautiful eulogy pronounced by his pastor and friend, Father Curtin, at the funeral mass, marked allusion was made to this incident. The good priest stated to us that while the prayers for the dying were being read the suffering patient responded in a clear tone until the litany was finished; then, placing his head back upon the pillow, he showed that he was ready, and at once passed away.

There is in one of Faber's beautiful hymns a verse which says:

> I would the light of reason, Lord,
> Up to the last might shine,
> That my own hands might hold my soul
> Until it passed to Thine.

In Mr. Kane's death-bed scene that prayer was granted. Mr. Speaker, I shall never forget that clear, bright September day when my predecessor was carried to the tomb. From the cities of Albany, Troy, and Cohoes, and from all the surrounding country, thousands had come to unite with the people of the village in paying their tribute of respect to the honored dead. They walked from the home he had loved to the church for which as a faithful member he had done so much.

The services were most impressive. Since that day there has been erected in this house of God a beautiful altar, placed there in memory of her husband by Mr. Kane's widow. I have tried to do justice to my friend without making exaggerated statements of his ability and purity of character. Were he living it would offend him to hear expressions of undue praise, and I wish to speak as though he listened to my words. He was obliged to work and struggle hard to secure the fortune he accumulated and the position he attained in the community.

Had he been spared to sit with his colleagues in this Chamber he might have proved a valuable member; it is fair, in the light of his past experience, to suppose he would have been thoroughly efficient. But whether so or not, I do feel well assured his record would have been one of untarnished integrity and free from even a suspicion of insincerity. But after all, his family and friends have a consolation greater than could be obtained by any possible triumph for him in public positions; for, reflecting upon the incidents of his life, we must realize that Mr. Kane possessed in wonderful abundance those choicest gifts of God, faith, hope, and charity.

Production of Sugar.

SPEECH
OF
HON. PRESTON B. PLUMB,
OF KANSAS,
IN THE SENATE OF THE UNITED STATES,

Thursday, January 17, 1889,

On the amendment of the Committee on Finance to the bill (H. R. 9051) to reduce taxation and simplify the laws in relation to the collection of the revenue, proposing a bounty of 1 cent per pound on sugar produced in the United States until January 1, 1890.

Mr. PLUMB said:

Mr. PRESIDENT: The Senator from Missouri [Mr. VEST] seems to be troubled in his mind about the fairness of this amendment. I did not discover from his remarks whether his main objection to it was its unfairness as to the amount of protection, or because he thought it violated a proper principle.

He made a tolerably plain reference to one or two Senators, whose names have been frequently used in the newspapers without any warrant whatever, as being in a contumacious frame of mind about this bill and demanding concessions before they would give it their support, of whom I am alleged to have been one. Except for the reference which he made to this subject himself and a remark made by the Senator from North Carolina [Mr. VANCE] yesterday or the day before, the subject would not be worth bringing to the attention of the Senate.

The Senator from North Carolina, somewhat hardly driven, I thought, to justify his general raid upon this bill, while taking the benefit in it in the shape of nice fat things for the people of his own State, spoke about the unaccountable disappearance of an amendment I had offered reducing the duty on structural steel as indicating that I was not myself entirely sincere on this subject.

Mr. President, I have no hesitation in saying that I am here to get out of this bill and out of all legislation pending or proposed everything I can in reason for the people whom I chiefly represent, and I am the more willing to do this because I know that around me on both sides of the Chamber are men similarly minded for their own people; and in the contention which thus arises, and which is an inevitable accompaniment of all legislation, we arrive at, if not the exact truth, at least a fair average and that adjustment of interests which is essential in legislation affecting a great people widely scattered with diverse interests, which bring the necessity for compromise and adjustment, if the interests of one section or class are not to wholly prevail to the destruction of all other interests. This necessary principle is applied in all our important legislation. It should be subordinated to but one condition, that no adjustment or compromise of contending interests shall be made which works harm to the general interest.

I therefore feel not only free to advocate those things which I think are of special interest to the people I represent, but also to inquire and determine as to things in which other people are more especially interested than I am; that is to say, in the sense of their nearer relation to them geographically or otherwise.

I have enjoyed the discomfiture of some of our friends on the other side, who have been beguiled and misled by newspaper publications into the belief that somewhere in the Republican stomach there is disturbance over this tariff bill. Mr. President, there is disturbance over

it as there is over everything that requires the concurrence of a majority of the Senate in order to be enacted into law; but the gentlemen who are so mindful of the disturbance which they say exists on this side should refresh their recollections by going back to the files of the newspapers and observing the disturbances that occurred in the Democratic caucus of another body when the Mills bill was under consideration, when wood-screws, glue, and other things were tossed about right and left to the individual members of that caucus in order to get votes so that that bill might be passed; and that bill would not have been passed if it had not been reconstructed in the caucus by conceding protective duties to the articles above mentioned and others, in defiance of the report of the Ways and Means Committee putting these articles on the free-list. And the Senator from Rhode Island [Mr. ALDRICH] reminds me especially that upon this very sugar question there were some contumacious members from Louisiana who were more concerned about sugar than they were about ballet-dancers, and who, therefore, insisted that the provision as it existed in the Mills bill should be modified, and it was modified to meet their views, and in consideration of that modification the bill received the votes of the Louisiana delegation in the other House.

Now, I want to say, once for all, that all this talk about the supposed attitude of myself and one or two others, so far as I know, in regard to this bill, as stated in the newspapers, is entirely without any foundation. I have never under any circumstances been solicited or expected to vote in any other way than as my judgment should dictate upon each one of the items of this bill as they came up for consideration in the Senate. I have not been vain enough to suppose that I should have my own way about everything. Many of the provisions in this bill do not meet my approval as abstract propositions, and I shall not vote for the bill, unless when it comes to be put in its final shape, passing judgment on all these provisions as a whole, as such whole they meet my views, at least fairly, as to what the bill ought to be. But when I say that I do not mean to say that I shall apply to everything contained in the bill that precise scrutiny I might do if we had more time and if I felt that assurance, which I should be glad to feel, that this bill would finally become a law. That it is better in its present shape than anything offered us I do believe. Being mindful that the millennium will not come during my time, I propose to take as I go along the best that I can get.

My friend from Louisiana [Mr. EUSTIS] in his argument against this bill began with sugar, but it was plain to be seen that his chief concern was not about sugar, for he left that saccharine subject in a few moments, and, using the ascending scale of expression, came to the ballet dancers. I know that the Senator from Louisiana and the great party which he represents is devoted to free trade, and will take anything free which they can get rather than have nothing. [Laughter.] Why, Mr. President, I can conceive of the horror which must have overcome that Senator at the moment when his mind first came to the belief that the Republican party, backed by the great tide of public sentiment at the North of which he spoke, intended actually to put legs on the dutiable list. Let the Senator spare himself. Legs will be free. He need not worry about that. We mean to treat the Democrats fairly. At all events we shall spare to them that which seems to be for their special delectation, ballet dancers.

There is no theory of the imposition of tariff dues that I know of which requires those dues to be levied according to the demands of the manufacturers. I am not bound to take the unsupported word of a Louisiana sugar planter as to his needs and rate duties accordingly, nor do I mean to take the word of a Pennsylvania or other manufacturer as to the protection which he needs in order that he may make what he is pleased to call adequate profits and meet generally the situation by which he is confronted. All these things are to be resolved upon the facts and arguments which may be addressed to us from time to time with the view of arriving at a certain conclusion, which, according to my own ideas and convictions, is this: That whatever is necessary in the way of the imposition of duties resulting from the financial needs of this Government and in the fair execution of our financial system in order that there may be produced on American soil, out of American material, and by the use of American labor and capital, the essential things for the use of the American people, shall be done.

Mr. EUSTIS. Are there not exceptions?

Mr. PLUMB. There are exceptions to all rules. In monarchical governments the vices of the people are always made special objects of kingly concern, and there are people whose allegiance to the government must be constantly invited and retained by giving free license to certain of their vices, usually those of appetite. I am willing to accept the allegiance of the Democratic party upon that basis, and to make exceptions of certain things, such as beer, if the Senator wants it—he spoke of beer as the only thing that should be drank in this country—and matters and things of that kind which may operate to keep the Democratic party faithful to the Government and also aid to wash out the indigo stain which the Senator spoke of a moment ago as having been the result of the November election. He said, as I understood him, that the indigo he got on him was a fast color and had not washed out and is still decidedly blue. [Laughter.]

Mr. President, when we come to the execution of the principle I have stated, all that remains is the determination of what is necessary in each individual case, and that is bound to produce controversy, assertion and denial, argument, appeal to testimony, and as the result of such a tariff bill must finally be constructed.

I would myself be willing to continue the imposition of the present duty on sugar if it could be produced in no other part of the country than Louisiana if only I could be made to believe that the people of that State could within a reasonable time produce all the sugar, or even nearly all the sugar, necessary to supply the home market. But for the purpose of the vote that I shall give I propose to leave Louisiana out of account entirely.

Mr. EUSTIS. I supposed so.

Mr. PLUMB. Mr. President, I propose to do that because I find by an examination of the facts that the Louisiana people have made no substantial progress in the manufacture of sugar during the past ten years. It was in testimony before the Finance Committee that a very large portion of the sugar made in Louisiana was still made by the primitive processes in use forty years ago; that there was not probably on a single plantation, with one or two exceptions, anything that could be called modern machinery in the light of the developments of the last few years. The people of Louisiana have not fairly met their responsibilities; they have been sluggish and indifferent.

Profiting by a duty of over 100 per cent. upon their production of sugar, they have made no effort to supply the home market, and they have practically made no effort to make money even.

Mr. EUSTIS. With the Senator's permission, I should like to interrupt him.

Mr. PLUMB. Certainly.

Mr. EUSTIS. I do not suppose for a moment the Senator wants to create a wrong impression.

Mr. PLUMB. Certainly not.

Mr. EUSTIS. He says the people of Louisiana in regard to the manufacture of sugar have been sluggish. The machinery that is used to-day, and which the Senator from Iowa alluded to, makes two-thirds of the sugar and is called the old open-kettle process, and it produces just as much sugar as you can produce from machinery so far as the quantity is concerned. The only difference is as to the quality. The production of sugar is the same to-day as it ever was, with some improvements. I understand the old open-kettle sugar and the vacuum-pan sugar are made from the same character of mill. So the quantity of sugar which is made by the open-kettle process is as great as that produced by the other.

Mr. PLUMB. I was not talking alone about the quantity of sugar produced from a ton of cane, but about the quantity proportioned to the demand.

Mr. EUSTIS. I understood the Senator to speak of the quantity.

Mr. PLUMB. Mainly with reference to total product, though the process the Senator speaks of does not result in the production of all the sugar in a ton of cane; but I complain, in addition, that by their failure to adopt modern methods of manufacture they have made no profit, have not contributed to bring down the price of sugar, or furnished inducement for the extension of its manufacture. They have not, in short, acted up to their responsibilities as highly-protected manufacturers.

It was demonstrated years ago in France and Germany that the process of diffusion, as there applied, easily adaptable to the production of sugar from sugar-cane, would extract practically all the saccharine matter from the cane; and this process has been tried for the last three years in this country, under both Government and private auspices, but the Louisiana planter has ignored everything, although from 25 to 35 per cent. more saccharine can be extracted from the cane than by the old methods.

Mr. ALDRICH. Will the Senator from Kansas allow me to put in on this point the testimony of Mr. John Dymond before the committee? I understood the Senator from Louisiana to say that just as much sugar was produced by the open-kettle process from a ton of cane as by the vacuum-pan process.

Mr. EUSTIS. With the exception that they use additional mills.

Mr. ALDRICH. I asked Mr. Dymond what was the average yield per ton of sugar by the vacuum-pan process. He said 120 pounds per ton. Then I asked him:

Is the open-kettle process used to any considerable extent in Louisiana?
Mr. DYMOND. Quite largely; yes, sir.
Senator ALDRICH. What percentage of the sugar of Louisiana is made by that process?
Mr. DYMOND. About one-half.
Senator ALDRICH. What would be the yield by the open-kettle process?
Mr. DYMOND. About 90 pounds of sugar to the ton of cane.

Showing 90 pounds product in one case as against 120 in the other.

Mr. EUSTIS. Of course the Senator will understand that the open-kettle sugar contains an immense quantity of molasses.

Mr. ALDRICH. I was simply traversing the Senator's statement.

Mr. EUSTIS. The saccharine matter, whether it be in the form of molasses in the open-kettle process or whether it has been expelled enables you to produce the refined sugar.

Mr. ALDRICH. It is never recovered by the open-kettle process. It does not crystallize.

Mr. EUSTIS. The refiners make sugar out of it, and, of course, they make much more out of open-kettle sugar than the vacuum-pan sugar, because the open-kettle sugar contains a large mass of molasses.

Mr. ALDRICH. Then I should like to ask the Senator if the progressive sugar producers all over the world do not use the vacuum-pan process in the manufacture of sugar.

Mr. EUSTIS. Of course.

Mr. ALDRICH. In all the tropical islands this process is used; and I was absolutely amazed to hear the chairman of the delegation from Louisiana state that one-half of the sugar produced in Louisiana was by the open-kettle process.

Mr. EUSTIS. It is not a question of sluggishness, if the Senator will allow me. It is a question which pays the best. It is still a disputed question. The Senator may laugh, but I assure him that is the fact, whether or not the open-kettle sugar manufacturer makes more money by making his raw sugar with the molasses in it and saves the expense of refining it, which he has to do if it goes into the vacuum-pan. It is merely a question of dollars and cents. Some planters maintain that one is better; others that the other is better.

Mr. ALDRICH. I do not understand what the Senator means by having to refine it.

Mr. EUSTIS. That is a refining process.

Mr. ALDRICH. There is no refining about it.

Mr. BUTLER rose.

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

Mr. GIBSON. Will the Senator allow me——

Mr. PLUMB. I yield to the Senator from South Carolina first.

Mr. BUTLER. I merely rose for the purpose of putting an inquiry to the Senator from Kansas. The drift of his argument appeared to be an arraignment of the people of Louisiana for not having made progress in this matter of the production of sugar, and he rather complainingly stated that they had not advanced. Now, I should like to inquire of the Senator how long it has been since this diffusion process was discovered in any part of the world; and, furthermore, at whose instance was that discovery brought into this country? In other words, did not the discovery result from the investigations made by the Department of Agriculture through one of its own officers in Europe, who was sent there to examine into the making of sugar out of beets?

Mr. PLUMB. The diffusion process, in one shape or another, has been in use in France and Germany for over a quarter of a century as applied to the extraction of saccharine from beets, and it has been, of course, from time to time modified and improved, and it has been probably ten years since the most highly improved machinery has been brought into use, and since that period of time, not materially modified, it has been in common use in the great factories of France and Germany.

Mr. BUTLER. Ten years?

Mr. PLUMB. Yes; although it has been in use in one shape or another for a much longer period.

Mr. BUTLER. Has it ever been applied to cane before?

Mr. PLUMB. Not that I know of until it was applied in this country. In regard to the genesis of that application here, all I know about it is that some four or five years ago a gentleman whom I well knew, since deceased, a citizen of Kansas, came to Washington after a trip to France and Germany, in which he had inspected the sugar factories there, and in the course of which inspection he had become powerfully impressed with the belief that the process of diffusion as applied there would be available for the extraction of the saccharine from cane, and would thereby enable the manufacturer of cane sugar to obtain from 25 to 30 per cent. more saccharine than under what is known as the pressure process as then and now applied in Louisiana and in the manufacture of sugar and molasses from sorghum elsewhere in this country.

Prior to that time, however, some Louisiana planter had set up a small diffusion battery on his plantation in Louisiana, and after some experiments had abandoned the whole thing. But the result of this matter being brought to my attention by Mr. Alfred Taylor, the gentleman whom I have mentioned, and by Mr. W. L. Parkinson, who accompanied him, an appropriation was made on my motion in the succeeding agricultural appropriation bill, from which appropriation, followed by others, and all of them except one having originated in the Senate (and I may say, perhaps without any egotism, as the result of my effort), the diffusion experiments in this country have been carried on to a point of demonstration that, with a not very material, that is, a not very great, modification of the processes used for the extraction of saccharine from beets, it has been fully demonstrated that the saccharine can be wholly extracted from the ribbon cane of Louisiana and from the sorghum of this country, and this at a cost not greater than under the old process is required for the extraction of from 25 to 35 per cent. less saccharine.

These facts have been practically settled for the last three years by experiment in Louisiana and elsewhere. The modifications necessary in the cells used for diffusion and in the connecting machinery have been adopted; new machinery for cutting and macerating the cane preparatory to its treatment in the diffusion batteries have been invented and perfected; Government aid and official skill have been joined to private enterprise in the work, and the result is highly satisfactory. More remains to be done, no doubt, but it will come in connection with the practical work of sugar making soon to be carried on in hundreds of places in Kansas and elsewhere in the Northern States, where sugar will be made from sorghum in increasing quantities. And I am not without hope that the Louisiana planters will in time contribute their share to this. During last year, at the request of the Sugar Planters' Association of Louisiana, the Government set up an experiment station on Magnolia Plantation, owned by Governor Warmoth, and the result fully met all expectations. I have been told that Governor Warmoth's machinery before that time, and the plantation itself in all respects a model, was the best in Louisiana. He had succeeded in extracting about 70 per cent. of the saccharine from cane on his plantation by means of it, but with the diffusion process he is able to extract 98 per cent.

Mr. BUTLER. Ninety-nine.

Mr. PLUMB. Ninety-nine per cent., or practically all of it. There is practically no residuum after the case has been treated by diffusion. Since that, with the consent of the Department, Governor Warmoth enlarged the cells in the diffusion battery in order to do the work more economically, and this year he has got from his cane a production 50 per cent. greater than he ever obtained before, notwithstanding the perfection of his machinery of the old kind, with which the saccharine was extracted from the cane by pressure. The usual percentage of extraction by old methods is only about 60 per cent.

Mr. GIBSON. The general establishment of central factories in the State of Louisiana, which have been very largely increased in the last four or five years, has largely diminished the number of sugar houses that converted cane into sugar for sale by the old open-kettle process. The small individual planters or farmers convert their cane into sirup and convey it by pipes 5 or 6 miles, and even 8 or 10 miles long, to these central factories. The sugar houses of these individual farmers or planters have the outside appearance of being used on the old plan, but nevertheless the crop really is converted into a high grade of sugar by the central factories.

I trust the Senator from Kansas will not criticize the farmers and planters of Louisiana as lacking in intelligence and energy. They lack in means, because I can state to Senators that the usual rate on money which the planters of Louisiana have been compelled to pay for many years past has been about 12 per cent.

Mr. PLUMB. I ought to say in this same connection that a Mr. Cunningham, of the State of Texas, probably the largest sugar producer in that State, and a very enterprising, active, and intelligent man, after a thorough investigation of the diffusion process as used at Fort Scott, put it in operation on his plantation in Texas. But the most significant fact which has grown out of these experiments, in addition to the advanced processes of manipulation of which I have spoken, has been the discovery that sorghum is to be a powerful factor in the production of sugar in the Gulf States. It is not only a thrifty sugar-producing plant there, but as it ripens earlier than the ribbon cane, the working season can be very much extended.

The season for the working of the ribbon cane is about sixty days, I believe, and during all the remainder of the year the machinery lies idle. By the use of sorghum cane the length of the working season is fully doubled and a large increase of the sugar product thereby insured, as well as greater profit, for the machinery lies idle not one-half the time it does under present conditions. The Mr. Cunningham of whom I have spoken planted a large area in sorghum last year, but was prevented from working it by reason of the fact that his diffusion battery proved defective at first. But another year probably half the sugar product of Mr. Cunningham's plantation and mills will be from sorghum. Sorghum is to be a main factor in the production of the sugar supply of the United States, and Texas, Louisiana, Mississippi, and Florida will be largely indebted to that plant for their increased supply.

I look upon the future of the sugar industry of Louisiana and the Gulf States generally with great hope, notwithstanding, I think, as I said before, that the planters of that section have not heretofore done as much as they should have done towards its development, and especially in view of the high duty which has been maintained upon sugar for their benefit and to the great cost of the people of the United States. The burden would have been well worth maintaining if there had been such increase in the supply of sugar as to give promise, even at this late date, that a sufficient production to meet the needs of our own people would shortly be brought about. I do believe, however, that the Louisiana planters will within the next few years at least double their production, as the result of the new processes of manufacture which I have mentioned and the use of sorghum. But I call attention to the remarkable fluctuation in the domestic production of sugar as shown in Spofford's almanac for 1888.

Of course there was a falling off during the latter period of the war and immediately succeeding. The largest product ever made was in 1862, when the number of tons produced was 191,000. There were only 28,000 tons produced in 1864, 5,000 in 1865, coming up gradually to 8,500 in 1866, and so on, until 1879, when it reached 112,000 tons. But it had had violent fluctuations before that. In the preceding year, 1878, only 71,500 tons were produced; in 1880, 88,822 tons were pro-

duced; in 1881, 127,367 tons; and then the product in 1882 fell off to 76,373 tons. In 1883 it went up with a bound to 142,298 tons; in 1884 it fell to 135,443 tons; and in 1885 it fell to 100,876 tons; and in 1886 it went up again to 135,158 tons. The statistics for the preceding years I have not at hand.

Mr. EUSTIS. Has the Senator the figures of the crop of 1887?

Mr. PLUMB. I have not.

Mr. TELLER. The production in Louisiana in 1887 was 181,123,872 pounds, and in all the other States about 10,000,000 pounds.

Mr. PLUMB. According to the Statistical Abstract, prepared by the Bureau of Statistics, the amount in pounds for 1887 produced in Louisiana is given at 181,123,872 pounds, as the Senator from Colorado has stated. That, as I roughly figure it, is less than 80,000 tons. The falling off between 1886 and 1887 is over 100,000,000 pounds.

So there is not, either in the gross product to-day as compared with that of preceding years or in its gradual and steady increase, such as we find in other branches of manufactures, the hope we ought to have in order to enable us to justify the imposition of a large duty with the expectation that that duty will result in the production of sufficient sugar in Louisiana or in the region of ribbon-cane to supply the people of the United States. Therefore I turn from that to the manufacture of sugar from sorghum.

I am aware as much as anybody can be of the difficulties which lie in the way of the production of sugar from sorghum. The road is not a royal one. But it can be traveled, and at the end of it will be found sugar in ample supply for all our needs.

Sorghum sugar will necessarily be manufactured by small factories. It is not practical to transport the cane to any considerable distance in order to reach the factory and leave to the producer of it the profit which he ought to have. There will be, therefore, a multiplication of factories, and the business will be scattered over a large area and in a multiplicity of hands. Fully 90 per cent. of the product under present processes of manufacture will be of from 92 to 98 per cent. saccharine strength and sufficiently clear and light colored to go direct from the factory to the consumer or retail dealer without being refined. It is practically what is known as "C" sugar.

It is a grade which goes more universally into consumption than any other. Therefore the larger portion of the sugar manufactured from sorghum will not only go directly from the factory to the consumer, but it can never become the subject of trusts and combinations whereby the price can be controlled arbitrarily and to the disadvantage of the consumers, but it will go into consumption from ten thousand small factories scattered all over the country and insuring competition and reasonable prices as an inevitable result.

This fact is in the way of the rapid extension of the industry, because it does not furnish the inviting field to large capital which exists in enterprises where combinations to take the place of competition can be made.

The manufacture of sugar from sorghum is bound to be chiefly in small factories, costing from fifty thousand to one hundred thousand dollars, but there can be one such every 5 miles along every line of railroad in Kansas, and the same is true practically of the State of Missouri. I do not mention these States as the only localities in which sorghum sugar can be made with profit, but they are likely to be the center of the industry.

The chemist of the Department of Agriculture and others who have given special attention to this subject believe that as we go west into what is known as the plains region—the longitude of Central and Western Kansas—into a dryer climate and a higher altitude, the percentage of saccharine in the sorghum increases, which adds to its value for the manufacture of sugar.

But sorghum is one of the hardiest plants known to our agriculture, and it can be successfully produced in all portions of our country, and it is the greatest forage plant in the world. It has one great advantage over the Louisiana cane because of the value of the seed for feed, and the blade can be similarly used. Both these by-products are of value, and combined are probably worth the cost of producing the cane. So the farmer who raises sorghum for a sugar factory will have as profit all he gets for his cane there, and while raising a readily marketable product will also be providing feed for his stock. So also in case of the failure of the mill to take that portion of the cane which is convertible into sugar the farmer can use it profitably at home as forage.

The seed product is from 10 to 12 bushels per acre in Kansas, and it is equivalent in value to an equal amount in weight of corn, the constituent elements of each being substantially the same. In addition, the fiber from the stalk makes a paper pulp which has been determined by actual experiment to be the equivalent of the best wood pulp.

Mr. VEST. This is a very interesting question to those of us who live in the West, and I should like to ask the Senator, for information purely, one question that has presented some difficulty to me. In the present status of the machinery that is used in regard to this sorghum, is it not practically at present prices out of the reach of the average community of farmers in the West? Is it not very expensive, and is there any probability of the reduction of the expense of the machinery? That is very important to us.

Mr. PLUMB. That is a very important point. A factory which will work up from 200 to 250 tons of cane per day can now be erected for $60,000 and put in full operation. I believe it can be erected for less, but $60,000 is undoubtedly an entirely safe estimate. I believe, too, that as the demand for this character of machinery increases and it comes to be manufactured more generally it will not only be improved in quality and effectiveness but will also be very considerably cheapened. There are now only two or three places where the complete outfit necessary for a factory is manufactured; one of the manufacturing firms being located in New York and one in Wilmington, Del. I think Mr. Cunningham's machinery was made in New Orleans. A large portion of the machinery for one manufactory in Kansas was made upon special order in the Senator's own city of Kansas City.

All the machinery except the diffusion battery, the cutting apparatus, and the conveyors is substantially the same as used in the production of sugar from Louisiana cane. The process of evaporating, of crystallizing, etc., are of universal application.

New and better machinery is constantly being made. One of the most considerable items of expense in sugar manufacturing is fuel. New devices for saving in this direction are constantly being perfected. Evaporating pans are used in Kansas, which in effect enable the heat to be used three times; and I am told that in Germany an evaporating pan is used which in effect makes use of the heat four times over.

In Louisiana the bogasse or offal is largely used for fuel. Until some new and inexpensive process is devised whereby the water can be extracted from the sorghum chips they can not be thus used. Diffusion means the extraction of the juice by the application of water. This water, in addition to the moisture already in the cane, must be removed by evaporation, and this requires a large amount of fuel. But shortly, I have no doubt, the saturated cane chips from which the saccharine has been exhausted will be used for fuel and this item of expense be wholly or at least mainly eliminated.

The multiplication of sugar factories means that American workshops must supply increasing quantities of machinery. The machinery to manufacture the sugar used by our own people would cost probably $200,000,000. The home production of sugar therefore means a great stimulus to other manufacturing industries.

Mr. EUSTIS. I will suggest to the Senator from Kansas, in answer to the question of the Senator from Missouri, that it is not necessary that everybody who raises sorghum should have a sugar factory. A central system can be established.

Mr. PLUMB. I will come to that in a moment. The plan observed in Kansas, and which I have no doubt will continue, is for the farmer to sell his cane delivered at the mill. The price paid there for a ton of cane is $2. The number of tons produced per acre has rarely been less than 9, while the maximum has been as high as 20. At $2 per ton the financial return from the production of cane is better than that from corn at 40 cents per bushel, and corn in Central Kansas is selling now at 20 cents per bushel.

The production of an acre of cane is not more expensive than an acre of corn. Plowing, planting, cultivation are the same. Handling the cane after maturity is somewhat more expensive than caring for and marketing corn; not that the labor is greater, but that as it must be done more promptly, more will have to be done by hired labor. The final harvesting of corn is a process that often extends over the entire winter months, and, of course, in that case the domestic help about the farm is used to the greatest advantage, and the farmer can often carry on a very large farm without hiring any outside help whatever; but the cane must be taken off the ground at once and must be treated at the mill within a period of thirty-six hours, and thus there must be prompt delivery, which means much work for teams and hands. If the cane remains unmanufactured beyond the period named inversion or fermentation begins, and thereafter the saccharine can not be crystallized, and its value, except for making sirup, is gone.

The one thing which is lacking more than anything else to enable this industry to go forward rapidly in the direction of producing an ample supply of sugar for our people is not so much capital as skill. There could be this coming season erected and put in operation in Kansas alone thirty new factories; that is, the money would be forthcoming for that purpose if the skill could be had equal to the requirements of erecting and operating them. Given thirty men who can give positive assurance that they possess the requisite skill for this purpose and the money for the erection of these factories in Kansas would be forthcoming on short notice. The process of development of this new and important industry if it be undertaken is to be slow unless some process of instruction is undertaken through private or public sources, or both, whereby this skilled labor can be had.

Mr. President, during the last ten or fifteen years, the period in which the country has had the greatest development of its manufacturing industry, the greatest extension of its railroad system, the greatest growth of cities, the most considerable addition to its wealth, the prices of farm products have declined and the value of farming lands per acre has either remained stationary or gone down. The country has had what it calls prosperity, but one-half of the people have had only a small share of it. The prices of manufactured articles have also declined, but this does not represent a diminution of the manufacturers' profits. The farmers of the interior can not afford to pro-

duce corn at present prices unless they submit to a much lower capitalization of land values. Beef and all other agricultural productions have correspondingly declined. The elements of competition have been set in motion from all quarters of the globe, which are destined to still further exclude the American farmer from outside markets for what might be called the raw products of the soil. He can no longer rely upon the foreign market taking his wheat at satisfactory prices.

In India, in Egypt, in Africa, in South and Central America immense areas are being opened up to agricultural production by means of the introduction not merely of civilization in the shape of colonized emigration, but by means of new facilities for transportation, whereby the table-lands of those countries are brought into communication with the seaboard. This brings into market the products of new areas of cheap lands tilled by cheap labor—by labor which is content with mere subsistence and which pays no taxes to support schools and churches and is subject to no expensive tastes or habits.

The dependence of our farmers is therefore to be more than ever upon the home market. Our agricultural productions must be further diversified. We must not only take more full possession of the market already inadequately supplied, but we must produce our own sugar as the one great direction in which we can turn the labor and capital already shut out of foreign markets. The American farmer must contemplate a condition of things in which the foreign market is practically left out of account. It is true, as our New England and Pennsylvania friends say, that if we manufactured more largely we should have greater capacity for the consumption of agricultural products. But agricultural productions will more than keep pace with manufactures, and it is not fair to put new burdens upon the farmer with a view to the benefits to be derived in after years. They are too weak to stand more taxes.

We must cut off the importation of agricultural products, and the only way to do this is to increase the home supply to the full measure of home needs.

The sugar which the people of the United States consume costs them more than the bread they eat. The duty on that imported amounts to $60,000,000. The production of this sugar at home would mean that one-half the area now devoted to bread products could be devoted to sugar. The effect on the prices of farm products would be great, the stimulus to all kinds of business would be immense.

Sugar is not exclusively or even mainly a tropical product, although such has been the idea with many people. What is known as sugar cane—the ribbon cane, as it is called—is a tropical plant. But sorghum is not, and it is a plant especially adapted to the great grain-producing belt of this country. The German people have shown that the beet thrives well in cold latitudes, and from this they have made an amount of sugar which has not only greatly aided them in becoming prosperous but has also practically revolutionized the industry. When a few years ago the German Government undertook to encourage the production of sugar from the beet, the beets which were used had a saccharine strength of only 4 per cent. To-day they have an average saccharine strength of about 16 per cent.; and Governor Warmoth told me that when he was in Germany last year, I think it was, he saw a chemical analysis of a variety of beet which had a saccharine strength of 22½ per cent; that is to say, 22½ per cent. of the weight of the beet was saccharine.

That has been the result of the patient, careful, skillful work of the German farmer and of the German manufacturer under the wise, fostering care of the German Government. The country of William and Bismarck could not afford to be dependent on the outside world for sugar. The home needs have not only been supplied, but a large amount is annually exported. They have demonstrated in that field of effort what has been abundantly demonstrated in others—the benefit to be derived from a subdivision of labor. The manufacturer does not raise the beets, and the farmer who raises the beets does not raise the seed which he plants. Raising the seed, producing the beet, and manufacturing the sugar are three separate operations carried on by different and wholly disconnected persons. Subdivision means competition, and it also means development. The result of one man's labor is not merged in that of another, but that of each must stand on its own footing.

The result is the best seed, and of varieties covering all the necessities of the situation, and more especially those of saccharine strength and proper periods of ripening. It is also the greatest quantity of beets to the acre produced at the periods when they are needed for manufacturing and containing the greatest percentage of saccharine, for their value depends upon both these things; it is also the best possible for extracting the saccharine from the beet and converting it into sugar. The culmination of all was the prosperity which it brought to the German farmer. He got greater profit from his labor and his land increased in value. He learned how to prevent the inversion or fermentation which set in ordinarily shortly after the beets were taken from the ground, and he arrested this by burying them in trenches, from which he could take them as they were required by the manufacturer. These three factors in the manufacture of sugar from beets have each done their proper share, whereby the industry has not only become successful and permanent, but whereby the prosperity of all has been enhanced. The wise prevision of the German Government has brought about all this. It was done by customs duties and bounties.

Mr. President, there is just as much hope, in my judgment, for the manufacture of sugar from beets in this country as from sorghum. It is certain at least that there are some localities in this country where, by reason of climatic conditions and the character of the soil, the sugar-beet can be successfully produced. I have in my hand a copy of a statement made by the Western Sugar Works in California, which shows that last year, the first year of the existence of the factory, a profit of 7 per cent. was made on the investment in the manufacture of sugar from beets. Five dollars a ton was paid to the farmers for beets.

This price bears practically the same relation to the value of other agricultural products in that country as $2 a ton for sorghum does to the average value of corn in the localities where corn and sorghum are both produced. It is profitable, therefore, to the farmer. It turns his activities in a new direction. It devotes fields and areas to the production of sugar needed at home that are now devoted to corn and to wheat, the production of which is in excess of the demand.

Mr. President, I am willing to vote as I have heretofore voted, for the imposition of the duties that may be necessary in order that we may make perfectly certain of the manufacture, with our great natural facilities, of all the things essential in the line of manufacture. I would not draw the line as the Senator from Maryland [Mr. GORMAN] seemed to draw it. I would say, given the greater necessity for the article, given its more universal consumption, if the natural facilities exist in this country, I would afford protection enough on that article to make sure that it was produced, rather than to leave it off because of its universal consumption and put the duty upon articles of less universal use.

Mr. President, the Senator from North Carolina [Mr. VANCE] had some experience in the Confederacy. He says salt is an article of universal use, and I think his tongue was sharpened when he made that statement by a knowledge of the fact that he himself probably endured some privations during the war because the Confederacy did not produce salt enough to go round. It was because the Confederacy did not avail itself of the opportunity—and when I say "the Confederacy" I mean to say the Southern States—did not avail themselves of the opportunity which the tariff had given them of producing salt to such an extent that when the time for separation from the North came they should have had that essential at their own doors, produced by their own labor, and thereby been freed from the privations which fell to their lot during the war.

If the South had taken a lesson from what was going on in the North the issue of that great controversy might have been different. If the natural facilities for manufacturing had been availed of so that there had been manufacturing establishments all over the South with skilled mechanics in abundance, they would not have been dependent upon foreign people for the guns and materials necessary for war.

General Dick Taylor, in summing up the matter in the book which he wrote on the civil war, said, addressing the North, "You beat us because you had a protective tariff." I would not let that protective idea become the shield for monopoly or oppression, and I would not forbear to press by means of the reduction of duties so closely upon the manufacturer each year as to make perfectly certain that he should not under any circumstances be permitted to exact prices greater than such as would yield him a fair profit at the expense of the people, collecting at the same time only the money that was necessary to carry on the Government economically administered.

But when we come to apply this principle it is not fair that we should take into consideration only the comparatively limited number of people who are directly engaged in manufacturing. Seven-twelfths of the people of the United States are more or less directly engaged in agriculture. They are not and will not be willing to have their chance in the advantage which comes from this system limited to the indirect advantages which come from the proximity to certain markets, which may be created by manufactures. Their productions are as much entitled to be taken into account as those of the manufacturer. If the adjustment of duties is to be made with a view to protection it should be as nearly as possible for the benefit of all. Schools, churches, and all the appliances of civilization all cost money.

The American farmer can no more contribute to these in competition with the cheap lands and cheap labor of South America, of Africa, and India than the American manufacturer can. Here is a new avenue opened to him. He should be encouraged to enter it and should be adequately protected when once there.

I am not myself entirely agreed to this idea of a bounty. I have not been able to see any reason why, looking at it from a wide standpoint, the manufacture of sugar should be put on a different footing from the manufacture of any other article which may be deemed necessary to be protected; but of course there has grown up this feeling from time to time during these years in which the production of sugar has been going on in the way spoken of in Louisiana until there has come to be

a very great and strong public feeling that we are not to manufacture sugar and that we are keeping up the duty without even the hope of the result which has been realized in other branches of manufacture.

We make all our own steel rails, we make the larger portion of all the products of iron which our people use; and so of wood, of copper, of cotton, and largely of wool; and the result justifies the means. The production of sugar has, however, lagged behind; it has had the largest protection, but the product has not sensibly increased. It is to-day less than 9 per cent.—I guess less than 8 per cent.—of the total amount of sugar consumed by the people of the United States. If it were even increasing in the ratio of the increase of population there would be some ground of hope; but it has not, and out of this has grown the feeling that there is no relation between the protective system and the production of sugar, and that it must be looked to solely as a source of revenue, without any hope or expectation that the quantity produced at home will ever equal the home demand.

Now comes this new hope that by means of sorghum and the beet the field of production may be widened, and a supply of sugar equal to home needs be produced. The hope is a reasonable one. I believe that within five years enough will have been done to give all needed assurance as to the final result. There is enough in it to warrant the continuation of the present measure of protection. It affects those who most need and deserve it. Why should not the law do for the farmer what it does for the manufacturer?

I have talked this matter over candidly with the members of the Committee on Finance. They have been anxious to do, as I believe, what they thought they were justified in doing. I have not been able to communicate to them the contagion of my own belief to any very considerable extent. They are still doubting Thomases, but they have come up to the consideration of this question with a proposition which they think will answer the purpose as well as a duty would, at the same time giving to the American people the benefit to be derived from a lower duty on sugar.

I have been disposed to accept it, and yet under protest, for I have been hoping that perhaps the Senate might take the view that for a few years at least, until we come again to the consideration of this question—and we shall shortly no doubt—the present duty or something like it might be maintained. If the Senate will not do so, then believing that in this direction of the encouragement of the manufacture of sugar lies safety and profit to the agriculturists of great sections of this country, I am willing to accept the bounty, as proposed—1 cent per pound added to a duty equivalent to one-half that now imposed.

Indian Appropriation Bill.

SPEECH

OF

HON. PRESTON B. PLUMB,

OF KANSAS,

IN THE SENATE OF THE UNITED STATES,

Saturday, March 2, 1889.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. 12378) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1890, and for other purposes—

Mr. PLUMB said:

Mr. PRESIDENT: It does not seem to me that it makes any great difference whether the Senator from Missouri [Mr. VEST] is correct in saying that the Cherokee Indians have no title to the lands it is proposed to acquire or whether the Senator from Nevada [Mr. STEWART] is correct, who says they ought not to have anything for their interest because they have got too much of this world's goods already.

All of this discussion is entirely apart from anything that is before the Senate now or ever has been before it.

Congress has never proposed to take possession of these lands except as the result of negotiation and purchase. Some years ago I was led to believe that these lands might be disposed of without further negotiation, and introduced a bill for that purpose, but the Committee on Indian Affairs disagreed with me, and the Attorney-General and three successive Presidents, and Judge Parker's court at Fort Smith, did the same thing, and I thereupon made up my mind that the Indians had an interest, and one which could only be disposed of by purchase and with their consent. Subsequently, in 1885, Congress, adopting that view, provided in the Indian appropriation act of that year for negotiations to be carried on by the President of the United States for the purpose of securing the title or right, whatever it may be, from the Indians, in order that the lands under consideration and other lands might be opened to settlement.

The Senator from Missouri will remember that after that law was passed he and I called on the President of the United States and that we urged him to carry it into effect immediately. He may remember that the fact that we did so got into the newspapers, where things do not generally get, and he and I were abused roundly from the standpoint of those who claimed the Indians had no title or interest, and the people were warned that he and I were in the interest of the cattle-men, while we were both sincerely desirous of having the lands opened to settlement and wanted the President to act promptly in the way of negotiation, in order that there might be as little delay as possible in bringing about this inevitable result.

The President was bidden by that act of 1885 to negotiate with these Indians. To show that there was no doubt at all in his mind, or that there could be no doubt about the construction of that law or his authority under it, he has recently negotiated with two of those tribes; and I say now what I have said on this floor and elsewhere repeatedly heretofore, that if the President had done his duty as I conceived it to be and as he now admits it to have been, this question would not now be here, but the Indian Territory would be open to actual settlers and thousands of men would be there in the possession of their homes under the homestead law, as was contemplated by the act of 1885.

Mr. President, all this noise and all this application to Congress instead of to the President was gotten up for ulterior purposes in which the actual settlers were not taken chiefly into account. They were a mere make-weight. The real secret of much of the agitation has been the desire of certain people to speculate out of town sites in the Territory. The bill which the Senator from Illinois reported from the Committee on Territories reserves a mile wide along every mile of railroad in the Territory constructed or to be laid out before the passage of the proposed act for town-site purposes, and excludes that much land from actual settlement. As proposed in the House of Representatives it gave these town sites over to speculation instead of limiting their disposal for the benefit of the occupants as provided under the general law regulating the disposal of town sites.

The men who have been steadily maintained in Washington upon this subject for the past two or three years have been paid by men who have sold the town shares of which the Senator from South Carolina [Mr. BUTLER] spoke in order that their expenses might be paid and by those who hoped to make future profit out of town-site entries and by the railroad companies interested.

Now, what happened? To show that there was no opposition in Congress to the opening of Oklahoma to actual settlers, when the President of the United States actually did negotiate with the Creek Indians, as he did on the 19th day of last January, for the cession of the rights of those Indians in the Territory, quietly and without discussion, the Committee on Indian Affairs of the Senate took up that agreement and reported a bill ratifying it. To it was attached a legislative provision providing that the lands should be opened to settlement under the homestead law, and not on the payment of $1.25 per acre as under the Springer bill. It went through the Senate unanimously; it went to the other House, and it went through that body unanimously. Where were the cattle barons and where were all these impediments to legislation opening that Territory to settlement of which the Senator from Missouri has spoken?

The bill which went through the Senate in this easy, perfectly natural, and obvious way, and which went through the House of Representatives in the same way, did not provide for any town-site speculators – not an acre for town sites, but every single acre for the settler free of cost.

That is the difference, Mr. President, between legislation by mass-meeting, legislation by lobby, legislation by denunciation and defamation, and honest, straightforward legislation in the public interest and in the decent and orderly way in which all legislation ought to be carried on.

This matter has been pending before the House of Representatives for more than three years. There never was any opposition there to the passage of a bill solely designed to acquire the lands and open them to settlers. If it had been a bill for that purpose and had been properly presented it would have passed two years ago, and unanimously. There was not a particle of opposition. But certain gentlemen had aspirations who belonged to the then dominant party as to who should be governor and so on, and it ripened into a determination to make political capital for use in the campaign of last year. The bill was held back and was intended to be passed in the last hours of the last session by the House, so that it could not be reached for consideration in the Senate during that time, and the gentlemen who had charge of it then expected to go on the stump and make the welkin ring with denunciation of the Republican Senate because it did not pass the bill, and in laudation of the Democratic House because it did.

Finally when it came up and its true character was exposed, in order to get it through the House at all they had to throw overboard some of these obnoxious provisions, but it still contains a reservation of about a half million acres of land for town-site purposes along the railroad lines.

The impression has been created that the House bill opened the Oklahoma lands to settlement at once. While its purposes are concealed in a mass of verbiage, it provides distinctly that no one shall enter upon the land until the title has been acquired from the Indians and until they have been opened to settlement by the proclamation of

the President; not only can no one legally enter upon the lands, but the person doing so can never acquire any title or interest to the lands. These provisions are repeated in the amendment adopted by the House to the Indian appropriation bill now under consideration. Yet the Senator from Illinois rises in his place and says if we do not pass the Springer bill murder will be committed down there. Why? Does the Springer bill that he wants to pass open that land to settlement until the Indians can be negotiated with? Not at all. Every single settlement upon that land is made illegal unless it occurs after the date when, by proclamation, the President of the United States, having made a bargain with the Indians and secured payment to them of the money to which they are entitled, opens that land by that proclamation to settlement.

Mr. President, the tide of a great immigration has beaten upon the Sioux reservation for years while we have been negotiating with those Indians for the possession of their land, a negotiation not yet concluded, and there has been no bloodshed and no disturbance. The people of Dakota have not threatened that they would kill somebody; they have not threatened that they would violate the laws of the United States if those lands were not opened to settlement before the Indian title was acquired in the usual way.

I beg the Senator from Illinois to understand that the people of the Southwest, of Kansas and Missouri, are just as law-abiding as the people of the Northwest are. There has been no demand from the beginning that the lands should be opened except in conformity with law. It is true there has been a desire that they should be opened as speedily as possible. They ought to have been opened years ago, and they would have been if the President had done his duty and carried out the law of 1885 as he has now commenced to do; and, secondly, it would have been done by another negotiation to be provided for by a new bill if that negotiation had not been hampered by the town-site speculation of which the Senator from South Carolina spoke, and by a needless assertion of the right of the United States to do certain other things which the Indians and those who speak for them deny the right of the Government to do without negotiation, things unnecessary to settlement and which will come along in their order after the lands have been acquired and settled upon.

Just as quick as the President performed his duty the Senate and the House did their duty and passed the bill providing for the payment of the money, and solemnly consecrated those lands to homestead settlements without requiring the homesteader to pay the Government the price that the Government paid.

There is the difference between these two processes and between these two measures, one for the settler and the other for the speculator.

As to the provisions of the pending bill upon the subject, those of the House and those proposed in lieu by the Senate Committee on Appropriations are both identical in legal effect and in proposed results. Both of them require negotiation precedent to occupation. No one has yet risen on this floor to say that that was not a necessary prerequisite, neither did any one rise in his place in the other House to say so. Both require acquisition of the lands yet to be acquired and proclamation by the President before settlement can be made. The Senate committee changed the House provisions, first, so as to bring them all together in the same place in the bill; second, to put them together in a more orderly and compact form; and third, to make plain some portions which were ambiguous.

Whether we shall negotiate with these Indians in the ordinary way, leaving price and terms of payment open for consideration, or whether we shall submit in addition another proposition to pay a sum certain, and if they will not take that, ask them what they will take, is a matter of no consequence to the settler who is to get land free of cost in any event, and is, in any view, leather and prunella. The main thing is, according to the concession of everybody, that negotiation has got to precede acquisition and that acquisition has got to precede settlement.

My belief is that we shall get the lands quicker and easier, more in accord with national honor (however little that may count for), and cheaper by negotiating with the Indians for the cession of whatever rights they have got, just exactly as we negotiate with other people, and just as the President has already negotiated with the Creeks. We want the land. We ought to have it. It has been a part of the policy of this Government ever since the tide of population set westward to acquire useless Indian reservations for the purposes of white settlement. Oklahoma, one of the last reservations of consequence that can be acquired for settlement, should be opened at the earliest possible date. It is of great consequence to the people who want homes; to the people of Kansas, who will get the larger share of the lands when opened, to the people of all the neighboring States and to civilization.

It is in accordance, as I have said, with national policy, and I am only sorry to say that this great and beneficent purpose in accordance with national policy should have been marred in its beginning, in its progress, and is liable to be in its conclusion, by speculation and by political considerations, in which the rights of the Government, the rights of the settlers, and the rights of the Indians have been wholly subordinated.

But when the bill under consideration has passed the beginning of an end near at hand will have been reached, and in a peaceful, orderly, and ordinary way homes will have been provided for many thousands, and those who have remained at home, and who shall remain there until the President's proclamation is issued, will have the same chance as those who have fretted themselves in useless waiting on the border, and not an acre of land will have been saved for speculation.

Maritime Canal Company of Nicaragua.

SPEECH

OF

HON. THOMAS R. STOCKDALE,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Friday, December 7, 1888.

The House being in Committee of the Whole on the Private Calendar, and having under consideration the bill (S. 1305) to incorporate the Maritime Canal Company of Nicaragua—

Mr. STOCKDALE said:

Mr. CHAIRMAN: I desire to say in favor of this amendment that it looks to obviating one of the objections which I made to this bill in the closing part of the last session. These concessions of the Nicaraguan Government upon which gentlemen rely so confidently as the basis of the operations of this company when it shall be chartered are grants to that company, with no obligation to any government on the face of the earth that they will not be changed by the consent of this company without consulting any other government or any other authority except Nicaragua. These concessions provide, it is true, that the franchise and the property of this company shall not be sold to a foreign government; but that does not prohibit the sale to citizens of a foreign government, nor does it prohibit this company from releasing the Nicaraguan Government at any time from one or all of these concessions, and the Nicaraguan Government and this company may alter, amend, or abrogate all the stipulations concerning the canal and make new ones at will, and the United States Government would have no more right to interfere than it would in the management of the Suez Canal. And while it is true that a majority of the directors are to be American citizens, with the main office in the United States, there is no prohibition in these concessions or in the bill to prevent American citizens from selling the stock of the company in the markets of the world; and American citizens are very apt to sell whatever they have in the markets of the world for the highest price they can get.

Without meaning disrespect to gentlemen who argue that the fact that this company is chartered by the American Congress and chiefly composed of American citizens with its main office in America is a security against the objection I make, that this charter leaves open to foreign powers to compete for the control of this canal, I may be allowed to say, the argument is unworthy of the occasion and the grave magnitude of the subject, in view of the facts that surround us. When the Government itself already writhes in the grasp of corporations whose offices and property are entirely within our jurisdiction, one set of which has robbed the people of a hundred millions of acres of land, and now when the Government would recover the 56,000,000 still in sight, finds itself in a grasp that it has struggled for ten years to loosen and to which it is now about to yield and take what it can get.

A hundred other corporations clutching at the Treasury in open day under cover of cunning schemes, others making corners on bread and meat, trusts on sugar, on bagging, on all the necessaries of life—all making colossal combines to oppress our own people, with salaried agents in the galleries acting in concert with great journals to persuade and threaten the Government into such legislation as will further their schemes. Congress all the last session trying to devise some measure to shield the people from these giant combinations that are throttling the interests of the agricultural classes with the commission created to control some of them scarcely felt. In the face of it all we are asked by these gentlemen to believe in our innocence—in our stupidity I might say if we do it—that we may trust the interests of the American people to a corporation, because more than half of its directors are Americans, and nine-tenths of its members may be foreigners at the same time.

Why, one of the chief arguments put forward by the agents of this corporation, already chartered by Nicaragua and by the State of Vermont, as a reason for wishing a charter by the United States Government is that the United States charter will give it standing abroad and foreign capital will invest in the stock. The concessions of the Nicaraguan Government provides (article 9): "The people of all nations shall be invited to contribute the necessary capital to the enterprise."

Here is a bold proclamation that foreigners will build this canal.

Are we to believe again that foreign capitalists will build this canal and then not control it? Will they hand over their capital to Americans to manage for the interests of the United States Government, or will they elect a board of directors composed of such foreigners and American citizens as will do their bidding?

The American citizens who are to compose the majority of the board of directors of this corporation may all be foreign born, or may be naturalized for that purpose between this and the time the canal will be completed.

How sublime is this faith of gentlemen in the patriotism of English and German capitalists for America, particularly in view of the present relations of these governments with the United States! We are to have a canal built with foreign capital, on foreign soil, and because a majority of the board of directors, consisting of fifteen (eight men who may each own a hundred dollars of stock), are to be American citizens, with the main office in New York, and as many more offices as they please in whatever places and in whatever countries they please. If it were all American it would be the same. They would sell out for cash to the highest bidder, be he Jew or Greek.

These very corporations that are now contending with this Government for mastery over it, grew out of the misfortunes of the nation at a time when the people were spending money and blood to restore the Union. The men who afterwards formed those corporations then drove the hardest bargains that the necessities of the Government and the excited public mind would enable them to impose. When with superhuman efforts the people succeeded and peace was restored those contracts were enforced to the last ducat.

These speculations and peculations constituted the sinew and the blood of the corporations that have grown into the present colossal combinations that stalk abroad with more than giant tread, trampling upon the rights of the people, with no conscience to restrain them and no soul to be saved or damned, before whose unbridled career the Government already quails. Yes, to the protection of one of these sons of God we are to intrust the interests of the Government at a most vital point.

I was asked the question if these concessions are not as full and ample as the concessions to the Suez Canal Company. I answered then and concede now that they are, and if it is conceded that this canal is to go the same way as the Suez Canal, and is to be controlled by Great Britain within ten years after it is finished, then we are going in the right direction.

Now, suppose that this company be organized, if it is to be organized in good faith to build this canal, that the company is formed, and under whatever influences may be brought to bear upon the corporation, the directors by resolution release the Nicaraguan Government from the provision of the concession that the property or franchise of the company shall not be sold to a foreign government. You say that would be in violation of the understanding with which this bill is passed, as these concessions are present before the members of the House in voting upon the bill. If that be true, then I say this amendment ought to be incorporated in the bill to express that understanding.

The gentleman from New Jersey expressed in his remarks sentiments to which I heartily assent; and probably there is no gentleman on this floor who would go farther by his vote to procure some crossing of that isthmus either by canal or railway than I would go. I recognize fully the importance of this interoceanic communication to the commerce of this country. I was an enthusiastic advocate of the Tehuantepec ship-railway enterprise, and I pause to call attention to the difference between the provisions for that enterprise and this scheme. I am in favor of any feasible plan likely to effect a crossing of that isthmus and a commercial passageway between the two great oceans, preserving always the prestige of the United States Government there. And I am as unalterably opposed to any scheme that will curtail the rights of the United States Government on that isthmus or the adjoining waters. It needs no oratory to induce this House to assent to the importance of a commercial highway through there. Four-fifths of the members, I presume, are of that mind now; nor can eloquence divert the public mind from the serious defects of this bill, some of which, I admit, have been cured by amendments to-day, and I hope others may be, for I want to vote for its passage if I can consistently——

[Here the hammer fell.]

Mr. HOLMAN. I hope that the time of the gentleman from Mississippi [Mr. STOCKDALE] will be extended.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the time of the gentleman from Mississippi be extended. Is there objection? The Chair hears none.

Mr. STOCKDALE. I thank the gentleman and the House for this courtesy. Mr. Chairman, I say that the Government of the United States has no control over this canal, and will not have after it is built. We simply say to this corporation, depart with our blessing; go thy way in peace, and dwell in tents in the land of the sun, and perform a mighty work before the Lord—for civilization. Make the land to rise up and depart; join the two great oceans in marriage, and give them to commerce to have dominion over them. Deal with the Philistines if thou likest, and we will not molest thee or them; build great cities beside the new waters, and we will have neither lot nor part in them; neither the ships on the waters, but will dwell in our own land, and this is all of it, and ought to be settled in tones of the past and sluggish ages, unless we add to that chapter in unmistakable English, that at some convenient season we will have need of them. If we do not, when we would go that way in future years with our fleets, we will discover in consternation that by this loose and bungling legislation we have said "Sibboleth."

Much has been said about the constitutional features of the measure. I do not propose to discuss that. I am willing to rely upon the opinion of the profound lawyers in both ends of the Capitol who have assented to its constitutionality; nor do I believe it at all important, unless it be unconstitutional to do a foolish thing. This company already has complete corporate existence by act of the Congress of Nicaragua; it has been again chartered by the Legislature of Vermont; it now wants to be born again, ambitious to be the offspring of two republics and one State for a sort of godmother, I suppose.

Which charter will it act under? It is maintained here that it can not act under more than one. If under this charter or the Vermont charter it must abandon the Nicaragua charter, and then it will have a name but no local habitation; it would have no grants, no privileges, no existence in Nicaragua. If it acts under the Nicaragua charter, as it of course will do, it has no use for this proposed charter except as a bargain on the part of the United States with an already existing company, abandoning all rights of control of or interference with that canal in the future, a bargain this Government should not make.

I desire to call attention of the House to what every member knows, that with the present friendly relations between the United States and Nicaragua treaty stipulations could be negotiated that would prevent the canal, when built, from going into the hands or under the control of any foreign power and absolutely avoid any complication of this Government with other nations in reference to the policy known as the Monroe doctrine. And then I want to call attention to the contrast between the sagacious policy of Nicaragua, as exhibited in her concessions, and the folly of the United States, as exhibited in this bill.

Article 4 of the concessions limits the charter to ninety-nine years.

Mr. CLARDY. That is as long as we will want it.

Mr. STOCKDALE. We who are living, yes; but the boast of our ancestors and our race has been that they provided for posterity. Suppose the treaty that closed the Revolutionary war had conceded the independence of America for ninety-nine years—suppose the Louisiana purchase had been for ninety-nine years—the time will soon be here when the great Northwest and the Mississippi River would pass under the control of Great Britain.

Had that been the character of the treaty that closed the Mexican war our children would see California relegated back as a Mexican state, and that government fighting for the control of Texas. Our grandchildren will see the termination of this charter.

By article 9 of the concession 5 per cent. of all the stock is reserved for the Central American republics and the citizens thereof if they desire to subscribe.

By article 11 of concessions it is reserved to the Government of Nicaragua the perpetual right (not for ninety-nine years) of naming one director.

By article 50 it is provided that the Government of Nicaragua shall receive without cost to itself 6 per cent. of all bonds, shares, and certificates issued by the company to raise the corporate capital, to be regarded as paid-up stock and not to be called on for contribution, but are simply a gift.

By article 44 the Central American Republics and their citizens can ship their products through the canal at one-half the prescribed tariff of tolls, and their war vessels will pay no toll, but pass through at will free of all charges, while the United States will have no stock, no director, pay full tolls, and her war vessels, by article 6 of the concessions, will be rigorously excluded from the canal if perchance we may be at war with any Central American Republic—a state of affairs that any great power of Europe could produce if occasion required.

Article 53 provides for forfeiture to Nicaragua of the canal with all its franchises, lands, and improvements upon conditions that are almost sure to happen.

It will be noticed that all these concessions, conditions, and stipulations are entirely between the Government of Nicaragua and the Maritime Canal Company created by that Government, and the United States Government not mentioned. I concede that they had the uncontrolled right to make them as between themselves, but when these stipulations are presented to this Government with the request that it indorse them and all that is expressed or implied in that language, thus committing this Government to the plainly implied right of the company to transfer the whole interest to citizens of a foreign government, and with the consent of Nicaragua to a foreign government itself, which can be done with facility under the provision that the stock is to be personal property.

I say there is no escape from the conclusion that the passage of this bill without amendment negativing that idea will be held to be and construed as an expression of this Government that it abandons any

claim to a voice in the future control of that canal, and as an abandonment of the Monroe doctrine to that extent. I am safe in saying that is not in accordance with the sentiments of the American people.

The bill, if it shall pass at all, ought to be so amended as to clearly negative that idea, so that the Government may be free to act in future as occasion may demand without being charged with bad faith. If that be done, I will vote for its passage, although it will then be imperfect. The amendment I have offered will effect that object, in my judgment, and it or some similar amendment ought to pass.

But I have been struck with the fact that amendments looking in that direction are obnoxious to this maritime canal company, and the friends of the bill are prompt and persistent in warding off all such amendments as will express the idea that the Government does not abandon any claim to future control of or interference with the company or the canal. Such amendments, they say, will defeat the objects of the bill, and, if I am correct in my apprehension, they would. If the objects of this company in getting this expression of the Government committing it to non-interference with that canal, knowing full well that citizens of foreign governments would pay a large bonus for the franchise containing such committal, which is an implied promise not to interfere, and a consent to the sale and consequent control of the canal by foreigners without molestation on the part of the United States, certainly an amendment expressly negativing that idea would be fatal to the objects of the bill. If that be not the purpose this legislation is without object and therefore foolish, for the company has legal existence now as much as it will have after the passage of this bill; and it will be admitted that this Government can not give any force to any act in a foreign jurisdiction except as permitted by treaty stipulation.

There is no statesmanship in the measure, but simply another step in submission to the demands of another great corporation that desires to use the Government in aid of a great speculating scheme.

Gentlemen talk here as though there was no other chance on the face of the earth to have the canal built except by this company, and that the company will not build it unless we walk right up to their terms, and gentlemen who fail to embrace this last chance are obstructing commerce and do not comprehend the needs of the country. I do not believe that tale. It is easier to believe that the sagacity of these great financial operators recognizes that the property would be worth more by many millions in foreign markets if freed from all claims incident to the Monroe doctrine, and this bill is skillfully drawn to accomplish that purpose. It can accomplish no other purpose, and that is the reason, I take it, that foreign capital will not invest in the enterprise until this bill becomes a law.

If it does become a law without amendment it will put this Government in a far worse attitude in reference to that canal than it now occupies in reference to the Panama Canal, which necessitated the Edmunds resolution, and that is bad enough in all conscience—forced into the attitude of a bulldozer towards a sister Republic after the work is half advanced. I desire to quote from my eloquent friend from New Jersey [Mr. McADOO], one of the most learned and accomplished lawyers of this House, if the Reporter will hand me the notes. He said:

> Why look at it! The governments of Europe are already awake to the situation. This canal is necessary in order to enforce the Monroe doctrine. The governments of Europe are land hungry. The population of Europe is congested. They are looking for land, military, commercial, and political outlets in every quarter of the globe. India has been exhausted. Russia is assuming control of the vast territories in the eastern part of Europe and Western Asia. She is threatening English, Turkish, and Oriental supremacy alike. The eyes of all Europe are turned to this continent, and the feeble republics of South America can only be preserved from foreign aggressions and from subservience to foreign interests by the moral, political, the financial, and, if necessary, the military power of the great Republic of America. [Applause.]
>
> Why, Mr. Chairman, the flag of Britain is already posted on naval stations at this very center. Spain, in Cuba, has military control of the Great Gulf and our Mississippi Delta. France is getting a foothold there; and Bismarck, having accomplished the unity of the German Confederacy, and having laid down its military and financial policy, is now finding an outlet for the German arm and the German brain in South America and in the islands of the Pacific. Yet we are asked to remain supinely neutral! I preach no blatant jingoism. I am conservative of the conservatives, but I am neither blind, deaf, nor unobserving.
>
> We only ask to mind our own affairs and make happy our own people; but the bedeviled and tottering systems of Europe look with jealous eyes on these Americas. We have nothing to do with the cruelty, pomp, and artificiality of European politics, but the millions of freemen on these continents will never permit the flags of monarchical power to float on additional acquisitions on these continents. In the Northern Pacific, in the Southern Pacific, and the islands of the Great Gulf we are alive to the restless activity of European aggression, open or insidious.

The novice in history knows that European aggressions are both open and insidious, as occasion requires. And if this canal is necessary in order to enforce the Monroe doctrine, as my friend says it is, and I concur in that, why, may I ask? The answer comes to every man's lips, "It is in order to have quick and easy transit for American ships in that region." These enterprising, bold, daring, and powerful governments that my eloquent friend has described will hardly be expected to foster the Monroe doctrine. It is the most hateful thing to European powers on the western hemisphere.

The United States Government should watch with zealous vigilance this canal, so vital to her interests, never letting it pass from under her eye nor beyond her ready grasp. And yet amid these startling surroundings, brought so vividly to view by the gentleman from New Jersey, it is proposed by this bill to yield the ownership and control and management of that great highway to a foreign begotten and born corporation, with all its property and franchises and operations in a foreign jurisdiction, and to be built by foreign capital, and therefore owned and controlled by foreign capitalists. It is proposed to commit these great interests, so vital to the future prestige of this great country and the future glory of this majestic race and American civilization, to a corporation whose only interest in this Government will be to get rid of its interference.

An amendment offered making the Government say that it reserves the right to be consulted about the operation and control and disposition of this canal is a red blanket to the company, and the advocates of the bill in its present form throttle it as an enemy.

But I am asked, as a puzzle I presume, to suggest some means by which the Government may encourage the construction of that canal and avoid the objections I urge. I answer that a delay of six or twelve months not being important in so great an enterprise, I would suggest that this legislation be not consummated now, but time be given the Government to negotiate a treaty with Nicaragua and Costa Rica, making the Government of the United States a party to be consulted before any changes are made in the conditions put upon the management of the canal by Nicaragua, and before the stock and the consequent control of the canal goes into foreign hands. Stipulate that American vessels should have, if not 50 per cent., at least some reduction in tolls in consideration of her guarantying the neutrality of the Isthmus, with this new temptation to foreign powers added to the risk, and modification of article 44 so that our war vessels should pass without paying tolls for the same reason.

Procure modification of article 6 of the concessions so as not to exclude American war vessels from the canal, except when this country was at war with Nicaragua; stipulate that in case the canal be forfeited to Nicaragua the right of this Government to a voice as to the ownership of the land should remain intact notwithstanding the forfeiture and have that perpetual—not for ninety-nine years. That this could all be done within twelve months I have no doubt. If Congress is too impatient to wait that long, then I would amend the bill so as to make it clear and explicit that the Government in granting this charter, or whatever it is, yields no right of supervision and control over the transisthmian commerce and to preserve the canal to the American governments and peoples out of the hands of European powers.

This can be accomplished by adopting the pending amendments. Whether my amendment be included or some other one to be offered that will serve the same purpose I do not care a farthing. I have no pride of opinion about it. What I want is to see the bill in such a shape that I can vote for it and defend my action before my constituents, who want to see the canal built but do not want the Government to abandon the control of it so as to let it pass into the hands of foreigners.

They would rather wait longer than to give it away. If these pending amendments or similar ones be adopted I will vote for the passage of the bill, but will do it reluctantly, feeling, indeed knowing, that better terms can be had by a little delay and diplomacy, and ought to be had.

I will detain the House no longer, but append to my remarks some of the articles of concession of the Nicaraguan Government.

They are as follows:

THE PRESIDENT OF THE REPUBLIC TO THE INHABITANTS THEREOF.

Know ye that congress has ordered as follows:

The senate and chamber of deputies of the Republic of Nicaragua do hereby decree.

Only article.—The contract for a maritime interoceanic canal, entered into the 23d of March ultimo, between Dr. Adam Cárdenas, commissioned especially by the supreme government, and Mr. A. G. Menocal, member and representative of the Nicaragua Canal Association, organized in New York, is hereby ratified. This contract shall be a law of the Republic if Mr. Menocal accepts it as soon as he be notified, with the following modifications and upon the following terms:

The undersigned, Adam Cárdenas, commissioner of the Government of the Republic, party of the first part, and Aniceto G. Menocal, representative of the Nicaragua Canal Association, party of the second part, both having sufficient powers, have entered into the following contract for the excavation of an interoceanic canal through the territory of Nicaragua:

ART. I. The Republic of Nicaragua grants to the aforesaid Nicaragua Canal Association, and Mr. A. G. Menocal, representative of the said association, accepts on its behalf, for the purposes set forth in article 7, the exclusive privilege to excavate and operate a maritime canal across its territory, between the Atlantic and Pacific Oceans.

ART. VI. The government of the Republic declares, during the term of this concession, the ports at each extremity of the canal, and the canal itself, from sea to sea, to be neutral, and that consequently the transit through the canal in case of war between two powers, or between one or more and Nicaragua, shall not be interrupted for such cause; and that merchant vessels and individuals of all nations of the world may freely enter the ports and pass through the canal without molestation or detention.

In general, all vessels may pass through the canal freely, without distinction, exclusion, or preference of persons or nationality, provided they pay the dues and observe the regulations established by the grantee company, for the use of the said canal and its dependencies. The transit of foreign troops and vessels of war will be subjected to the prescriptions relating to the same established by treaties between Nicaragua and other powers or by international law. But entrance to the canal will be rigorously prohibited to vessels of war of such powers as may be at war with Nicaragua or with any other of the Central American Republics.

ART. IX. The people of all nations shall be invited to contribute the necessary capital to the enterprise, and it shall be sufficient for the fulfillment of this requirement to publish an advertisement for thirty consecutive days in one of the principal daily papers of each of the cities New York, London, and Paris.

ART. X. The company shall be organized in the manner and under the conditions generally adopted for such companies. Its principal office shall be in

New York, or where it may be deemed most convenient, and it may have branch offices in the different countries of Europe and America, where it may consider it expedient.

Its name shall be the "Maritime Canal Company of Nicaragua," and its board of directors shall be composed of persons, one-half at least of them shall be chosen from the promoters who may yet preserve their quality as such.

ART. XLIV. As compensation for the privileges and concessions that Nicaragua grants by this contract, it is hereby stipulated that the Republic shall enjoy the special privilege that Nicaraguan vessels sailing under the Nicaraguan flag may navigate the canal at a reduction of 50 per cent. from the general tariff while engaged in the coasting trade, or in the reciprocal trade with the other republics of Central America. It is declared that the vessels referred to in the preceding paragraph must be exclusively of the register of the Republic, and that they must not be owned, either in whole or in part, by citizens of other countries.

A reduction of 50 per cent. from the general tariff is also granted to vessels that begin their voyage for a foreign country in any of the ports belonging to the Republic, with a cargo wholly composed of products of the country. All the privileges to which this article refers shall be extended to the other republics of Central America whenever Nicaragua shall find itself free from international obligations which may prevent it, or whenever one or more of the said republics shall form a single nation with Nicaragua. The company can not collect any navigation dues whatever upon vessels and craft navigating the Lake of Nicaragua and its prolongations without passing out of the locks. The Nicaraguan vessels of war, and in the case above provided those of the Republic of Central America, shall not pay any dues on passing through the canal.

ART. L. In consideration of the valuable privileges, franchises, and concessions granted to the company by this contract, the Republic shall receive in shares, bonds, certificates, or other securities which the company may issue to raise the corporate capital, 6 per cent. of the total amount of the issue.

Such shares, bonds, certificates, or other securities shall be free of all payment on the part of the Republic, being considered as paid in full. The 6 per cent. shall in no event be less than $4,000,000; that is to say, forty thousand shares or obligations of whatsoever kind of $100 each.

Of said shares, bonds, certificates, or securities of whatsoever class, two-thirds shall not be transferable; but all shall participate in the benefits, interests, partitions, dividends, sinking fund, rights, privileges, and in all the advantages given to paid-up shares without any distinction. The Government in its capacity of shareholder shall besides have the right to appoint one director who shall represent its interest in the board of directors of the canal company from the time of its definite establishment. The shares referred to in this article shall be delivered to the agent the Government may appoint to receive them, and as soon as the company shall be ready to issue the certificates for its capital.

ART. LII. The present concession shall be forfeited:

First. Through the failure on the part of the company to comply with any of the conditions contained in articles 8, 46, 47, 48, and 49.

Second. If the service of the canal, after its completion, be interrupted for six months, except in cases of main force.

When the concession shall have been declared forfeited, from whichever of these causes, the public lands granted by this convention will revert to the Republic, in whatsoever state they may be, and without compensation even in the case that buildings may have been erected thereon.

Such lands shall be excepted as may have been alienated to private parties by the company, with the formalities prescribed by law, provided that such alienations shall not have taken place within six months preceding the date on which the company may have become legally liable to the penalty herein established.

ART. LIV. On the expiration of the ninety-nine years stipulated in this concession, or in the event of the forfeiture contained in the preceding article, the Republic shall enter upon possession, in perpetuity, of the canal, of works of art, light-houses, store-houses, stations, deposits, stores, and all the establishments used in the administration of the canal, without being obliged to pay any indemnity to the company.

There shall be excepted from this condition the vessels belonging to the company, its stores of coal and other materials, its mechanical workshops, its floating capital, and reserve fund, as also the lands ceded to it by the State, excepting those in which are established the works indicated in the first part of this article, and which will revert to the State, together with their immediate appurtenances, as necessary for the service of the canal, and as an integral part of the same.

But the company shall have the right, at the expiration of the aforesaid term of ninety-nine years, to the full enjoyment of the free use and control of the canal in the capacity of lessee, with all the privileges and advantages granted by the said concession, and for another term of ninety-nine years on the condition of paying 25 per cent. of the annual net profits of the enterprise to the Government of the Republic, besides the dividends due to it for its shares in the capital stock.

The company furthermore shall have the right to fix at its discretion the dues referred to in article 43 of this concession, so that the shareholders still receive dividends not to exceed 10 per cent. per annum on the whole capital after deducting the payment of 25 per cent. of the net gains to the Government.

At the expiration of this second term of ninety-nine years the Government shall enter into perpetual possession of the canal and other properties referred to in the first part of this article, including also in this possession all that which is included in the said first part with the exception of the reserve and amortization funds. The failure to comply with any of the terms of the lease shall terminate it, and the State shall enter into possession of the canal and other works belonging to it, in accordance with the provisions of the preceding paragraph.

Maritime Canal Company of Nicaragua.

REMARKS
OF
HON. THOMAS R. STOCKDALE,
OF MISSISSIPPI,
IN THE HOUSE OF REPRESENTATIVES,

Wednesday, February 6, 1889.

The House having under consideration the report of the conference committee of the two Houses on the bill (S. 1305) to incorporate the Maritime Canal Company of Nicaragua—

Mr. STOCKDALE said:

Mr. SPEAKER: I avail myself of the privilege granted by the House to say that I opposed this bill as it came from the Senate for reasons heretofore expressed. I now oppose the adoption of the report of the conference committee for the same reasons.

The amendments adopted by the House, while they left the bill a very imperfect measure, made it tolerable, and I voted for its passage in that shape. But the conference committees have receded from all the valuable amendments, and the adoption of their report will leave the bill substantially as it came from the Senate in the beginning and subject to the same objections.

Propositions to insert in the bill under consideration any expressions showing that this Government does not intend to yield all right of a voice in the future conduct of the ship-canal met at all times with vigorous opposition, and when forced in by members of the House have been promptly expunged by the conference committee.

If this report be adopted the Maritime Canal Company, acknowledged by its advocates to be the creature of foreign capitalists, will have adroitly thrown off the Monroe doctrine so far as the proposed canal is concerned, and freed itself from any intermeddling with its future management or ownership by the United States Government. Therefore the report should not be adopted. As I have said before, it is not in accord with the sentiments of the American people, as I believe. I further believe that if the House will reject this report and insist on its amendments and ask for a further conference, better terms can be gotten, and that is the proper phraseology, since it is usual for the House to recede as far as the final demands of the Senate require. I will not cast the vote of the people I represent in favor of releasing one rood of that isthmus from the operation of the policy of this Government known as the Monroe doctrine, and will therefore vote against the adoption of this report.

Forfeiture of Wagon-Road Grants.

SPEECH
OF
HON. THOMAS R. STOCKDALE,
OF MISSISSIPPI,
IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889.

The House having under consideration the bill (S. 1939) providing in certain cases for the forfeiture of wagon-road grants in the State of Oregon—

Mr. STOCKDALE said:

Mr. SPEAKER: In explanation of this bill and of this report I desire to state certain facts. By act approved July 2, 1864, a grant of land was made to the State of Oregon to aid in the construction of a military wagon-road from Eugene City, in that State, by way of Willamette Valley and the most feasible pass in the Cascade range of mountains, to the eastern boundary of the State of Oregon, which is as follows:

"CHAP. CCXIII. An act granting lands to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State.

"*Be it enacted, etc.*, That there be, and hereby is, granted to the State of Oregon, to aid in the construction of a military wagon-road from Eugene City, by way of Middle Fork of Willamette River, and the most feasible pass in Cascade range of mountains near Diamond Peak, to the eastern boundary of the State, alternate sections of public land, designated by odd numbers, for 3 sections in width on each side of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress or other competent authority be, and the same are, reserved from the operations of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted.

"SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the Legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

"SEC. 3. *And be it further enacted*, That said road shall be constructed with such width, gradation, and bridges as to permit of its regular use as a wagon-road, and in such other special manner as the State of Oregon may prescribe.

"SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner; that is to say, that a quantity of land not exceeding 30 sections for said road may be sold; and when the governor of said State shall certify to the Secretary of the Interior that any 10 continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed 30 sections, may be sold, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the lands remaining unsold shall revert to the United States.

"Approved July 2, 1864."

In pursuance of that act the Legislative Assembly of the State of Oregon, by act approved October 24, 1864, put the said act of Congress in operation. The act of the State of Oregon, after reciting the act of Congress as a preamble, is as follows, to wit:

"*Therefore be it enacted by the Legislative Assembly of the State of Oregon*, That there is hereby granted to the Oregon Central Military Road Company all lands, right of way, rights, privileges, and immunities heretofore granted or pledged to this State by the act of Congress, in this act heretofore recited, for the purpose of aiding said company in constructing the road mentioned and described in said act of Congress upon the conditions and limitations therein prescribed.

"SEC. 2. There is also hereby granted and pledged to said company all moneys, lands, rights, privileges, and immunities, which may be hereafter granted to this State, to aid in the construction of such road, for the purposes and upon the conditions and limitations herein mentioned or which may be

mentioned in any further grant of money or lands to aid in the constructing such road.

"SEC. 3. Inasmuch as there is no law upon this subject at the present time, this act shall take effect from and after its passage.

"Approved October 24, 1864."

In pursuance to the above-recited acts of Congress and of the State of Oregon, the said Oregon Military Road Company went to work on said line to construct the road, commencing at Eugene City and working eastward; completed 50 miles by July 27, 1866, as shown by the certificate of the governor of the State of Oregon of that date, which is as follows, to wit:

"STATE OF OREGON, EXECUTIVE DEPARTMENT, *Salem, July* 27, 1866.

"SIR: I hereby certify that in accordance with an act of Congress approved July 2, 1864, entitled 'An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State,' and in accordance with the act of the Legislative Assembly of the State of Oregon approved October 24, 1864, entitled 'An act donating certain lands to the Oregon Military Road Company,' I have passed over and carefully examined the first 50 miles of the Oregon Central military road, beginning at Eugene City and extending eastward and toward the southern or eastern boundary of the State of Oregon.

"And I further certify that the first continuous 50 miles of said road, beginning at Eugene City, are completed in accordance with the requirements of said act of Congress and the laws of Oregon.

"In witness whereof I have hereunto set my hand and caused the great seal of the State of Oregon to be affixed.

"ADDISON C. GIBBS,
"*Governor of Oregon.*

"By the governor:
"[SEAL.] SAMUEL E. MAY, *Secretary of State.*

"The SECRETARY OF THE INTERIOR."

On the 26th of November, 1867, the then governor, Hon. George L. Wood, certified to the completion of 42½ miles further of said road, as follows:

STATE OF OREGON, EXECUTIVE OFFICE, *Salem, November* 26, 1867.

To all to whom these presents shall come, greeting:

This certifies that the section of the central military road extending from the point to which it has already been approved to Crescent Lake, in the valley of the Deschutes, being 42½ miles, more or less, having been carefully inspected and found to be well and faithfully built and fully up to the requirements of the law, therefore the same is approved and received.

In witness whereof I have hereunto signed my name and caused the seal of the State of Oregon to be affixed, the day and the year first above written.

GEO. L. WOODS.

Attest:
[SEAL.] SAMUEL E. MAY, *Secretary of State.*

After these certificates had been furnished to the Interior Department, showing 92½ miles of said road to be completed, to wit, March 3, 1869, Congress extended the time for the completion of said road to July 2, 1872, thereby giving out that the Government was satisfied with the work as far as it had progressed and wanted it to continue, and extended that time three years to enable the company to proceed.

The whole road was completed within that time, as appears by the certificate of the governor of Oregon, as follows:

STATE OF OREGON:

I, George L. Woods, governor of the State of Oregon, do hereby certify that this plat or map of the Oregon Central military road has been duly filed in my office by the said Oregon Central Military Road Company, and shows that portion of the said road commencing at Eugene City, Oregon, and ending at the eastern boundary of the State, which has been completed as required by the act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the act of the Legislative Assembly of the State of Oregon approved October 24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," granting lands to said company.

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

Done at Salem on this the 12th day of January, A. D. 1870.

GEO. L. WOODS, *Governor.*

By the governor:
[SEAL.] SAMUEL E. MAY, *Secretary of State.*

Therefore the record showed on the 12th day of January, 1870, that the Eugene City road to the eastern boundary of the State of Oregon, and which became to be known by the name of "Oregon Central military road," had been completed according to law.

I desire now to call the attention of the House to another grant similar. By act of Congress, approved July 5, 1866, alternate sections for 3 miles on each side of the road were granted to the State of Oregon to aid in the construction of another military wagon-road from Albany, in said State, to its eastern boundary. That act is as follows, to wit:

An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State.

Be it enacted, etc., That there be, and hereby is, granted to the State of Oregon, to aid in the construction of a military wagon-road from Albany, Oregon, by way of Canyon City and the most feasible pass in Cascade range of mountains, to the eastern boundary of the State, alternate sections of public lands designated by odd numbers, 3 sections per mile, to be selected within 6 miles of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress or other competent authority be, and the same are, reserved from the operations of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the Legislature thereof for the purposes aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That the said road shall be constructed with such width, gradation, and bridges as to permit of its regular use as a wagon-road, and in such special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: That when 10 miles of said road shall be completed, a quantity of land not exceeding 30 sections for said road may be sold coterminous to said completed portion of said road; and when the governor of said State shall certify to the Secretary of the Interior that any 10 continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed 30 sections, may be sold coterminous to said completed portion of said road, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

Congress on July 15, 1866, amended this act so as to make the road go by way of Camp Harney instead of Canyon City (16 Stat., 363).

By act approved October 24, 1866, the Legislative Assembly of the State of Oregon conferred said grant upon the Willamette Valley and Cascade Mountain Wagon-road Company, which, after reciting the act of Congress of July 5, 1866, granting these lands to the State, provides as follows:

SECTION 1. *Be it enacted by the Legislative Assembly of the State of Oregon*, That there is hereby granted to the Willamette Valley and Cascade Mountain Wagon-road Company all lands, right of way, rights, privileges, and immunities heretofore granted or pledged to this State by the act of Congress, in this act heretofore recited, for the purpose of aiding said company in constructing the road mentioned and described in said act of Congress, upon the conditions and limitations therein prescribed.

SEC. 2. There is also hereby granted and pledged to said company all moneys, lands, rights, privileges, and immunities which may be hereafter granted to this State to aid in the construction of such road for the purpose and upon the conditions and limitations mentioned in said act of Congress, or which may be mentioned in any further grants of money or lands to aid in constructing such road.

SEC. 3. Inasmuch as there is no law upon this subject at the present time, this act shall be in force from and after its passage.

On June 25, 1867, the company, by vote of its directors, accepted the grant.

Afterwards the route described by the Congressional act was changed by act of Congress, dated July 15, 1870, as follows:

Be it enacted, etc., That an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State," be amended so as to strike out the words "by way of Canyon City," in the first section of said act, and insert instead thereof the words "by way of Camp Harney." (16 Stat., 363.)

The governor of the State of Oregon certified to the completion of the parts of said road, made a final and complete certificate on the 2d day of October, 1871, and gave it the form and flourish of a proclamation. It is as follows, to wit:

The State of Oregon to all to whom these presents shall come, greeting:

Know ye that by an act of Congress of the United States of America, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State," approved July 5, 1866, and an act amendatory of said act, approved July 15, 1870, the Government of the United States of America granted unto the State of Oregon in aid of the construction of a military wagon-road from the city of Albany, by way of Great Harney Lake Valley, to the eastern boundary of said State, 3 full sections of land, of 640 acres each for each, mile of road that should be constructed under the provisions of said grant, the lands to be selected along the line of the road and within a distance of 6 miles on either side thereof. That the State of Oregon, by an act of its Legislature, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Wagon-road Company," approved October 24, 1866, donated and granted unto the said Willamette Valley and Cascade Mountain Wagon-road Company, a body corporate under the laws of Oregon, all the lands granted by the act of Congress aforesaid, and all lands that might be thereafter granted in aid of the construction of said military road.

That said company, pursuant to the provisions of said grant, constructed said road from the city of Albany through the Great Harney Lake Valley and to the eastern boundary of the State of Oregon, a distance of 448 miles.

And the road so constructed by said company has been duly and formally accepted by the Government of the United States and by the State of Oregon, and in the manner by said acts of donation and grants prescribed. And the lands along the line of said road to the extent of 800,000 acres have, under said donation and grant, passed to and become the absolute property of said Willamette Valley and Cascade Mountain Wagon-road Company, and are subject to said company's disposal.

In testimony whereof I, L. F. Grover, governor of the State of Oregon, have hereunto set my hand and caused the great seal of State to be affixed.

Done at Salem this 2d day of October, A. D. 1871, and of the Independence of the United States the ninety-fifth.

[L. S.] L. F. GROVER, *Governor.*

Attest:
S. F. CHADWICK,
Secretary of State.

This certificate and proclamation were put on record in the State of Oregon, and in the Land Office in this city, and there remained during the subsequent transactions that I will have occasion to mention.

I desire to call the attention of the House to the language of the granting act by Congress to the State of Oregon:

And when the governor of said State shall certify to the Secretary of the Interior that any 10 continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed 30 sections, may be sold coterminous to said completed portions of said road, and so from time to time until said road is completed.

What function was this certificate of the governor intended to perform, may I ask of the opponents of this bill? If it was not intended to be evidence that the road had been completed according to law it was an idle and therefore foolish ceremony that the governor was required to play. It was not intended to be partial evidence. The act is positive that when the certificate of the governor of Oregon shall be given to the Secretary of the Interior, the lands shall be sold. A sale means the conveyance of a title, and all a purchaser was required to

do was to look at the record to see if that certificate was there, and then make his purchase, and a lawyer employed to examine the title would not have gone beyond that point.

The governor of Oregon took that view of it, evidently when he promulgated his proclamation of October 2, 1871, addressed not to the Interior Department, but—

> To all to whom these presents shall come, greeting:
> Know ye—

Know ye what? Why, know ye, the world—

> that said company, pursuant to the said grant, constructed said road from the city of Albany through the Great Harney Lake Valley and to the eastern boundary of the State of Oregon, a distance of 448 miles.

And the road so constructed by said company has been duly and formally accepted by the Government of the United States and by the State of Oregon, and in the manner by said acts of donation and grants prescribed; and the lands along the line of said road to the extent of 860,000 acres have, under said donation and grant, passed to and become the absolute property of said Willamette Valley and Cascade Mountain Wagon-road Company, and are subject to said company's disposal.

That document was sent to the Interior Department in the General Land Office, and no complaint was heard that the governor exceeded his power, or that he misstated the facts when he said the United States Government and Oregon had formally received the road. And it will be borne in mind that the governor of Oregon was the agent of the United States Government, accredited to ascertain and certify the completion of the road. While the records were in that condition, to wit, August 19, 1871, the Willamette Valley and Cascade Mountain Wagon-road Company conveyed the lands of this entire grant to one H. R. W. Clark, for a consideration of money alleged to have been paid. On the 1st of September, 1871, Clark conveyed the same lands to David Cohn in trust for T. Edgerton Hogg, Alexander Weil, and said Clark. Up to this time no complaint had been made in reference to titles so far as the evidence shows.

What happened then? Why, the purchasers went on in peaceable possession of their rights until 1874, nearly three years, and then the Congress of the United States, with one Representative in this House and two Senators in the other end of the Capitol from the State of Oregon, enacted the following law, and I quote it at length and invite special attention to it in this connection. Here is the law, to wit (18 Stats., 80):

> Whereas certain lands have heretofore, by acts of Congress, been granted to the State of Oregon to aid in the construction of certain military wagon-roads in said State, and there exists no law providing for the issue of formal patent for said lands: Therefore,
>
> *Be it enacted, etc.*, That in all cases when the roads, in aid of the construction of which said lands were granted, are shown by the certificate of the governor of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for said lands shall issue in due form to the State of Oregon as fast as the same shall, under said grants, be selected and certified, unless the State of Oregon shall by public act have transferred its interests in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon the payment of their necessary expenses thereof: *Provided*, That this shall not be construed to revive any land grant already expired nor to create any new rights of any kind, except to provide for issuing patents for lands to which the State is already entitled.

It is quite evident, Mr. Speaker, that the sales of these lands and the recorded conveyance thereof were well known to Congress from the language of the act of June 18, 1874, which provides, after referring to the said granting, that patents should issue to the State of Oregon, or to such corporation to which Oregon had conveyed its interests. Its language is:

> In all cases when the lands, in aid of the construction of which said lands were granted, are shown by the certificate of the governor of the State of Oregon to have been completed and constructed.

Here was a declaration as broad and solemn as the Government could make it, with the certificate of the governor and those two conveyances before its eyes, that a purchaser could get a good title, and that the patents would be issued to said purchaser.

Subsequent to the passage and promulgation of that act of Congress, with all the before-recited muniments of title on record, to wit, on the 18th of February and 9th of April, 1879, two years and a half after this last declaration of Congress, Alexander Weill purchased the whole interest of said lands for the valuable consideration of $375,000, as he claims. The statute was an announcement in effect to all purchasers that they need not examine that long stretch of road to see whether it had been properly built, but should go to the records and see if the certificate of the governor was there, and upon that evidence of title he could invest.

A lawyer employed to examine the title at that time would have, and probably did, go to the records for the title, and would be justified in pronouncing it complete in the absence of fraud or knowledge of it. It will be remembered that up to that time no complaint had been made of the work on these roads, so far as the record discloses, as will appear by reference to the report of the Secretary of the Interior.

These lands were in the open market during all these years, with all these statutes and records spread out before purchasers, to be read of all men, and were a standing invitation to purchasers to invest their money; and they did invest and purchased a large portion of the lands in question after June 18, 1874, and before any complaint was made about the title. In some instances the owners died and the heirs sold the lands; not sold in bulk, but in several instances individual interests were sold, and finally the whole interest of the Willamette Valley road grant came into the ownership and possession of one Alexander Weil for the consideration of $375,000, and without notice of any fraud, as he alleges under oath. And I say there is not a lawyer in this House but would have advised a client that he would get a complete title to those lands in the absence of fraud on his own part or the knowledge of it in others.

It seems to be conceded on all hands, because no one maintains the contrary, that there is no reason for divesting these titles except the alleged fraud in the original grantees of the State of Oregon in not completing the roads according to the provisions of the granting acts, and that is the sole ground upon which the Government seeks to resume the title to said lands in face of all these acts and records and its own title, deliberately made and given out to the world accredited with its great seal.

Then, I say again that every lawyer here would advise his client that the party alleging fraud, as a means of divesting a citizen of his legal title to lands, must prove the fraud and prove notice as to subsequent purchasers.

After the Government parts with its title to lands it has no power to resume it; if it were otherwise, why is it constantly purchasing sites for buildings and navy-yards, etc., from individuals of the same lands once owned by the Government? And when the Government alleges that its title was obtained by fraud and in equity ought to be returned to it, the Government must submit herself to the jurisdiction of equity. She can not afford to do equity like a vigilance committee. Equity was not made by governments, but by God Almighty, and is as high above the Government as it is above a tramp.

The Government can not make a see-saw of justice because it is big and can weigh down its end. Even if it was tricked out of its lands it can not afford at the end of twenty years to jump on innocent purchasers and with violence and strong hand deprive them of their property and drive them into the courts in a vexatious and unequal contest, and then use the great power of the Government to prevent them reclaiming their rights by resisting their suits. However much the people have set their faces against corporations, the Government can not afford to strain the law and apply it with scrupulous regard to vested rights. I have not the time to discuss the Dalles City road grant, which extends from Dalles City, on the northern boundary of the State, southeastward diagonally across the State to its eastern boundary, crossing the Willamette Valley and Cascade Mountain road near the eastern boundary. The grant was made to build that road February 25, 1867 (see Stat. 14, 509), and on October 20, 1868, the Oregon Legislature conferred that grant to the Dalles Military Road Company.

On June 23, 1869, the governor of Oregon certified to the Secretary of the Interior that said road was completed in compliance with the requirements of the granting act.

The fact that this certificate of the governor bears date only eight months after the date of the act of the Legislature of Oregon granting the lands to said company is regarded by some as a circumstance going to show fraud, sufficient to put purchasers on their guard and upon inquiry, and that seems a reasonable conclusion.

This road is about 375 miles long, and it would seem unreasonable that it should be built in that time, but it was not impossible, and when the governor certified that he had made a careful examination of said road since its completion, and that the same was built in all respects as required by the granting act, and as this certificate was filed with the Secretary of the Interior in 1869, in June or July, and the Government took no notice of that fact, but passed a law on the 18th of June, 1874, five years later—passed that now famous act—ordering patents to issue for it, it would not be unreasonable to suppose that purchasers who might have held off on account of that suspicious circumstance during those five years, finding that the Government, whose duty it was to notice that suspicious fact and investigate it, had investigated and found the certificate to be true, when it pronounced its emphatic indorsement of the title by the said act of the 18th of June, 1874, issuing patents.

This presumption is strengthened by the fact that not long after that statute was published and had time to circulate, to wit, March 31, 1876, these lands were sold for the sum of $125,000. These are the three grants, involving over 2,000,000 acres of land, about which so much agitation has occurred. A careful examination of the mass of evidence laid before Congress by the Secretary of the Interior, consisting of about three hundred and fifty pages of closely-printed matter, and referred to the committee that I now represent, beside other testimony, shows conclusively in my judgment that a large proportion of the lands in question can not be forfeited unless other evidence of important character can be had. The owners of the land insist that no such evidence exists and that they are innocent purchasers for a valuable consideration, without notice of any fraud, if there was any.

This evidence shows that there are several stretches of 10 miles and more each that are beyond the power of Government to forfeit. There are other portions that may be forfeited. It is fair to presume here at

least that Congress wants to do right in view of all the facts. Congress can not be a partisan in favor of the Government nor against it. By our system we can not serve the Government by oppressing citizens, but in that act we wrong both. It is fair that the Government recover what lands she has been defrauded of, not with high hand, but in a legal and just way. It is not fair for the Government to recover lands that it has conveyed away without fraud, and it is not honest to attempt it.

The Government ought not to recover lands that were conveyed away under misrepresentations, and hence fraudulently, where the innocent must suffer irreparable damages by the fault or folly of the Government.

Whoever examines carefully the evidence that was before the committee will readily concede that the records show a complete legal title in fee in the present claimants, and therefore they can be divested for fraud only. When a citizen voluntarily parts with the title and conveys realty and vests in another the legal title thereto, if he undertakes to cancel that legal title for fraud he must allege wherein the fraud exists, and the burden will be on him to prove it. Then if he finds the title in a subsequent purchaser he must connect that purchaser with the fraud or knowledge of it before he can be divested of title.

The Government can not in conscience—if it had the power—go further in dealing with its own citizens than in equity and good conscience one citizen would be allowed to go in dealing with another citizen. It can through its legislative department simply administer equity, and it is not relieved from that rule when it is one of the parties, but should all the more carefully observe it. If an individual embark in an enterprise of that sort he would be required to give bond to indemnify the defendant in case of failure, and as the owners of these lands have no remedy against the Government we ought to be more careful not to inflict them. Now, then, these two bills are before us as remedies for the evils growing out of these immense stretches of land, and at this point I desire to quote from the report of the majority, which I had the honor to prepare and submit by instructions of the committee, as follows, to wit:

House bill No. 9854, introduced into the House May 7, 1888, by the chairman of your committee, Mr. HOLMAN, proposes to repeal all of said granting acts and forfeit all rights accruing or claimed under them, excepting only such specific lands as shall have been conveyed to settlers or occupants for the purpose of using or improving them, upon payment of compensation in good faith therefor by either of the several corporations upon which said lands were respectively conferred by the State of Oregon, or by some subsequent grantor of said land grants from said companies, not exceeding in any case 1 section in quantity. This bill is also before the committee by reference of the House.

These are the two bills before the committee as remedies for the evil complained of.

The paramount object of Congress in the proposed legislation ought to be, and doubtless is, to protect the rights of the Government so far and no farther as that can be accomplished honestly and honorably, and with fair dealing towards these several groups of claimants.

To ascertain what lands are severally held by these groups of people should, in the opinion of the majority, be the first, not the last, step in the proceedings; who are guilty and who are innocent, before punishment. And if there are people holding portions of these lands by indefeasible title, for the Government to make an onslaught upon and destroy the evidence of their title, and drive them to suits to re-establish title and then make the Government officer obstruct the suit, and bring in upon them a multitude of other vigorous claimants, it does seem like punishment, cruel, if not wicked, when all questions can be settled without trouble or even hardship.

Each of the several granting acts provides that when 10 miles of the road shall have been finished, 30 sections may be sold, and further on in this report reference will be made to the evidence, showing that some of the 10-mile stretches were actually finished according to law, and the lands opposite sold, and no subsequent fraud could attach to such title.

This provision in each of these granting acts clearly indicates that Congress did not expect a great corporation, with large means, to build the whole road before realizing from the lands, but did intend to put it within reach of smaller companies or individuals in that new country, and therefore authorized the constructors of the roads to sell the lands when 10 miles should be completed. Sales could not be made without purchase, and this law was in its terms an invitation to purchasers to invest.

Need I say to lawyers that, however steeped in fraud the original transaction, subsequent purchasers in good faith, without notice and for value, will not be affected by the original fraud.

It is a doctrine older than the Government that such persons take, free from fraud, of original grantees the original conveyance. It was applied in the case of Colorado Coal and Iron Company against The United States (123 U. S., 307), at the October term, 1887, in which the court say (page 313):

It is fully established by the evidence that there were, in fact, no actual settlements and improvements on any of the lands, as falsely set out in the affidavits in support of the pre-emption claims and in the certificates issued thereon. This undoubtedly constituted a fraud upon the United States sufficient in equity as against the parties perpetrating it, or those claiming under them with notice of it, to justify the cancellation of the patents issued to them, but it is not such a fraud as prevents the passing of the legal title by the patents. It follows that to a bill in equity to cancel the patents upon these grounds alone the defense of a bona fide purchaser for value without notice is perfect.

In United States *vs.* Minor (114 U. S., 233, 234) the court say:

Where the patent is the result of nothing but fraud and perjury, it is enough to hold that it conveys the legal title, and it would be going quite too far to say it can not be assailed by a proceeding in equity and set aside as void if the fraud is proved and there are no innocent holders for value.

This language is quoted as authority (Colorado Coal Company *vs.* United States), and the court follows that by the following language:

It is, indeed, an elementary doctrine of equity that where a grantor has been induced by fraud to part with the legal title to his property he can not reclaim it from subsequent innocent purchasers for value. (123 U. S., 314.)

The extent to which the charges against these grants go is, that the Government was shamefully defrauded in 1864 to 1867 or 1868, and that the Government did not find it out for many years; but on June 18, 1874, proclaimed to the world by public statute that the grants were all right and the title to the lands all right, and ordered patents to issue to whomever the State of Oregon had conveyed it to, and patents were issued for large quantities of those lands, and quantities of the lands were sold after that again. Several years later, some time between that and 1881, it dawned upon this Government that it had been more or less swindled, and now, in 1889, the Government can not honorably and justly destroy vested rights that have accrued in pursuance of its own acts to its own citizens.

It is claimed that these frauds were so glaring that people could not be innocent purchasers. And yet the United States Government, with Senators and Representatives in Congress from Oregon all those years, did not know it, but took occasion to publicly proclaim the contrary in 1874 by said statute. The State of Oregon, with representatives and senators in her several Legislative Assemblies during those years from all parts of that great State crossing these roads to get to the State capital, made its first utterance on that subject by memorial to Congress in 1885. In the mean time these lands had been bought and sold, in some instances descended to heirs and the heirs sold again to others, and all these people had not discovered that the Government and the State of Oregon had been swindled out of these strips of land extending across that great State, and yet want to arbitrarily destroy titles because purchasers in California did not know it. It would seem but justice that these purchasers should have a day in court, the only tribunal known to our law competent to ferret out all the circumstances that may constitute fraud and what is notice of fraud in any case and deal justly with each individual. The opponents of the Senate bill and the advocates of the absolute-forfeiture bill claim that the frauds were so palpable and glaring and notorious that purchasers were bound to know and take notice of it. And yet the State of Oregon convened her Legislature year after year and its members had to cross these wagon-roads in going to and from the capital; sent its Representative and two Senators to Congress; Congress itself considered the matter of these land-grants in 1874; said they were all right, and issued patents, and it never got into the heads of the Oregon people, nor Congress, nor the President, nor the Interior Department, until 1881, when a multitude of settlers flocked out there in view of a prospective railroad and wanted these lands, and Congress wants to rise up in its indignant wrath and say to those purchasers, "We will sweep the evidence of your titles from the statute-books and take your lands and not wait for a trial in court according to the constitutional mode, because you did not know more than Congress and the President and the Secretary of the Interior and the governor and Legislature of Oregon."

No man can examine this evidence and deduce from it that all these lands can be forfeited—others may be. What then is the duty of the Government, who held out inducements to people to go there and buy lands and gave them titles and confirmed some at least? Why, it seems to me clear that it ought to do what an honest man would do—when he had given out titles to land—go into court itself and clear up the confusion, and get such lands as he was entitled to and confirm the title of those that honest people own—and the whole controversy will be speedily and quietly and properly settled, in one suit perhaps. That is the object and purpose of Senate bill 1939.

The House bill No. 9854, if it shall become law, will start by wiping out the evidence of all the titles to all those lands, the honest and dishonest owners alike, except settlers and occupants. This is to be done on evidence taken by agents of the Land Department, which, however fairly done, was taken in mass and not in individual cases—those who had notice and came before the agents were heard; but there was no attempt, and could not be, in the scope of their authority, to ascertain and notify each owner or claimant and get his witnesses for him. The object of that commission was to get general information to show the Congress that it ought to act, and was so treated and used by the Interior Department.

The House bill undertakes on this evidence, taken in that hurried and general way in 1888 to overturn titles that really passed from the Government twenty years ago on evidence then taken on the ground by respectable authority and of credible witnesses; and then, after twenty years have intervened, with their effacing effects on land and memories; and that, too, without opportunity to the owners to have their day in court to show what may have happened in the vicissitudes of those eventful twenty years, and to test the credibility of witnesses as to character, memory, prejudices, and interest.

The destruction of titles by arbitrary edict upon *ex parte* evidence, and without the owner being allowed a trial, and without notice even, is not in keeping with our institutions.

The Government can not afford to say to these people, "We will destroy by arbitrary edict your title that we induced you to purchase and pay for and issued the patents, and then let you re-establish it by expensive lawsuits, which we will obstruct, and require you to prove your title, because it is cheaper to the Government;" but rather say to these people, "We held out inducements to purchasers of these lands, but frauds have been perpetrated and we will first ascertain which of

you participated in the frauds, and forfeit your lands at your costs, and will ascertain who are innocent owners and dismiss the suit as to them without cost to them."

1. It is fair and honest and will inflict no hardships.

That is what the Senate bill is intended to do, if it becomes a law.

2. It will quietly and peaceably proceed to determine, by judgment of the courts, the rights of citizens to lands claimed by them, and when that shall have been done the forfeited lands can be settled by homesteads settlers, and those who are bona fide owners will not be harassed with expensive suits to establish their titles wrongfully and oppressively destroyed.

3. The quieting of the titles to those lands—a result so ardently desired—can be speedily and quietly accomplished without injury to any one.

To pass into a law House bill No. 9854 will subject the Government to the just criticism of trampling upon the rights of its own citizens without a trial. Again, from the great anxiety for lands that is known to exist in the Northwest we may expect that the population there will presume that Congress acted intelligently, and they will rush in and occupy these lands and make improvements on them, only to be ejected after years of expense and vexation and hate—engendering suits at law, in case the present owners shall establish their claim to the land; and even if the present owners should fail in the end, they will not rest under these summary proceedings until they shall have made a vigorous and prolonged effort, which will be a great wrong on settlers and citizens, and will produce a very undesirable state of society in those extensive localities.

A government should never give out her titles upon which a doubt rests, and no lawyer who has examined this evidence will claim that the validity of this bill is free from doubt when it is tested by the Constitution. It is the policy of t e Government to discourage litigation, and it seems not unfair to predict of this measure, if it shall be enacted and approved, that it will be prolific of harmful litigation; whereas all the possible good that can come of it can be accomplished by the Senate bill far sooner without incurring the dangers and delay and suits that seem to hang around the House bill.

There seems to be no reasonable urgent demand for such summary and hasty action, likely to result in so much harm and delay. If the Senate bill becomes a law the suit will be instituted at once, and that will be notice to the world, and no lands can be sold except subject to the rights of the Government.

I believe, therefore, Mr. Speaker, that justice to the Government in its present attitude as to these land grants and to the owners and settlers of these lands, as well as good faith and sound policy, demand that the Senate bill do pass the House, and that House bill 9854 lie on the table.

Refund of Direct Tax.

SPEECH

OF

HON. HILARY A. HERBERT,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, December 11, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (S. 139) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861—

Mr. HERBERT said:

Mr. CHAIRMAN: In 1861 Congress, for the purpose of carrying on the war, imposed upon the people a direct tax of $20,000,000. This tax, according to the provisions of the Constitution, was distributed so much to the people of each State, according to population as shown by the last preceding census. All the Northern States paid it. It was subsequently collected from the people of South Carolina, and a portion of it due from some of the other Southern States was also paid in. But from most of the other Southern States it has remained uncollected ever since the close of the war, now twenty-three years. No effort was ever made after the war to collect from these States the sum (about $2,500,000) still claimed to be due from them. Previous Congresses have seemed to think that other burdens imposed on these States more than satisfied these claims.

But now there is a surplus in the Treasury, and this bill proposes to take from that surplus about $17,500,000 and divide it out among the States which paid that tax on the plea that they are in equity entitled to have it refunded. This is urged on the ground that the law of 1861 in terms applied to all the States, as well those which had attempted to secede as those which remained loyal to the Union. So did every other law imposing taxes. The stamp law, and the income-tax law as well, applied to all the States alike. There has never been any proposition that I know of to refund to the States which paid the income tax, or to the States which paid the stamp tax, during the time the laws of the United States were practically inoperative in the seceding States, any portion of the amounts so paid by the people of the loyal States and not collected from the inhabitants of the seceding States.

Now, can any reason be given why the income tax should not be refunded or why the stamp tax should not be refunded just as well as the direct tax? On what ground do gentlemen say that under the Constitution there is power to refund this tax? The only argument I have heard made on that subject is the assertion by the gentleman from Ohio [Mr. SENEY], who spoke this morning, that the power to tax implies necessarily the power to remit, and that the power to remit implies also the power to refund the tax, when it is inequitable for the Government to retain it. I have heard no other argument. If that argument be sound then it can only go this far: that in order to prevent injustice, in order to prevent inequality, the Government must retain the power to refund. I think the gentleman from Ohio himself will not contend that his argument would carry him beyond that proposition; and if it does not, it can not sustain the bill now before the Committee of the Whole, for this bill certainly works more inequality, more injustice, than would be suffered by allowing the *status quo* to remain. Under existing circumstances, if this sum of $17,500,000 should remain in the Treasury, it is there to pay per capita for every inhabitant of the United States to whom this money properly belongs a certain portion of the debt of the Government, and it would pay upon that debt about 27 cents for every inhabitant.

I ask gentlemen from the West to listen to me while I give them the figures showing what will be the effect of this bill. When this direct tax of $20,000,000 was imposed it was apportioned not to the States as such, not upon the States at all, but among all the people of the United States. Under the government of the confederation, the government under which the people of the United States lived from the days of the Revolution until the adoption of our present Constitution in 1787, taxes were apportioned to the States; the States collected and the States paid over the taxes to the General Government; that General Government had no right to tax the people directly; but under our present Constitution there is no power to tax a State as such, and this act of 1861 did not intend or purport to do anything of that kind. This was a direct tax which, according to the rule laid down in the Constitution, was to be apportioned among all the inhabitants of the United States according to the last census enumeration. That rule was imbedded in the Constitution for the purpose of securing equality. Now, this $20,000,000 distributed among 30,000,000 inhabitants, according to the census of 1860, which furnished the apportionment, would be, if distributed per capita, a tax of 66 cents upon every inhabitant of the United States. This tax was imposed upon the people, or rather upon their lands, in the proportion of so much for each person.

Now, sir, if the power to refund that tax exists as incident to the power to lay the tax, the refunding, as I have intimated, must be by a law which refunds in like manner and in equal proportions to the inhabitants of the several sections of the Union the same tax which was laid upon them; in other words, it must operate with something like equality.

I have had prepared some figures showing how much per capita the present inhabitants of the several States which are to be the beneficiaries will get under this bill. These figures have been made with reference first to the census of 1880. I wish to show first how much each inhabitant of these favored States would get if that census of 1880 represented truly the present population of those States. But there have been great changes since 1880. So I have made a second calculation, by which I attempt to arrive at the actual present population of some of these Northeastern and Northwestern States. I do this by taking the votes in those several States at the recent election and multiplying in each case by five, estimating, as we safely may do, that there are five times as many people as there are votes cast.

Let me have the attention of gentlemen here who represent Western States, especially those States which have grown to power and importance since this tax was laid and collected. Here are the figures. According to the census of 1880 the State of Illinois, if this bill be passed, will receive for its people per capita 37½ cents. But I will omit the fractions. The State of Indiana will receive 45 cents per capita, Iowa 27 cents, Kansas 7 cents, Maine 64 cents, Massachusetts 45 cents, Nebraska (let me call the attention of the gentlemen representing that State to these figures) will receive 4½ cents for each inhabitant under the census of 1880, New Hampshire 62 cents per capita, and New York 51 cents. According to the population of to-day the inequality will be still greater. Illinois would get 30 cents per capita, Indiana 33 cents, Iowa 22 cents, Kansas 4 cents, Maine 65 cents, Massachusetts 47 cents, Nebraska 1½ cents. But that is the way in which you propose to distribute it.

A quarter of a century ago these taxes were imposed—66 cents per capita upon all the people of the United States. Now, in 1888, twenty-seven years later, because the Treasury is full, a bill is offered here, and is sustained by the gentleman from Ohio on the ground, as he puts it, that it will work equality—a bill that pays to the inhabitants of the State of Nebraska 1½ cents per capita and to the inhabitants of the

State of Maine about 65 cents per capita. And let me say to my friend from Iowa who advocated this bill that his State will get, for the benefit of her inhabitants, 22 cents per capita, whereas other States will get 45 cents, and some even as high as 65 cents per capita. Is there any equality or justice in this? You have the power, as it is claimed, to go to the Treasury and by law make a donation for the purpose of equalizing, and this is the result! If you allow this money to stay in the Treasury it will, as I have said, pay 27 cents per capita for every inhabitant of the United States on the public debt. Take the sum carried in this bill and divide it by the number of inhabitants of the whole United States and you have 27 cents. That is the interest each inhabitant of the United States has in this money.

Is it better for the people whom the gentleman from Iowa represents that we should pay 22 cents a head to them or allow this money to remain in the Treasury? Is it better that the gentleman from Nebraska should carry 1½ cents a head to his constituents or to go home and tell them he left it in the Treasury of the United States, where it belongs, and where it represents to them as a debt-paying fund 27 cents per capita?

But, Mr. Chairman, I know very well that argument is useless. A majority of the House are determined to pass this bill. Nothing but a Presidential veto can prevent it. It proposes to take money out of the Treasury and distribute it among the Northern States. Only about two Southern States will get any considerable share in this plundering of the Treasury. The money is, the bulk of it, to go North and the States which are to share in the division have the votes on this floor to pass it. If you are to do it, let me ask in the name of justice that you pass at the same time the amendment proposed by my colleague [Mr. OATES], a member of the committee to which this bill was referred.

That amendment proposes that while you refund to the States the direct taxes paid by their people you refund at the same time the cotton tax to the people who paid it. The direct tax you gentlemen all admit was constitutionally laid. The only ground on which it is proposed to refund it is that of inequality. You say it bears unequally because while it was laid equally on the people of all the States it was paid only by a part of the States. The others escaped.

That seems plausible on its face, but how much more plausible, how much more reasonable is the case of those who paid the cotton tax? The direct tax was paid by people who were able to bear the burden; the cotton tax was paid by people prostrated, bankrupted, ruined by a war which devastated their lands, revolutionized their social and their labor system. It left them in a plight so pitiable as to excite the commiseration of all mankind. The direct tax was laid equally and intended to be fairly and justly apportioned among all the people.

The cotton tax never was fair, never was equal, never was just. On the contrary, it was so unfair, so unequal, so unjust that when a case was made to try it the Supreme Court was equally divided as to its constitutionality. On that Supreme Court bench there sat at the time no single judge whose sympathies had been with the South in its disastrous struggle with the North. The question before them was sectional in its character. It grew out of a law imposed upon the South, an unrepresented South, by a Congress elected from the victorious North—a Congress composed of men still exasperated by the war, for no other than just such a Congress would ever have passed a law so partial, so cruel, so unjust. And this Supreme Court so composed, sitting at a time when the fires of sectional hate had not yet died out, this court was unable to say that the law was constitutional. Its members were equally divided. They could come to no conclusion, and so the case of Rolfe *vs.* Sanders was affirmed by a divided court. Now, sir, since the passions that stirred men's souls in those days have, or ought to have, died out, I desire to appeal to the calm, sober sense of this House and ask for justice, first upon the ground of constitutional right.

I undertake, sir, to maintain that the cotton tax was unconstitutionally laid for two reasons. In the first place it was not uniform. There are only two classes of taxes authorized in the Constitution; one is the direct tax, and the rule laid down in the Constitution is that such a tax should be laid per capita. The other is excises, imposts, and duties, and these the Constitution declares must be uniform.

It is said the cotton tax was an excise tax and that it was uniform because laid on all the cotton wherever found in the United States. But it is well known that cotton can not be grown anywhere except in the southern portion of this country. It is not like tobacco that is grown in Virginia, Connecticut, Wisconsin, and Alabama. It is not like the tax on a manufactured article. An excise on a manufactured article is one which the manufacturer may assume or not. He may manufacture or not as he sees proper; but a tax on cotton is a tax upon the only industry by which the people of the Southern States can live. They have no choice; they must grow cotton, and the tax is directly on that. Never during the whole war, although this Government was in great stress for money, did it lay a tax on wheat or oats or on any other agricultural product. I have had the question examined, and there never was a dollar of tax raised on any agricultural product, unless it was on tobacco. Even then the tax was not on raw tobacco, but only on the tobacco when manufactured. Not only is it true that there never was in this country, even during the war, any tax on any raw agricultural product except cotton, but there never was any tax on any other product of the soil except on coal and petroleum. For a little while coal and petroleum were taxed, but they are not the products of any section exclusively.

But suppose I admit that coal and petroleum stood on the same ground as being raw products of the soil. If they were alike why were they not treated alike? Why was it that after the close of the war, in July, 1866, the tax was taken off of coal and off of petroleum and still left upon cotton? Let gentlemen look at the record. It was during that month of July, 1866, that a general tax bill was brought into the House of Representatives, and Mr. MORRILL, who reported it, said in explaining it that the purpose was to reduce taxation by $75,000,000, and Congress passed that bill and reduced taxes by that amount. But in that very same bill that reduced taxes for other people, the tax on cotton was increased from 2 cents to 3 cents per pound.

Mr. Chairman, that was not all. That very same act declared in express terms that there should be no drawback on cotton. The Constitution forbids any tax on exports. Carrying out the spirit of this provision and in order not to tax exports either directly or indirectly the uniform rule of legislation has been—a rule departed from only in one or two instances of hasty legislation influenced by the late war—to allow drawbacks on all exported articles; and the exporter of every other article from that month of July, 1866, down to this hour has been allowed a drawback at the custom-house of an amount equal to the internal-revenue taxes paid; but it was expressly stated in that act that there should be no drawback on cotton.

This is a direct and palpable violation of the provision of the Constitution that there shall be no tax on exports. The gentleman from Illinois [Mr. HOPKINS] said it was not a tax on exports, because the cotton might be consumed here and manufactured. He knows, and everybody knows, that three-fourths of the cotton made in the United States is exported. It is made for exportation. The price abroad regulates the price here. I said that the law expressly declared that no drawback should be allowed, but I stated the case too broadly. A drawback was allowed in one case, and that exception makes the law still more palpably unjust. Just mark this. Will gentlemen give me their attention. The manufacturers of that cotton, on exporting the article they manufactured, were allowed to draw back a tax they never paid. The law made the cotton liable to the tax in the hands of the producer. He was to pay it on removal. If he did not pay it his merchant was to pay it for him. The charge was on and and the tax came out of the farmer. Then the manufacturer was allowed to draw back—mark the words—to draw back the tax that had been paid by another.

But the enormity and the iniquity of the thing did not even stop there. Wherever an excise duty has been imposed heretofore by the Government there has been a tariff duty placed upon the importation of the same commodity into the United States to protect the citizen in the payment of the excise tax as against the foreign producer or importer. But at that time, in the year 1866, when this tax was levied upon cotton, cotton was allowed to be and was imported into the United States at 2 cents a pound. Over 15,000 bales of cotton were imported at 2 cents a pound during the year 1866; and at that time this law imposed upon the owners and producers of the cotton at the South 3 cents a pound, and did not give them the right to drawback when exported, but did give the drawback to the manufacturer.

"Drawback"—what is the meaning of that? Why a drawback means to draw back something that you have once paid out or given away. I would like some gentleman who favors or believes in the constitutionality and justice of this law to invent a term to fitly characterize that provision which permitted the getting back by one man of what was paid out by another.

The gentleman from Illinois undertakes though to justify this upon the ground that the Southern States were in rebellion. You say that by attempting to secede we sinned—and sinned grievously. I say, Mr. Chairman, that most grievously have we answered for what we did, whether it was wrong or not. It has been said in this debate that though the courts denominate the war a rebellion, yet on account of it little or no punishment has been inflicted upon the people of the South. Do gentlemen who speak in this manner really understand what they say? Look at the facts. We lost four million of slaves, worth $500 a head, amounting altogether to $2,000,000,000. The money indemnity paid by France to Germany, the greatest money indemnity for war, I believe, of which history makes any record, was only half of that sum.

We were left, as the gentleman from Mississippi [Mr. ALLEN] has said, without horses, without cattle, without any means whatever even to make a crop. That gentleman has given you a lively picture of our condition. I give you figures. The lands in the ten Southern States which did not pay the tax, according to the census of 1860, were valued at $1,657,000,000. In 1870 these same lands were valued, according to the census of that year, at only $848,000,000, making a loss in value of the lands, a loss resulting from freeing the slaves, of $809,000,000. When you add this sum to the value of our slave property and then remember that we fed in large part the great armies of the Union that were devastating our soil, and then add the value of cattle and horses taken and houses burned, and the loss in money to the South fully equaled the enormous sum of four thousand millions of dollars.

Now, Mr. Chairman, no constitutional lawyer can undertake to jus-

tify, as the gentleman from Illinois [Mr. HOPKINS] seems somewhat inclined to do, the imposition of unequal taxes on the South in 1865 and 1866 on the ground that prior to that date we had been engaged in a war against the Union. That war had ceased. We were living under the Constitution. We were entitled to its protection. And even if we had not been at peace no law of attainder, no law of any kind, could itself constitutionally impose punishment. If gentlemen claim we had committed treason, then we were subject to trial in the courts. We were entitled to fair and impartial trials before juries of our countrymen.

The very purpose of those grand rules of the Constitution, that direct taxes should be according to population, and that all other taxes should be uniform, was to prevent just that kind of legislation that should have punishment for its object in laws imposing taxes. No matter how much wrong may have been done by a citizen or by a section, no matter how much prejudice may exist, no matter how well founded it may be, the citizen who is subject to our laws is entitled to the protection of the Constitution—the shelter of these rules.

Now, gentlemen, this argument is not for the purpose of complaining about the results of the war. I am not here for that purpose. We made the fight. The world says we fought bravely. We accept the result without a murmur.

But let me ask you to look back at those times, glance over the whole field, and then answer the question: Why was not that direct tax collected out of the non-paying Southern States after the war had ceased, after the authority of the Union had become supreme? Why was it not collected in the year 1865? Why not in 1866? Why not in 1867? In a word, gentlemen, why has it been allowed to remain uncollected for now nearly a quarter of a century?

It was not collected because Congress did not find it in its conscience to insist upon its payment.

I think I have shown that this cotton tax was unjust. I believe I have demonstrated that it was not only unprecedented in our history but unwarranted by our Constitution. I know it must appear to every right-thinking man that it was a hardship. Now, of that tax the people of Alabama, the State I in part represent, paid $10,388,000. Her population in 1860 was 964,000. It was not greater than this in 1865–'66. Her taxable property in 1870 was only worth $201,000,000. It was not greater than this in 1865–'66.

Now take and consider together the nineteen States, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Ohio, Indiana, Illinois, Delaware, Iowa, Kansas, Michigan, Minnesota, Nebraska, and Nevada. These nineteen States had in 1860 a population of 17,987,237. Their taxable property then amounted to $8,838,699,922.

The amount of direct taxes paid by all these nineteen States, which now they claim it was a hardship to pay and which they ask Congress to refund in this bill, was $10,176,446.29. The amount of cotton-tax paid by Alabama was $10,388,000, making about $212,000 more of cotton tax paid by 964,000 people than was paid of direct taxes by 17,987,000 people who, taken altogether, had forty-three times as much property as had the people of that State whose inhabitants this bill proposes to tax that these nineteen States may enjoy the benefit of a distribution of a portion of the Treasury surplus.

Mr. Chairman, the bill is to pass this House. The fiat has gone forth. In the name of justice and equity let the amendment be put on to refund the cotton tax. The direct tax was constitutional. The cotton tax was unconstitutional. Will you, can you refund the one and at the same time retain the other?

Naval Appropriation Bill.

SPEECH

OF

HON. HILARY A. HERBERT,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 28, 1889.

The House having under consideration the report of the committee of conference on the bill (H. R. 12329) making appropriations for the naval service for the fiscal year ending June 30, 1890, and for other purposes—

Mr. HERBERT said:

Mr. SPEAKER: I now ask unanimous consent that all general debate upon this report and amendments be closed at fifteen minutes before 4 o'clock to-day, the time, including that already consumed in the debate, to be equally divided between the opponents of the report and those in favor of it.

Mr. MCADOO. May I ask the gentleman how long he proposes to occupy the floor?

Mr. HERBERT. I expect to get through in forty minutes.

Mr. MCADOO. I shall be compelled to object to limiting the debate unless I may be allowed the privilege of occupying fifteen or twenty minutes at least.

Mr. HERBERT. I will limit myself to forty minutes in reply to the speech of the gentleman on the other side who has just taken his seat. He occupied an hour and a quarter.

Mr. MCADOO. I will want at least twenty or twenty-five minutes.

Mr. HERBERT. The time occupied in the debate is to be equally divided, so the gentleman will have ample opportunity of being heard.

The SPEAKER *pro tempore* (Mr. MCCREARY in the chair). The Chair will submit the request of the gentleman from Alabama to the House. Is there objection to closing the debate on this report at fifteen minutes before 4 o'clock to-day, the time, including the time already occupied, to be equally divided between the friends and opponents of the report.

There was no objection, and it was so ordered.

Mr. HERBERT. Mr. Speaker, I am a little surprised at the change of mind which seems to have come over my colleague on the committee, the gentleman who has just taken his seat. While he had some criticisms upon the new vessel, the Vesuvius, in the speech made on this bill when it was first reported from the committee two weeks since he was then very complimentary to the Secretary of the Navy. I read from page 1527 of the RECORD what the gentleman then had to say. After quoting from the Secretary, he said:

> I have adverted to this simply as a matter of historic justice and to enable me to congratulate with all frankness and candor the Secretary of the Navy, who has been alert, as I believe, in seizing upon the best ideas that have been presented, and to whose efforts in bringing about the administrative measures that have been requisite to produce this result the country is indebted.

To-day the gentleman takes the floor to make a political speech, arraigning not only the Secretary of the Navy, but the Democratic party as well. It has not been my purpose, sir, to enter into a political discussion at this late hour of the session, when we are so much pressed for time. The House will bear me witness that I have sought rather to avoid such a debate upon this bill, but I will not refuse to take up the gauge of battle the gentleman has thrown down. I welcome rather the attack he has made, for if there be any one point upon which the Democracy can proudly challenge comparison with its political adversary it is upon the administration of naval affairs. I defend the record of this Democratic House in refusing, as the gentleman says it did for years, to vote money for a Republican administration to build up a modern navy. It was during that period that Great Britain and France spent millions of money in building ships that have since been cast aside as useless. We have begun our new Navy with the experience of twenty years behind us. We profit now by the losses sustained by other nations. We avoid the mistakes they made in experimental ship-building.

How many millions of the people's money would Republican administrations have thrown away during that experimental era if Democrats had only been willing to vote the appropriations? Sir, no man can tell. It is matter of wild speculation. We can only guess how many millions they stood ready to waste on new ships by looking at the appalling sums of money they actually did expend in pretending to repair and keep afloat our old navy. Look at the facts and figures and let them answer the question. Was it wise for this House to distrust Republican management of naval affairs?

During the decade from 1866 to 1876, inclusive, Republican administrations expended on the Navy of the United States $234,000,000, or in round numbers twenty-three and a half millions every year, and yet during that time the Navy was going down from the proud position it occupied at the close of the war, when Admiral Porter said we were able to meet either the navy of France or England on the high seas, until it got into such a pitiable plight that the same distinguished officer said at the close of that decade that we had just "no navy at all." Was not that sufficient cause to inspire with distrust the Democrats on this floor and make them unwilling to vote money to be expended by a Republican administration for the rebuilding of a navy?

After that decade had passed another decade of Republican administration had almost expired before the Democracy came into power. Then in the beginning of the Forty-ninth Congress the Democratic House Committee on Naval Affairs, investigating the condition of things in the Navy Department, found that we had on hand, bought by a Republican Secretary of the Navy since the close of the war, without warrant or excuse, except a desire to expend corruptly Government money, nearly two millions of dollars' worth of timber; sailors' monkey jackets enough to last the Navy, at the rate they had been taken the year previous, for fifty years; boots enough to last, at the rate they were being consumed, for twenty years, and of sail cloth we had enough to give two sets of sail and a fore-topsail to every ship in the British navy. Were these things not calculated to inspire distrust? Sir, we had cause enough to hesitate.

But when a Democratic administration came in we did turn ourselves to the work of rehabilitating the Navy; and here the gentleman from Maine is really amusing.

In one breath he seeks to maintain that nothing worth exulting over has been done by this Administration, and in the next he makes a labored effort to prove that the Republican party is entitled to all the credit for everything that has been done during the last four years.

One charge he makes is that Secretary Whitney is slow, that progress is not sufficiently rapid, and to substantiate this he enumerates the ships which he says have been laid down, and undertakes to give those that are launched. Did the gentleman in giving his list say anything about the Petrel or the Bennington, which are building in Baltimore, and which are more than two-thirds completed? Did he say anything of the San Francisco, which is building at the Scott Works in the city of San Francisco? Did he say anything about the Newark and Philadelphia, which are being built at Cramp's yard in Pennsylvania? No, sir; not one word. In his carefully prepared speech he omits all reference to them in his efforts to show how few ships have been launched.

Then he institutes a comparison between the time it took to lay down and launch the Roach cruisers and the time Secretary Whitney took to lay down and launch the vessels he enumerated. The gentleman does not seem to see how inconsistent his argument is. He certainly must know that when the Roach cruisers were being laid down and built there was no law to prevent the importation from abroad of shafting and everything else necessary to complete a ship.

But the Forty-ninth Congress passed, and the gentleman from Maine claims—and I will advert to that hereafter—the credit of first proposing himself a law which provided that every part of our modern ships, hulls, engines, machinery, guns, and all, should be of domestic manufacture. So the case stands thus: Roach could and Roach did go abroad to those establishments already in operation to get his shaftings and whatever else was necessary for the completion of the vessels the gentleman speaks of. We were forbidden by law to go abroad for anything. We never desired to do it. But it was necessary to put up works in this country that could cast shafting for a first-class engine before the Baltimore's engines could be built and before the engines of the Philadelphia or any of those ships could be constructed, and the gentleman from Maine knows well enough that most of the delays that have been caused resulted from the very law that he himself boasts that he was the first to propose, and which he claims the Republican party is entitled to the credit of.

But, sir, let me now examine for a moment that claim the gentleman makes and show how shallow it is. The idea that we ought to manufacture at home everything pertaining to our new navy did not originate with the gentleman from Maine. Secretary Whitney was always of that opinion, and the Committee on Naval Affairs of this House were always in accord with him, both in the Forty-ninth and Fiftieth Congresses. We reported a bill in March, 1886, providing, as the gentleman from Maine has said, that everything going to make up these ships, the shaftings and all, should be of domestic manufacture, except in one contingency, which was that home manufacturers should be unwilling to contract at a reasonable price. What did that phrase mean in that act which was to be construed by that Secretary who was urging upon us the importance of domesticating in this country these industries necessary to the building of modern ships? What would be a reasonable price? Why, sir, of course it would be reasonable that a manufacturer should be allowed a fair compensation for the expense of erecting new plant and a fair price to cover the risk involved in the development of a new industry. This reasonable price—a price sufficient to cover all expenses and all risks—a majority of the committee were willing to pay; but if the demands of bidders should be unreasonable, then, in that contingency, the power was to be left with the Secretary to protect the Treasury—the power to go abroad and purchase in case a combination was made against the Government. It was not expected that the power would ever be used. It was simply to be lodged in the Secretary's hands to be held *in terrorem* over the home manufacturer; and everybody knew, who knew the sentiments of the Secretary of the Navy; everybody who had read his report knew, that if the bill passed in that shape he would in good faith so use it as to domesticate in this country the industries necessary to the building of first-class ships and first-class guns.

But the Senate saw proper, as the gentleman from Maine has said, to amend the bill we sent over to them by striking out this safeguard. The bill as amended and sent back to us provided absolutely and without qualification that everything should be of domestic manufacture, thus putting us absolutely at the mercy of home bidders. I, for one, consented to the Senate amendment with reluctance, because I foresaw what might be, and indeed what has been, the result.

There has been in one case, in the judgment of the Secretary, a combination between manufacturers, or at least an unreasonable demand, on the part of a company that was practically the sole bidder, a demand that never would have been made if the law had been as the House Committee on Naval Affairs originally proposed it should be. I allude to the bids for construction of tools for the plant for the manufacture of 12 to 16 inch guns at the Washington navy-yard.

When it became evident to the Secretary that there was no offer to furnish these tools at a reasonable price he refused to accept the bid; and, in consequence, a serious delay has resulted in the construction of that plant. If the Secretary had been armed with the power in the first instance to say "unless you offer to construct these tools at a reasonable price you can not have the contract," who can doubt that a fair contract with an American bidder would long since have been made? As it is, the hands of the Government are tied, and that is what the gentleman is boasting of as a Republican achievement. The Secretary has made another proposition for bids, but unless, from some unknown quarter, new competition shall spring up we are at the mercy of this bidder, and after all the delay may be compelled to employ him and let him fix his own figures. The gentleman is right welcome to all the credit he and his party are entitled to for this achievement.

Now let me pass on. The gentleman even has the audacity to claim for himself and his party the credit for all the bills that have been passed in Congress during the last four years for rebuilding of the Navy.

Is that claim well founded? I remember very well that when I first moved here, in March, 1886, from my seat, under the two-thirds rule, to fix a day to consider the first bill for an increase of the Navy, proposing two days for its discussion and consideration, that, although I had with me the great majority of my party, the resolution did encounter the opposition of some influential Democrats, including, as the gentleman has said, my friend from Indiana [Mr. HOLMAN]. But on the other side the resolution also encountered the vigorous opposition of the gentleman's colleague from Maine [Mr. REED], the acknowledged leader here of the Republican party. It was evident that if the day was fixed the bill would pass and Democratic ships would be authorized. So the leader of the Republican party criticised the resolution because it did not provide for consideration of the bill in Committee of the Whole. When I offered to amend in that particular he then objected that two days were not enough in which to consider the bill. The result was that, though the resolution had a majority in its favor, it failed because, by reason of Republican opposition, it did not receive the sanction of two-thirds of the House. If I mistake not, I made two unsuccessful efforts to get up the bill before I finally succeeded. But in that first session of the Forty-ninth Congress we did finally pass a bill to increase the Navy. We thus made a beginning.

But the gentleman boasts that the Senate at one time added for increase of the Navy on a House bill $20,000,000. So they did. But when did the Republican Senate make this liberal appropriation of which the gentleman now boasts with so much pride? Was it when I and others were making such an effort in this House during the first session of the Forty-ninth Congress to rebuild the Navy? Oh, no; so long as it was a doubtful question here, with opposition on the one side and on the other, whether any bill would ever get through, so long as it seemed likely that the Democrats would fail to pass through a Democratic House a bill to authorize new vessels, not one step was taken in the Republican Senate. It was well understood around these corridors and in this and the other wing of the Capitol that if the Democratic House should fail in this matter the responsibility would be on the Democratic party. We were to get no help from a Republican Senate.

But the first session of the Forty-ninth Congress had expired, and during that session we had passed a bill to construct new vessels for the Navy. We, the party in control, had demonstrated that we could pass such a bill here. At the next session we put upon our appropriation bill as it passed the House $12,784,726 for increase of the Navy. This included money for docks, ships, gun steel, armor, plant for navy-yards, and plant for gun-manufacturing. It was as much as the Secretary estimated for, as much as could be used economically and advisedly. Had the Republican Senate shown any disposition to aid those of us who in this end of the Capitol were struggling to increase the Navy during the first session of that Congress when we seemed to need help? Oh, no, Mr. Speaker; but now on this second bill they dumped $20,000,000 in addition to what we had already put there: more money, as they well knew, than could be properly expended or even pledged by judicious contracts in any one year. Why was it that in the preceding session they were not disposed to come to our help, and then why was it that the very moment it was shown that we were able to help ourselves they came over with an increase on the bill of $20,000,000 at one time?

Sir, it was simply because a Democratic House had shown that it was equal to the duty of the hour. Then it was that captious Republican objections to the consideration of Democratic bills for the increase of the Navy ceased in this end of the Capitol; then it was that a Republican Senate at the other end repented itself of its supineness during the first session of the Forty-ninth Congress; and now it sought to make amends in public opinion by proffering a needless and extravagant sum of money, which, of course, Senators knew the House would not consent to, and which, of course, we rejected. The policy of the House committee has been to appropriate money for the Navy as rapidly as it could be judiciously and economically expended. The art of building modern ships of war is new in this country. We must not only utilize the experience of foreign nations, but gain experience of our own. We want the very best possible ships, and here, if anywhere in the world of business, great haste would mean great waste.

I come now to the criticisms of the gentleman on the Yorktown. My recollection is very different from his. I was satisfied he was mistaken in the figures he gave, and while he was speaking I telegraphed to the Department, and here is the answer:

NAVY DEPARTMENT, *February* 28, 1890.

To H. A. HERBERT:

Telegram received. Yorktown's trial was not for speed, but for horse-power Neither the law nor contract has any requirement as to speed. If it had been a

trial for speed she would have been entitled by custom to smooth water, whereas her trial was at sea. She averaged, however, a speed of 16.4 for the four hours; maximum speed, 17.2.

Horse-power developed considerable above the guaranties.

T. D. WILSON,
Chief Constructor, U. S. N.

But the gentleman says the English ship Archer has made over 17 knots. That is true, but the trials of the Archer were made, if I am not mistaken, as Constructor Wilson says in his telegram the custom is, in smooth water. In smooth water I am satisfied the Yorktown can make over 17 knots. I know, too, sir, that the English ships of the Archer class have all given great trouble. It is difficult to keep them in running order. The Yorktown will in all probability prove to be, when fully tested, superior to the English Archers.

The gentleman compares the Yorktown with the Dolphin. What is the Dolphin? A despatch boat, that is all. A boat not intended for a cruiser, but simply a boat to carry messages. She was built for speed and nothing else, and her main battery is only one 6-inch breech-loading rifle. The Yorktown, only 200 tons heavier, has four 6-inch breech-loading rifles, four times the armament of the Dolphin. The Yorktown has an effective protective deck, the Dolphin has none. The Yorktown carries more than twice as much coal, has more than twice the endurance, carries more crew, and fully six times as much ammunition, and yet with all this additional weight she makes more than a knot and a half greater speed than the Dolphin.

Mr. Speaker, I must hurry, because this House is impatient at this late hour in the session, but I feel that I must take time to reply to the gentleman's comparison of the achievements of Secretary Chandler and Secretary Whitney. There is no task that can be more grateful to me.

When the charge is made against Secretary Whitney that he is slow I propose to let him defend himself, and he is able to do it. Here is what he says in his last report about the reasons that induced him to exercise caution. It was by proceeding cautiously that he has succeeded in deserving, and not only in deserving but in winning, the praise of the country. He says:

An examination of the condition of the Department in 1885 regarding the production of power by machinery showed clearly that the matter required most careful investigation and thorough consideration before entering upon new work. There were pending in March, 1885, contracts for the construction of the machinery of the double-turreted monitors Puritan, Terror, and Amphitrite. The contracts were entered into in 1883. Specifications were furnished by the Bureau of Steam Engineering. From an examination of the characteristics of the machinery of those vessels, as shown in the last table, it will be seen that the weight of the machinery as compared with the resulting power is as follows:

Vessel.	Weight of machinery.	I. H. P.
Puritan	1,260	3,058
Terror	516	838
Amphitrite	560	1,000

This machinery was at least a quarter of a century behind the age. Tested by the amount of power produced by it, and making allowance for nature of trial, etc., the best that could be expected would be an average of 2½ indicated horse-power per ton of machinery. At that rate, in order to obtain a 19-knot ship, the machinery would require the entire tonnage displacement of the ship.

An examination of the state of the art in 1885 led to the conclusion that the machinery of naval vessels ought to be so designed as to produce 10 horse-power for each ton of machinery; and it was determined to make that the standard, and to enter into no contracts that were not based substantially thereon.

So much for this spot of work of Secretary Whitney's predecessors, to which the gentleman from Maine did not allude. Now for the Roach cruisers, to which he did refer. That those Roach cruisers, the Chicago, the Boston, the Atlanta, and the Dolphin were laid down rapidly is true; and that they were laid down without due care is, I think, equally as true.

I ask attention to the following table, which was made out at my instance in the Bureau of Intelligence on the 22d day of August last. I refer to it first for the purpose of showing that the Roach cruisers were not up to the times in which they were built—that the Secretary under whom they were laid down or the board of officers designing them were at fault, one or both, in not taking more time to consider what was being done abroad and what ought to be done here.

Look at the comparison. The Roach cruisers were laid down in 1883. They were four in number. In 1882 the Esmeralda was laid down for Chili, the Severn for the British Government, and the Sfax and Milan for France. Now compare the machinery of these four foreign vessels with the machinery of the four Roach vessels. The Esmeralda, 2,920 tons' displacement, developed an average "indicated horse-power" of 6,282. The Severn, of 3,550 tons, had 6,385 indicated horse-power, while the Atlanta, of 3,000 tons, developed only 3,780 indicated horse-power, and the Boston, of 3,000 tons, developed but 3,348 indicated horse-power. The Sfax, of 4,488 tons, developed 6,400 indicated horse-power, while the Chicago, with 4,500 tons, developed only 5,080.

But a better method, and one which indicates more clearly the inferiority of the Roach cruisers, is to average the four foreign and the four American ships about which the gentleman from Maine is boasting, and see how many pounds of machinery in the Roach cruisers was required to produce a horse-power and how many in the ships that were laid down abroad in the same and a previous year. Making this calculation from the table, we find that abroad 258 pounds of machinery produced one horse-power. At home it required 114 pounds to reach the same result. Secretary Whitney, seeing these things, sent abroad and purchased plans of machinery, and he has required contractors to produce results similar to those achieved in foreign countries. Which is the better for the country, the haste of Secretary Chandler or the care and caution of Secretary Whitney? I insert here the table in full. I commend gentlemen to examine it carefully and see what there is in the comparison the gentleman from Maine has ventured on.

Relation of indicated horse-power to weight of machinery in ships of war.

Name of ship.	Nationality.	Date of contract.	Displacement.	Average indicated horse-power.	Weight of machinery in lbs. per I. H. P.	I. H. P. per ton weight of machinery.	Nature of trial.
			Tons.				
Dolphin	United States	1883	1,500	2,253	403	5.56	Six hours.
Boston	do	1883	3,189	3,780	393	5.70	Do.
Atlanta	do	1883	3,189	3,348	445	5.03	Do.
Chicago	do	1883	4,500	5,080	417	5.38	Do.
Baltimore	do	1886	4,400	9,000	224	10.00	11.95*
Charleston	do	1886	3,730	7,000	227	9.87	10.57*
Newark	do	1887	4,083	8,500	224	10.00	10.15*
Philadelphia	do	1887	4,400			10.50	12.00*
San Francisco	do	1887	4,083			10.50	12.00*
Yorktown	do	1886	1,700	3,000	239	9.37	10.30*
Petrel	do	1886	890	1,100	265	8.45	10.00*
Concord	do	1887	1,700	3,400	224	10.00	10.30*
Bennington	do	1887	1,700	3,400	224	10.00	10.30*
Esmeralda	Chilian	1882	2,920	6,282	247	9.07	
Severn	English	1883	3,550	6,385	195	11.49	
Sfax	French	1883	4,488	6,400	311	6.56	
Milan	do	1883	1,550	3,880	250	8.96	
Surprise	English	1884	1,400	3,018	262	8.55	
Naniwa	Japanese	1884	3,730	7,510	210	10.67	
Panther	Austrian	1884	1,550	6,984	176	12.73	
Dogali	Italian	1885	2,050	8,045	168	13.33	

*I. H. P. expected.

R. P. RODGERS.

NAVY DEPARTMENT, BUREAU OF NAVIGATION,
Office of Naval Intelligence, August 22, 1888.

Here is another table I had made at the same time. It compares the Roach cruisers and the Whitney ships, their estimated displacement, weight of machinery, indicated horse-power, speed, and protection.

The Dolphin, of 1,485 tons, has machinery weighing 411 tons; the Concord, of 1,700 tons, has machinery weighing 340 tons. The Dolphin's 411 tons of machinery gets 2,240 horse-power; the Concord's 340 tons is to produce 3,500 horse-power. The Chicago, of 4,500 tons, with 930 tons of machinery, gets 5,084 horse-power and 16 knots speed, while the Baltimore, with 930 tons of machinery, is to get 10,750 horse-power and 19 or 20 knots speed, and the Philadelphia, of 4,324 tons, with 900 tons of machinery, is to get 10,750 horse-power and over 20 knots speed.

Here is the table. It compares all the ships. The comparison is made not by me, but by the officer at the head of the Bureau of Intelligence, who has made the figures officially.

Of course he did it at my request, for I thought it was barely possible the gentleman from Maine might invoke this comparison. Let gentlemen read and study these tables if they wish to know something of what Secretary Whitney has accomplished.

Comparative statement of relative power and speed of United States war-ships built or building since 1883.

Name.	Displacement.	Date of contract.	Weight of machinery.	I.H.P.	Speed.	Protection.
	Tons.		*Tons.*		*Knots.*	
Dolphin	1,485	1883	411	2,240	15.0	None.
Atlanta	3,189	1883	698	3,356	15.5	1½ inches.†
Boston	3,189	1883	698	3,780	14.9	1½ inches.†
Chicago	4,500	1883	930	5,084	16.0	1½ inches.†
Petrel	890	1887	130	1,350*	13.00*	½ inch.†
Yorktown	1,700	1886	320	3,500*	17.00*	½ inch.‡
Charleston	3,730	1886	710	7,500*	18 to 19*	2 to 3 inches.
Baltimore	4,413	1886	900	10,750*	19 to 20*	2½ to 4 inches. †
Newark	4,083	1887	850	8,500*	18 to 19*	2 to 3 inches. ‡
Philadelphia	4,324	1887	900	10,750*	20 to 21*	2½ to 4 inches. ‡
San Francisco	4,083	1887	900	9,500*	20 to 21*	2½ to 3 inches. ‡
Concord	1,700	1887	340	3,500*	17.00*	½ inch.‡
Bennington	1,700	1887	340	3,500*	17.00*	½ inch.‡
Vesuvius	725	1887	247	4,000*	20 to 21*	
Maine	6,600	1888 N. Y.	.....	8,750*	17.00*	
Texas	6,700	1888 N. Y.	.....	8,000*	17.00*	

* Estimated. † Machinery and boilers. ‡ Complete.

Respectfully forwarded to Mr. HERBERT.

R. P. RODGERS.
Lieut. U. S. N., Chief Intelligence officer.

NAVY DEPARTMENT, BUREAU OF NAVIGATION,
Office of Naval Intelligence, Washington, August 22, 1888.

But, now, as to the Vesuvius, the gentleman returns to the charges he made against this vessel when this bill was first before the House, and he reads now from the statement of somebody who he thinks is an expert (I believe he did not give the name), a gentleman who says that the engine-rooms of the Vesuvius during the speed trial were like a Turkish bath. I can not conceive that the man who made a criticism of that kind can possibly have been an expert. If the gentleman from Maine himself will think for a moment he must know that during that trial they were taking indicator cards, as they are called, every few moments; that is, cards which indicated how much horse-power was being developed. In the engines of the Vesuvius there are eight cylinders. Each cylinder has two indicator pipes. Through each one of those pipes, before an indicator card is taken, it is necessary to blow in order to see that the steam passes through it perfectly clear. Of course, this blows out the steam. There are sixteen of these pipes. Through those sixteen pipes the air was blown continuously all the time the trial was being had, and that fact alone is enough of itself to account for the steam.

Mr. BOUTELLE. Who took those indicator cards?

Mr. HERBERT. Naval officers of the United States detailed by the Secretary of the Navy.

Mr. BOUTELLE. On board the Vesuvius?

Mr. HERBERT. Certainly.

Mr. BOUTELLE. Do you state that as a fact?

Mr. HERBERT. I state that these naval officers made a report upon the speed——

Mr. BOUTELLE. Do I understand the chairman to say that there was an engineer officer of the Navy on board the Vesuvius?

Mr. HERBERT. I have not said anything of the kind. I do not know whether there was or not.

Mr. BOUTELLE. Well, I make the statement in my remarks that there was not.

Mr. HERBERT. What I do say is that the inspection was properly done by officers competent to do it. The gentleman from Maine talked about an engineer officer. What has this to do with the point I am making that the steam in the engine-room came from the sixteen indicator pipes through which the steam was passing all the time? He certainly must have known that was the prime cause of the steam of which he complains; and now I ask him why he said nothing about it?

Mr. BOUTELLE. Do I understand the chairman to urge that these line officers were proper persons to take the indicator card?

Mr. HERBERT. I do say that the officers appointed were competent to take the indicator cards. I have their names here. They were William S. Cowles, lieutenant, United States Navy; Seaton Schroeder, lieutenant, United States Navy; Bradley A. Fiske, lieutenant, United States Navy—as intelligent and competent officers as can be found in the Navy.

Mr. BOUTELLE. But there was no engineer officer on board?

Mr. HERBERT. I do not know whether there was any officer of the Engineer Corps present or not. I have repeated that twice, but I will say it again if it is any satisfaction to the gentleman from Maine. This board, I say, was as competent a board as could have been assembled, and now let me go on with my answer to the gentleman's argument about escaping steam. Not only did this steam come from the indicator pipes, but it came also from the relief valves on the connection pipes. These pipes carry the steam from cylinder to cylinder. The relief valves are really safety valves. When the pressure is greater than the pipes are intended to bear they rise and let the steam escape. That is what they are for. That is the office they were performing, and performing well. To maintain the almost phenomenal speed the boat was making it was necessary to crowd on steam. That is what was done, and it was done with safety, because the valves performed well their intended office. They discharged the surplus steam. It appears that the gentleman's friend, whom he regarded as an expert, had never seen anything of that kind. If so, it was because he had never seen a well-constructed modern vessel. So much for that.

Then the gentleman talked about the spraying.

Why, sir, the spraying of cold water in little streams to keep cool certain parts of the machinery where the friction is greatest is part and parcel of the design in every modern high-power engine. It is specified in the contract for the Vesuvius, for the Baltimore, for every one of our fast vessels. There is not one of those fast ships that race across the ocean to-day in which sprays of that kind are not continually playing. The gentleman to whom my friend refers has perhaps never been across the ocean in one of these vessels; and yet it is upon criticisms of that kind that the gentleman from Maine relies to sustain him in this attack upon the Secretary of the Navy.

Mr. BOUTELLE. Will the chairman please state whether he has any information as to why there was no engineer officer on board at the trial?

Mr. HERBERT. I have answered the gentleman on that point. I hope he will not ask that question again.

Mr. BOUTELLE. I did not understand the chairman to answer that question.

Mr. HERBERT. Well, I have repeated the answer two or three times, and I do not think it is necessary to repeat it again.

Mr. BOUTELLE. I beg the chairman's pardon; I did not understand him.

Mr. HERBERT. Now, then, the gentleman makes another charge, a charge that would seem in some sort to reflect upon the motives of Secretary Whitney; and he makes this charge upon the authority of some anonymous person whom he sees proper to trust. When I ask him for the name of that person he does not give it. Here in this Congress an out-going Secretary of the Navy, who has received the praise of Republicans and Democrats alike in the press, in this House, and in the Senate, and of whom the gentleman himself not two weeks ago, as I have proven from the RECORD, spoke in high terms on this floor—this Secretary is to be defamed by an anonymous detractor. I shall not attempt to answer the charge. I simply denounce it as willful defamation—not on the part of the gentleman from Maine, for I admit such a statement has been made to him, and I admit further that he believes it——

Mr. BOUTELLE. I do.

Mr. HERBERT. For there is nothing evil of his opponents that he is not ready to believe on the very slightest possible amount of evidence. I never in my life saw a gentleman so easily convinced of any charge against his political opponents as my friend from Maine. I say this advisedly, for I know him well.

I do say that this is a charge brought here, nobody knows from whom, and nobody could be prepared against it. It is, so far as I know, entirely new, and so far as I believe, was manufactured by his informant out of the whole cloth——

Mr. BOUTELLE. Oh, you do not mean that.

Mr. HERBERT. I do say that whoever, skulking in the dark, undertakes to defame the honorable Secretary of the Navy, or to impute to him motives so contrary to the whole tenor of his life, ought to be denounced, and I do denounce him here as a calumniator.

Now, Mr. Speaker, I think I have answered in a brief and desultory way everything that the gentleman from Maine has said that seems to require an answer.

Oklahoma.

SPEECH

OF

WILLIAM S. HOLMAN,

OF INDIANA.

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, January 30, 1889.

The House being in Committee of the Whole and having under consideration House bill No. 10514, to organize the Territory of Oklahoma, and for other purposes—

Mr. HOLMAN being recognized by the Chair—

Mr. BAKER, of New York. I ask the gentleman to yield to me for a moment.

Mr. HOLMAN. I hope the gentleman will permit me to occupy the time now.

Mr. BAKER, of New York. Then I will follow.

Mr. HOLMAN. Very well. Mr. Chairman, the amendment I have offered is as follows:

That no provision of this act shall be construed to authorize the extinguishment of the Indian title to any lands in said Indian Territory which by virtue of any existing law would inure to the benefit of any railroad corporation or the title to which would vest in any such corporation on the extinguishment of the Indian title thereto or on the same being a part of the public lands of the United States; but all such lands shall be held by said Indians as tribes or in severalty, or shall be held by the United States in trust for the benefit of the Indians interested therein in pursuance with such agreement with such tribes in said Territory as shall be entered into consistent with this provision and in conformity with the several provisions of this act; but said lands shall not become a part of the public lands of the United States or inure to the benefit of or vest in any such railroad corporation or any assignee or mortgagee thereof. Any act done by any officer or agent of the United States or treaty contract or agreement entered into by any such officer or agent with any Indian tribe, in conflict with the foregoing provision, or which shall validate or give effect to any grant of land in said Indian Territory made to any railroad corporation, or shall tend to validate or give effect to any such grant or to any assignment or mortgage of any such land, shall be null and void, and this provision shall be construed as controlling any provision of this act that may be in conflict therewith.

The gentleman from Maine [Mr. REED] and the gentleman from Arkansas [Mr. MCRAE] both misapprehend the purpose of this amendment, and they both misapprehend the effect of this bill so far as it concerns these land grants. The state of these grants is simply this: In 1866 two grants of land were made to proposed railroads running north and south through the Indian Territory. Upon one line the road was constructed, the road now known as the Missouri, Kansas and Texas. That was completed within the time prescribed by law. The other road has not been constructed, and its right to enter the Indian

Territory depends on the further action of Congress. The titles of the acts granting lands to these corporations are as follows:

"An act granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to Red River," approved July 25, 1866, and "An act granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific Railway and Telegraph Line from Fort Riley, Kansas, to Fort Smith, Arkansas," approved April 26, 1866. The former railroad is the one completed in time and known as the "Missouri, Kansas and Texas Railroad."

Mr. WARNER. The Missouri, Kansas and Texas road does not run into what is known as Oklahoma.

Mr. HOLMAN. I am not now saying so; I am going to explain that hereafter.

The other road is not constructed; and the Government has not as yet authorized the corporation to enter the Indian Territory. Both grants are conditional. The ninth section of each of said acts is in the exact words following:

SEC. 9. *And be it further enacted*, That the same grants of lands through said Indian Territory are hereby made as provided in the first section of this act, whenever the Indian title shall be extinguished by treaty or otherwise, not to exceed the ratio per mile granted in the first section of this act: *Provided*, That said lands become a part of the public lands of the United States.

On the 26th day of July, 1866, the Atlantic and Pacific Railroad Company was incorporated with a grant of lands extending from "at or near Springfield, Mo., to the Pacific Ocean." The grant apparently extended through the Indian Territory east and west 350 miles. Before Congress declared the forfeiture of this Atlantic and Pacific grant in the year 1886, as to the portion of the railroad not then completed, two events, as to that road, had transpired. First, the road had been constructed westward through the Indian Territory to the Arkansas River and was constructed through a portion of the land "not actually occupied" by any civilized Indian tribe.

Next, on the 20th day of April, 1871, Congress passed an act granting to this same railroad company the power to mortgage its road and franchises to secure bonds to be issued, and bonds to the amount of $30,000,000 were issued under the authority of that act. Both these grants running north and south and that running east and west involved just this state of things except as to the mortgage. That mortgage of the Atlantic and Pacific Railway Company is operative and the grant is operative when you extinguish the Indian title to that land and the land vests in the United States. As to the other two grants they are operative when the lands become "public lands of the United States."

Now, gentlemen will see the point involved. The only object of this amendment is to prevent these great strips of land from becoming "public land" of the United States and to prevent the extinguishment of the Indian title in such a manner as to vest title in the United States. That is the object of the provision. You can only secure these lands to actual settlers by not validating these railroad grants which I believe to be fraudulent.

Now, one word further. Under the circumstances connected with this mortgage it is claimed by the Atlantic and Pacific Railroad Company and by the mortgagees in Europe and America that the mortgage covers every acre of land in the Indian Territory of that grant coterminous with those 350 miles of completed and uncompleted road. That is their claim. It is claimed by the other roads that they are entitled to their land grants as soon as the land shall vest as "public lands" in the United States. In the case of one road the amount of land involved is said to be some 4,600,000 acres; in the case of the other two roads about 2,500,000 acres; in all, some 7,000,000 acres of land, the most valuable part of the Indian Territory. I am told that the road running east and west, and also the roads running north and south, do not touch the lands involved in this bill, but they may and will do so under the provisions of this bill, for it covers all lands "not actually occupied" by the civilized tribes.

Mr. HOOKER. I desire to inquire whether there was not ceded to those roads 40 miles, on each side of the road?

Mr. HOLMAN. Certainly; that is the claim of the Atlantic and Pacific; the grant to the other roads is specific, 5 miles in one instance, 10 in the other on each side of the railroad.

Mr. HOOKER. And bonds secured on these very lands to the amount of $14,000,000 are now held in Amsterdam.

Mr. HOLMAN. Will gentlemen listen a moment while I read from the pending bill? Let us see how far it extends. Let us not be deceived as to the effect of this bill.

And all that part of the United States included within the following limits—

With certain exceptions—

including what is known as the Public Land Strip, and including all that part of the Indian Territory not "actually occupied" by the five civilized tribes.

"Not actually occupied." I undertake to say that every one of these three roads, one of which is not yet constructed, passes through regions of country "not actually occupied" by the civilized tribes.

Mr. McRAE. When the gentleman states that the Missouri, Kansas and Texas road passes through lands not occupied by those tribes, I call his attention to the fact that, as the map clearly shows, the road does not go within 50 miles of the eastern line of the proposed Oklahoma Territory.

Mr. HOLMAN. I am not speaking of what is shown on the map. I am speaking of the facts and of the scope of the pending bill. If the gentleman would go through that region of country as I have done he will find any quantity of land not "actually occupied" by the five civilized tribes, not only east of the Arkansas, which is the western terminus of the Atlantic and Pacific, but also east of the Missouri, Kansas and Texas Railroad.

Mr. McRAE. It belongs to them, and is not covered by this bill.

Mr. HOLMAN. In express terms it covers the "unoccupied" lands of the civilized tribes.

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

Mr. HOLMAN. Certainly.

Mr. HEARD. Does not the gentleman agree that the language to which he has referred means lands over which these tribes have no jurisdiction.

Mr. HOLMAN. Oh, no; lands "not actually occupied" is the expression of the bill. I undertake to say—and this matter has been submitted to the investigation of the ablest lawyers of the House who could be consulted—that if this bill passes in its present form there is reason at least to apprehend—I will use no stronger term—that each one of these land-grant railroad corporations will have at least a colorable claim to the great grants they claim were made to them in 1866, and it is the belief of good lawyers that the effect of the provision I now offer will be to prevent such a result—that instead of producing complications as to title it will have exactly the reverse effect. It will extinguish the claims of these corporations and secure the lands to the settlers.

Mr. BRECKINRIDGE, of Kentucky. Will the gentleman permit me to ask him a question?

Mr. HOLMAN. Certainly.

Mr. BRECKINRIDGE, of Kentucky. If I understand the second paragraph or clause of this amendment it renders void not only every act which may be hereafter done by any officer or agent of the United States——

Mr. HOLMAN. Under this act.

Mr. BRECKINRIDGE, of Kentucky. But also any act heretofore done, not under this act, but under any act, or under any treaty, contract, or agreement entered into by any such officer.

Mr. HOLMAN. Would the gentleman prefer to have the word "hereafter" inserted?

Mr. BRECKINRIDGE, of Kentucky. It seems to me there ought to be some modification of that kind as a matter of safety.

Mr. HOLMAN. I am willing to modify the amendment in the manner suggested by the gentleman. Let the word hereafter be inserted in the proper place. The acts to be done hereafter imperil these lands as against the actual settlers.

The CHAIRMAN. The gentleman from Indiana modifies the amendment in the manner indicated.

Mr. HOLMAN. I wish to say, Mr. Chairman, that as to the mere declaration of forfeiture contained in the fourteenth section of the bill and in the amendment of the gentleman from Arkansas, it is quite manifest that the forfeiture amounts to absolutely nothing. If the title to these lands vests in the United States, then the lands go to these corporations under rights already vested by the operation of the former laws and made operative by this bill, if it becomes a law, and which the Supreme Court will hold can not be divested by an act of Congress. You must prevent the rights from becoming vested in these corporations if you would save the lands for the actual settlers.

I wish to add but a few words: I do not offer this amendment in hostility to this measure. On the contrary, the main objection I have had to this bill from the beginning arises from the apprehension I expressed years ago to this House in a report I made in regard to this Territory, that this land, under provisions such as this bill as first drawn contained, which are still, in fact, in the bill, the pretended claims of these corporations would become vested, and I know that result ought to be prevented. I therefore urged that the lands should be held in trust and not become a part of the public domain. With the adoption of this amendment to the bill the main objection I have had to the measure is removed, and yet I sincerely regret that an open, honorable policy could not have been adopted of negotiating with these tribes for the surrender of their lands. The honor of the nation demanded this.

It would be a mortifying result if in this extraordinary struggle of our people to obtain possession of these Indian lands which were, by solemn treaties and patents attested by the great seal of the Government, more than half a century ago set apart forever for their residence, a large part of this fragment of land which our fathers gave them as the final remnant of their once imperial possessions, which they had defended with a courage equal to that displayed by the patriot warriors of antiquity whom the world never forgets to honor, should become the spoils of merciless corporations! Whatever sympathy may be felt for a heroic and crushed people, the fact still remains that it may be that injustice to them (and yet I can not believe it) is demanded by the general interests of mankind. But it would be mortifying indeed if it should be found that the faith of the nation had been broken, under the urgent demand for homes for our people, and yet railroad corporations which by ambiguous expressions of laws which they fabricated,

by legislative enactments which they secured by craft and fraud, shall secure a large part of the valuable lands we will wrest from these feeble remnants of the Indian tribes—that, if it shall occur, will humiliate the American people.

It is said in justification of the policy of this bill and against the measure I introduced more than three years ago at the instance of the President, which sought to open up this Indian Territory or a part of it to white settlement by honorable negotiation and without coercion, that the Indians do not use the lands and do not need them; but the same may with equal truth be said of the greater and more valuable portion of the public lands now held by railroad corporations without right, and which Congress still refuses to open up to the settlement of our people. These corporations speak a more persuasive language than do these friendless remnants of the Indian tribes!

Public Lands—Land-Grant Forfeitures.

SPEECH

OF

WILLIAM S. HOLMAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889.

The House having under consideration the report of the conferees of the two Houses on the disagreeing votes on the amendments of the House to Senate bill 1439, "to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads"—

Mr. HOLMAN said:

Mr. SPEAKER: In presenting this report and the statement accompanying it to the House, I wish to submit some remarks. For the first time in the history of this land-grant legislation a clear and direct issue has been made between the two Houses on propositions involving the entire scope of forfeiture of the railroad land grants within, or believed by the House to be within, the reach of Congressional action.

In all former attempts to declare the forfeiture of land grants the effort has been to declare the forfeiture of particular grants. No former effort had been made by the action of both Houses to cover the whole subject of land grants. The issue presented in the present Congress is that which I sought to present in the Forty-seventh Congress, when, on the 16th day of January, 1882, I introduced House bill No. 2878, to declare the forfeiture of all grants then subject to forfeiture, just before the period fixed by law for the expiration of the last grant had expired, that was the grant to the "Texas Pacific Railroad Company," the time for the completion of which expired on the 2d day of July, 1882, with no part of the road constructed.

That bill, although introduced in each successive Congress, was never reported on, but during the Forty-eighth and Forty-ninth Congresses bills declaring the forfeiture of particular grants were finally considered and passed where corporate rights did not intervene.

So the measure now pending is the first that has reached both Houses involving the whole system and seeking to restore to the public domain the lands in fact forfeited by the failure of the railroad corporations to comply with the laws under which the grants were made.

The issue presented is one that ought to arrest the attention of the country, but I am compelled to admit that for the present it will not. History will record the singular and remarkable indifference of the people of the United States to their "public domain" at a period when it was manifest that the enlargement of the number of freeholders and the securing of homes to the landless and homeless was of vital moment to the Republic. This state of things is the more remarkable in view of the powerful organizations of the laboring men of the country, the members of which, of all others, have an especial interest in this question.

But it is a fact that while the House of Representatives at the opening of the Forty-eighth Congress adopted rules which gave to bills declaring the forfeiture of land grants and securing the public lands to actual settlers high privilege in the House, comparatively little has been accomplished, and the remorseless and unpatriotic proceeding still goes on under which the public lands which ought on high reasons of public policy to be secured to actual settlers for independent homesteads in the main become the wealth of unscrupulous speculators, the estates of merciless monopolists.

This state of things in regard to a matter of great public interest is remarkable. It was not the result of general indifference by Congress, for it must be admitted that the records of this House since the opening of the Forty-eighth Congress, when the Democratic party resumed power in this House, show an unusual interest in this matter of the public lands. At an early hour of that House resolutions were adopted covering the question of public lands, not only as to the forfeiture of grants, but also declaring a homestead policy which should cover all land adapted to agriculture.

Th se resolutions expressed the earnest purpose of the House to declare the forfeiture of all railroad land grants that were subject to forfeiture and to secure to actual settlers all that remains of the public lands valuable for agriculture, and denounced the existing policy of permitting speculation in or the monopoly of the public lands, and gave the Committee on Public Lands the same high standing in the House as the great Committees on "Ways and Means" and "Appropriations," with the same right to report bills at any time and with the same right of way for their consideration. Such for the last six years has been the attitude of the House on the land question, covering the Forty-eighth, Forty-ninth, and Fiftieth Congresses.

It can not be charged on the House of Representatives that the interests of the people in the public lands have been neglected. Members of the House "in season and out of season" have pressed measures of reform. The time for the completion of the last land-grant railroad expired on the 2d day of July, 1882 (the Texas Pacific), with not a mile of that railroad constructed. In anticipation of that event, on the 16th day of January, 1882, I introduced House bill No. 2878, to declare the forfeiture of all lands granted to railroad corporations not earned within the time prescribed by law for their completion, and before this, on the 9th day of January, 1882, I had introduced House bill No. 2752, to secure all the remaining public lands adapted to agriculture to actual settlers under the provisions of the homestead law. This bill I had introduced in the House many years before, but it never had received consideration by committee or House. These two bills covered the whole domain of this great land question.

These bills were introduced in the Forty-seventh Congress, a Congress in which both House and Senate were Republican, and received no consideration, nor did any other bills seeking to secure the public lands to actual settlers or to forfeit railroad land grants. The whole subject of the public lands was ignored by the Forty-seventh Congress.

Since the commencement of the Forty-eighth Congress, when the Committee on Public Lands was given exclusive jurisdiction of the land question, including the forfeiture of land grants (a jurisdiction before that time divided between the Committee on the Judiciary, the Committee on the Pacific Railroads, and the Committee on Public Lands), the House has steadily pursued the policy expressed in the resolutions to which I have referred, the forfeiture of the land grants subject to forfeiture and the securing of the public lands to actual settlers. On the part of the House through the entire period of the Forty-eighth, Forty-ninth, and Fiftieth Congresses there has been "no variableness or shadow of turning" on this land question. The House at leasthas sought to carry out in good faith the line of policy to which both of the great parties of the country have been for years committed, securing of the public lands to actual settlers.

During this period of six years events have occurred that must have convinced all men of the high importance of securing to the largest number of the people of the United States possible freeholds in the land of our country, even if the experience of all the past ages had not forced that conviction. We have indulged in high exultation over the growth and splendor of our great cities and prosperous towns, yet all men must know that the conservative power and enduring hope of the Republic is in the freeholders of the country, the people with independent homes, and that any measure of policy which tends to enlarge the number of happy and prosperous homes ought to be of the most vital concern to Congress.

How can such a policy be so effectually promoted as by a dedication of our public lands for homes for our people? How can monopoly of the public lands be more effectually defeated than by declaring forfeited back to the public domain the millions of acres heretofore wantonly and wickedly granted to corporations now justly subject to forfeiture and dedicating all the public domain to the single purpose of securing homes to our landless people? Did any other nation ever possess an opportunity to secure justice to its people and permanency to its institutions such as that which the Government of the United States even now at this late hour possesses? For, notwithstanding the enormous waste by entries for speculation and the infamous monopoly which has been permitted of our public domain during the last twenty-five years, there are still millions of acres remaining, and yet those millions of acres are rapidly being reached by the speculator and are rapidly being withdrawn by speculative entries from settlement by the landless and the homeless.

The position of the two Houses of Congress on this land question ought to be understood by the people of the United States. The subject involved is of infinite more importance than any of the questions which have aroused the fierce and vindictive passions of the political parties of recent years. The tariff and the spoils of office are of temporary yet ever-recurring concern, but a question of the just distribution of the most valuable of the common wealth—the public lands—the question of independent homes, involves the very life of our free institutions.

The people of this country ought not to deceive themselves. It is the ever-growing multitude of their landless and homeless people who will imperil their free institutions. I would devote every acre of the public domain to enlarge the number of freeholders. Every section of land you give over to monopoly and speculation, enhancing the price beyond the reach of laboring men, enlarges the number of your discontented people, whose poverty and wretchedness will cry aloud against the injustice of their Government which gives over to capital and spec-

ulation the lands which ought to be without price the homes of its people, thus promoting the true wealth of the nation—happy and prosperous homes.

Mr. Speaker, while it may be charged that I only repeat the sentiments I have often expressed in relation to the public lands, I feel so much anxiety on this land question that I venture still further to state the action of the two Houses of Congress on this subject. I ought not to apologize. The people of the United States have not taken the interest in this land question which its importance has demanded and still demands. It has always been a subordinate question in the politics of the country, and no party has ever been held responsible for the violation of its promises in relation to the public lands.

The first clear declaration of policy in regard to the public lands was made by the Free Soil party, out of which grew the great Republican party. That party at their convention held at Pittsburgh, Pa., thirty-seven years ago adopted the following plank as a part of their platform:

Resolved, That the public lands of the United States belong to the people and should not be sold to individuals, nor granted to corporations, but should be held as a sacred trust for the benefit of the people, and should be granted in limited quantities, free of cost, to landless settlers.

I quoted this resolution in remarks I made in this House on the land question on the 7th day of July, 1882. It is one of the noblest utterances (I think the noblest) that has ever been made by a public body in the United States since the declaration of the independence of the thirteen American colonies was pronounced on the 4th day of July, 1776.

If that declaration of policy had been adhered to by the great party, of which that Pittsburgh convention of Free Soilers was the beginning, for a century to come the landless American citizen would find a home and fertile lands in the public domain within his reach without price. You will say that the progress of the country would have been delayed. Certainly; great private estates would not have been carved out of the public wealth, imperial landed possessions would not have grown out of acts of Congress. Artificial legislation was necessary for that. But in the natural course of events millions of happy and prosperous homes would now be found, in the progress of time, where now the curse of land monopoly reigns and where the possessors of hundreds of thousands of humble homesteads tremble before the claims of grasping and sordid monopoly asserting rights under the extraordinary grants Congress has made.

THE ISSUE BETWEEN THE HOUSE AND SENATE.

But I come to the issue in the present Congress between the two Houses of Congress on the land question.

When the present Congress met in the organization of the House I was honored with the chairmanship of the Committee on Public Lands. Two subjects were specially demanding attention—the forfeiture of the railroad land grants subject to forfeiture, and a measure that should secure to actual settlers the remaining public lands. This involved the repeal of all laws under which public lands could be entered for speculation or monopoly—"the pre-emption law," "the timber-culture law," "the commutation clause of the homestead law," "the timber-land law of the Pacific coast," and a radical change in "the desert-land law" so as to conform it as far as possible to the homestead policy; also, as a measure of high public policy, the reservation of the great forests at the heads of the great rivers, the Mississippi, the Missouri, the Columbia, Yellowstone, and Snake Rivers, and elsewhere, with a view to preserve the natural flow of their waters and their influence on climate and the public health; also, the protection of the coal-fields on the public land and the water-courses from monopoly.

On the 27th day of June, 1888, the bill No. 7901, "to secure to actual settlers all the public lands of the United States adapted to agriculture, to protect the forests, and for other purposes," which I had the honor to introduce, passed the House after months of consideration without, I believe, a dissenting vote. This bill covered the whole subject of the public lands except the land-grant forfeitures. It dedicated the whole of the remaining public lands adapted to or valuable for agriculture to settlement under the homestead law only, and repealed all laws, the pre-emption law, the timber-culture law, the commutation of the homestead law, the timber-land law, and all other laws that authorized the sale of agricultural lands and dedicated all agricultural lands to the single purpose of securing homes without price to our landless people.

The bill also protected the coal-fields and water courses in the public domain from monopoly and the forests at the sources of our great Western rivers from destruction, and brought our so-called "desert lands" under the homestead policy. This bill is admitted by all men to be a complete homestead measure, covering the whole subject of the public domain. Its provisions were cordially approved by the Commissioner of the General Land Office, whose intelligence and capacity in that great bureau is universally admitted, and by the Secretary of the Interior.

Leading provisions of the bill, especially the repeal of the pre-emption law, the timber-culture law, the commutation clause of the homestead law under which the lands might be acquired by purchase instead of complying with the provisions of the homestead law, and all other laws authorizing the purchase of public lands without bona fide settlement on them, have been urgently pressed upon Congress by every Commissioner of the General Land Office and every Secretary of the Interior for the last eight years or more, alike under Republican as well as Democratic administrations, on account of the fact that under those laws the public lands, to the extent of many millions of acres annually, were being entered under countless fraudulent devices by capitalists of both America and Europe for speculation and monopoly and the honest homestead settler was placed at their mercy.

It was shown by the public reports that millions upon millions of acres of valuable agricultural lands were being annually obtained by fraud under those laws, robbing thousands of landless people annually of an opportunity to obtain homes, and yet the Senate of the United States did not honor this bill of the House, passed by the immediate representatives of the people after full consideration with such unanimity, with even a respectful consideration so far as the public records of that House disclose. So the carnival of fraud, by which for years the most valuable portion of the remaining public lands have been secured in the interest of speculation and monopoly, still goes on.

The discovery, by the vigilance of the General Land Office, during this Congress of a scheme by which a land syndicate of Scotland, composed of men never in the United States, acting through an agent, had secured under the Pacific coast timber-land law the entry at a nominal price of 49,000 acres of the most valuable timber lands of California, and other instances equally striking, under all the laws sought to be repealed in the interest of the honest homestead settler, have produced no result, and frauds upon the land laws sought to be repealed for the benefit of capital and speculation will still dishonor our public records. Under the homestead law, where settlement and cultivation are necessary to a title, honest homes are secured and the public good is promoted. Under the laws sought to be repealed capital, by fraud, appropriates the wealth in lands which a wise government ought to apply to the highest purpose of government—homes for its people.

THE FORFEITURE OF THE RAILROAD LAND GRANTS.

I have spent much more time than I had intended on a general statement of the land question. The subject before the House is the report of the House conferees on the bill declaring the forfeiture of the railroad land grants. I have signed the report of the conferees of the two Houses to the end that the measure should be reported back to the Senate and House with the real point in contention alone presented.

The Senate bill No. 1430 declares the forfeiture of all lands heretofore granted to aid in the construction of railroads coterminous with portions of the railroads now uncompleted.

The House substitute for that bill declares the forfeiture of all lands so granted coterminous with portions of the railroads not completed within the time expressly named in the laws making the grants within which the respective road should be completed. The real question in issue is as to the extent of the forfeiture.

The House substitute for the Senate bill passed the House on the 6th day of July, 1888, and the conferees of the two Houses were named soon after that date, Senators PLUMB, DOLPH, and WALTHALL on the part of the Senate, Representatives HOLMAN, STONE of Missouri, and PAYSON on the part of the House, so that this conference on the disagreeing votes of the two Houses has lasted over six months during their sessions. This land-grant system has resulted in such serious complications, especially in Michigan, Florida, and Mississippi, that it was important that the details of each measure should be agreed upon, so that the real point in issue should be presented to the two Houses in the conference report.

The complications were serious and natural; for the whole system of land subsidies was not only an inexcusable blunder, if nothing more, in the beginning, but was attended in the entire progress of its development with dishonorable complications and corruption and fraud. By the terms of the grants, as a general rule, the lands reverted to the United States when the railroad was not completed within the period named, generally ten years, at least the lands through which the railroads were not completed within the time named.

The Commissioner of the General Land Office, assuming in former years that when the period named in the grant had expired the lands opposite uncompleted portions of the railroads had reverted to the public domain (and in many instances when the time expired not a step had been taken to construct a railroad), proceeded to treat the lands granted as a portion of the public domain and subject to entry at the land offices. So that in Alabama, Florida, Mississippi, Michigan, and Iowa, and other States, large portions of these lands had been entered under the authority of the General Land Office by homesteaders and pre-emptioners and others, and patents actually issued. And then came the extraordinary and unexpected decision of the Supreme Court that all these grants vested at once in the corporations which obtained them an absolute title whether they had constructed any railroad or any part of a railroad or not within the time prescribed by law, an absolute title until the grant was annulled.

This extraordinary decision which astonished every lawyer in the United States, annulled every patent the General Land Office had issued during the period it treated these grants as forfeited by the force of the laws making the grants. Of course Congress in some way must protect these parties who had been permitted to enter lands and obtain patents under the authority of the Government. In the case of the grants in the State of Michigan, a State specially cursed by this infa-

mous system, the complications were such that it was impossible to obtain an adjustment that did not leave at least a suspicion that unfair if not dishonest advantages were being obtained, either against the Government or the bona fide settlers on the lands granted by the unscrupulous and skillful parties interested.

I have, however, after this long conference, agreed to the matter of detail in issue between the House and the Senate. I have done the best I could in these details in protecting the rights of the Government and the settlers, and have not hesitated to sign the report to the two Houses as to these subordinate matters, with a view to reporting a disagreement on the real question at issue.

But the real issue is left for the decision of the House and Senate. That issue is presented by the first section of the Senate bill, which declares all granted land forfeited coterminous with or opposite now uncompleted land-grant railroads, and by the first section of the House substitute declaring the forfeiture of all lands opposite to portions of such railroads not completed within the time prescribed by the laws making the grants. This is the real issue between the House and Senate. The effect of the two propositions will be seen in the following statement: The Senate bill would forfeit 5,627,436 acres; the House bill would forfeit 54,323,996 acres.

The following statement of the Commissioner of the General Land Office presents the facts in detail:

Name of railroad.	Estimated number of acres which will be forfeited—		
	By Senate bill.	By House bill.	In event of forfeiture of entire grant.
Gulf and Ship Island	652,800	652,800	652,800
Coosa and Tennessee	140,160	140,160	140,160
Coosa and Chattanooga	144,000	144,000	144,000
Mobile and Girard	536,064	651,264	858,624
Selma, Rome and Dalton*	80,932	258,624	642,624
Atlantic, Gulf and West India Transit	76,800	676,000	1,171,200
Pensacola and Georgia	None	679,680	1,178,880
Vicksburg, Shreveport and Texas	None	364,800	725,760
Jackson, Lansing and Saginaw	None	176,256	898,560
Marquette, Houghton and Ontonagon	294,400	294,400	627,200
Ontonagon and Brulé River	211,200	288,000	288,000
La Crosse and Milwaukee	None	195,724	235,773
Chicago, St. Paul, Minneapolis and Omaha	None	1,446,400	1,446,400
Wisconsin Central	406,880	464,480	1,830,000
St. Vincent extension St. Paul and Pacific (now St. Paul, Minneapolis and Manitoba)	None	1,113,600	2,009,600
Western railroad	None	243,712	243,712
Southern Minnesota Railway Extension	None	832,115	1,787,955
Hastings and Dakota	None	819,840	1,293,440
Northern Pacific	2,000,000	36,907,741	46,947,200
California and Oregon	None	1,740,800	3,686,400
Oregon and California	None	2,086,400	4,608,000
Southern Pacific	1,075,200	4,147,200	7,116,800
Total	5,627,436	54,323,996	78,593,688

*Lands certified to State for this road prior to May 23, 1872, amounting to 440,760.16 acres, were confirmed to State by act of that date (17 Stat. L., 159) for sole use and benefit of the Selma, Rome and Dalton Railroad Company. The lands so confirmed may not be subject to forfeiture.

So it will be seen that the issue between the House and Senate involves a difference of 48,696,560 acres of land, a territory twice as large as the great State of Ohio.

Permit me to say, however, that the House proposition of forfeitures, in the interest of fair dealing, protects the rights of all third parties. If the Government of the United States enters upon a system of bounties to enrich a few of its citizens at the expense of its whole people, especially its landless and homeless people, it should not act with injustice towards third parties who act on the faith of the supposed rights granted by the Government. The House therefore presents in its proposition of forfeiture a clean issue between the United States and these defaulting corporations.

Can any fair-minded man say that the House does not occupy the stronger, the more just position in this contention? What claim have these corporations to lands not earned in conformity with the laws making these grants? Did they not know the terms and conditions on which the heritage of the people—the lands of the people—were granted to them? But the land-grant advocates say the Government did not declare the forfeitures when the time expired, and these corporations had a right to presume that the Government intended to waive the right to declare the forfeiture. "Had a right to presume." Were not bills pending in Congress to declare these forfeitures? Shall any class of men claim that the neglect of public agents to perform their duty extinguishes rights and limitations fixed by law? Did not these corporations know the exact conditions on which the grants were made?

The claim that injustice is done to these corporations by holding them up to the law is absurd.

I claim and insist that these grants were made in violation of the spirit of republican government, that the purpose of the whole system was to enrich a few men at the expense of the homeless and landless people of this country, to bring about an unnatural and artificial development of the country through which the great grants passed to enable the favored few to amass fortunes; but I waive all that, and only demand that these corporations, powerful as they are, shall be subject to law. The measure of the House is fair and just, and I sincerely hope the House will not falter.

The House of Representatives represent directly the whole people, the Senate the States. In such a legislative body it would naturally occur that at least on all economic questions especially affecting the masses of the people, questions immediately affecting the homes of the people, the House, as directly representing the people, would be at least the equal of the Senate. Such at least is the theory of our Government. It is but a theory. Practically the two Houses are not equal. The Representatives of the people of both of the great political parties of the country have for years declared that the public lands should be disposed of to actual settlers only under the homestead law; the Senate steadily ignores any measure tending to secure that result. The country has for years demanded the forfeiture of these land grants as proposed by the House, and this House, with great unanimity, for the last six years has requested the co-operation of the Senate in demanding these grants forfeited, but all in vain.

The Senate proposition practically amounts to almost nothing. It is, in fact, in perfect harmony with the view of the land-grant railroad corporations. They are in fact pressing the passage of the Senate bill, as it will enable them at once to close up their great landed interests in your General Land Office. They attach, I see, no importance to the tenth section agreed to by the conferees reserving to the Congress all rights of further forfeiture as they now exist, because, as they claim, their rights, so to speak, will be adjusted on the basis of the first section of the Senate bill if it becomes a law, and with patents issued for these vast millions of acres of land it would be folly to talk about future relief for the people.

I admit that this Congress is a failure in all that concerns the securing of homes, through existing public resources, to the landless people of this country. All the laws under which imperial landed estates have been secured in recent years by capitalists and speculators remain in force except the law that authorizes the entry of "offered lands" at $1.25 per acre, mainly applicable to the five public land States of the South, which happily has been repealed. The land grants to railroads in the State of Michigan will be forfeited, no doubt, before this Congress closes, when it becomes manifest that this general forfeiture bill can not become a law. This at least will restore to the public domain and secure to actual settlers 505,600 acres of land. And this will be all this Congress will accomplish in the interest of an honest settlement of the public land by those justly entitled to occupy them—our landless people. What a strange commentary is this on the solemn pledges made, time and again, by both of the great parties of the country, that the public lands should be secured to actual settlers under the homestead law!

It is urged with great earnestness that as the Senate will concede nothing more it is better to accept the proposition of the Senate and forfeit the 5,627,436 acres. But this is the measure of the land-grant corporations themselves; the value of the land proposed to be forfeited is readily seen in the fact that to secure the adjustment of their great land grants they are more than willing to surrender these 5,627,436 acres.

These lands are comparatively worthless. It seems in truth that the wishes and decision of these land-grant corporations is to be the law. I for one will not accept their legislation.

The House conferees offered to refer the whole question to the Federal courts as to the extent of the power of Congress to declare the forfeiture of these grants with provisions of law for a prompt decision in view of the public interests involved; also to adjust on an equitable basis all the grants except the great grants to the North Pacific and the so-called Southern Pacific railroad companies and let those grants remain for future action, but these propositions were declined. The Senate adheres to the first section of its bill. There is, therefore, no alternative. You must accept the Senate proposition or the whole measure must fail.

I hope the House on that main issue will not recede. I have not felt justified as one of the House conferees in embarrassing the House and Senate on the questions of details or in defeating by delay the right of the two Houses to pass judgment on the real point in issue, but I hope the House will not recede from the position it has occupied during the last six years. If the 48,696,560 acres of valuable lands at issue between the two Houses are to be surrendered up to monopoly and greedy speculation let the measure fail! Let the party which made the imperial grants in the interest of wealth and in derogation of the rights of the people wind up, untrammeled, this miserable system of subsidies which will render multitudes homeless and wretched who else would have had happy homes, and will build up on their rightful inheritance monopolies of lands and imperial estates!

Des Moines River Lands.

SPEECH

OF

HON. ABRAHAM X. PARKER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889.

The House having under consideration the bill (H. R. 1368) to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes, returned by the President with his objections thereto—

Mr. PARKER said:

Mr. SPEAKER: I wish to say at the commencement that I am opposed to the bill because it is wrong, and also because it is contrary to the decided and settled law of the country. I am in favor of sustaining the Presidential veto because, in my opinion, that veto is right; and I am also in favor of sustaining it because it is in accordance with the settled law, as it has been settled for many years, and by decision after decision.

The bill itself, having been shorn of its sky-scraping introduction, such as it embodied when it went to the committee, consists of two sections, and these provide for the validating of certain claims of individuals now in possession of the lands in question without regard to their right to be on them, and without regard to the question of whether they have any business to be there except as "squatters," and proposes to allow them to take the lands as homesteads upon paying the Government price; to turn out those who hold under the decisions against them, and to put, in fact, their own men in possession of lands which other men have bought, which they have paid for and now hold.

But here is one peculiar feature of this first section of the bill to which I wish to call your attention. It says:

That the title of all bona fide claimants under color of title from the State of Iowa and its grantees, or the United States and its grantees, which do not come in conflict with persons who, with intent, in good faith, to obtain title thereto under the pre-emption or homestead laws of the United States, settled upon the said lands prior to January, 1880, are confirmed and made valid.

Thus they will make valid parts of the grant, while they render void other portions of the same grant. So, also, Mr. Speaker, as to the other classes in which they validate their titles, they bring them down to the year 1880, all who got on by some subterfuge, or some trick, some "management," by sweeping off the buildings of men who lived there and going upon the lands themselves; their claim of title is validated. Why is this date of 1880 fixed upon? To find an answer to this you must look at the report of the committee itself, drawn by the gentleman who sits in front of me [Mr. PAYSON], which says:

The bill proposes to remove the reservation by declaring all lands for which the State received indemnity, public lands, to validate all bona fide entries made before January 1, 1880, this date being fixed to prevent "speculative squatting" on the land since this legislation has been pending.

What is the bill then for? It is to protect "speculative squatting" made before January 1, 1880, and this is the class of men represented here, and this is the fair inference from the report of the committee. But why fix the date at January 1, 1880? It is a mere matter of discretion with the committee, and the discretion was, they say, to cut off "legislative squatting" after that date. Then they propose to validate the claims of all "legislative squatters" made before that date, and these words are not my own, they are the words of the committee. That is the signification of the limit to 1880, and this is the explanation of the committee in regard to it.

The second section of the bill provides:

SEC. 2. That it is hereby made the duty of the Attorney-General, within three years after the passage of this act, to institute, or cause to be instituted, such suit or suits, either in law or equity, or both, as may be necessary and proper to assert and protect the title of the United States to said lands and remove all clouds from its title thereto; and until such suits shall be determined, and Congress shall so provide, no part of said lands shall be open for settlement or sale except as hereinbefore provided. And in any suits so instituted any person or persons in possession of or claiming title to any tract or tracts of land under the United States involved in such suits may, at his or their expense, unite with the United States in the prosecution of such suits.

Therefore the United States is instructed to assert its title, and against whom? Why, against its own grantees—against the State of Iowa and those holding under it. It puts the United States in the position of the bold rascal, who, having sold his property, which has gone into the hands of others who have paid for it, takes possession of it again and taxes the whole people of this country, those who own these lands with the rest, to litigate under this bill for the property.

The effect of withholding the lands from sale pending the litigation will tie them up for years, for every one knows it will take five or six years to get through the Supreme Court a decision in reference to the title of the lands under this act, and thus again will the rights of these grantees be interfered with. So much for the pending proposition.

The original act was passed in 1846, when Iowa was a Territory, and when her people sought to improve the Des Moines River. That was the day of canals and when they were being projected all over the country, when it was believed that canal transportation was the transportation for the country, and these people fell in with the general sentiment of the country and wished to have the Des Moines River improved. With that view Iowa came here, as she properly might, and asked the grant of certain public lands which nobody then seemed to call for for resident purposes, to enable her to improve the river, asking that her people should have the same privilege in this direction of using the public lands for such improvements as has been given in other cases. Congress respected their wish by enacting the law of 1846.

This was the grant. The Territory of Iowa accepted of this grant. After it became a State, and in the year 1847, the acceptance was duly made. Now, what were the facts as to this land? Why, at that time below the Raccoon Fork or below the present city of Des Moines, there was but little land then left that could have been used for this improvement; and no man at that time was so careless as to assert that this grant was then limited to that land. The amount then south of Raccoon Fork and below that was then estimated to be 217,616 acres, while the amount above the Fork was estimated at about 800,000 acres and afterwards the measurement showed it to be 589,000 acres. No man then supposed that they were going to carry on this vast improvement for 217,616 acres of land, an improvement which would require four times the value of this land as valued at that time.

But there was an ambiguity in the phraseology of the law and the question was soon presented as to whether the grant was not limited by the extent of the line of improvements. Conflicting decisions were made by different officials. During the controversy there were decisions made which induced some of these men now on these lands to go on under the apparent authority of the Government; and these men ought to be recompensed by the Government. They are bona fide settlers, there in good faith, and they ought to have justice done them; but they should not draw after them the mass of men who have gone upon other men's lands recently in hope of gobbling up this land at a very small price or under the homestead acts.

The men who went upon the land under the wrongful ruling of Secretary Browning from the 1st of May, 1868, to the last of December, 1869, are entitled to full compensation and Congress owes them this reparation. But these men are few in numbers, while the "speculative squatters" are now numerous.

As to the original settlers who went onto the land in good faith the following statement has been made:

Abstract from "Executive Document No. 25, Forty-third Congress, first session, House of Representatives," being the "Report of Iowa Land Commissioners," dated November 20, 1873, showing the names and number of persons holding lands north of Raccoon Fork, Iowa, "either by entry or under the pre-emption or homestead laws of the United States," and the exact sections and parts of sections claimed at the date aforesaid, to wit: November 20, 1873:

The number of names foots up (pages 4 to 13)	344
The number of acres is stated at (page 13)	39,549.46
The value, November 20, 1873 (page 13)	$404,228.49

It will be observed that of these 344 persons only 12 filed their entries prior to March 2, 1861, the date of the joint resolution confirming the grant of 1846, to the grantees of the State of Iowa (see pages 9, 11, and 13), and to the same effect see also Senate Report 609, Forty-third Congress, second session, made by Senator Pratt from the Judiciary Committee.

Of these 344 persons, it appears from H. R. Report No. 583, part 2, Forty-sixth Congress, second session, dated May 31, 1880, made by Mr. Ketcham from the Committee on Public Lands (at page 14), that over 270 had before that date bought their claims from the navigation company or their grantees, leaving but 74 then not settled with, and of these 74 it is believed that only 10 or 12 remain not settled with at this date.

In 1886 the company's lands are found to be in this condition:

It is ascertained that over fourteen hundred conveyances of these lands have been made by the principal grantees of the navigation company to as many persons—actual occupants—in farms of 40 to about 320 acres, averaging somewhat under 80 acres each, covering about 100,000 acres, besides some five hundred contracts to that number of persons not yet gone to deed, covering nearly 30,000 acres; in all, about 130,000 acres in the occupation of nearly nineteen hundred bona fide purchasers and occupants.

This leaves about 83,000 acres (now worth nearly $2,000,000) of the 213,000 acres, the smaller portion of which is not occupied at all, and by far the larger portion of which is occupied by naked squatters and repudiating contractors, said to be several thousand in number.

These "naked squatters," or, as others might designate them, "speculation squatters," comprise most of those who have organized the famous "settlers' union," which has protracted this struggle through so many years, and whose purposes and methods are so clearly indicated by the agreement entered into by the "speculation squatters," a skeleton of which agreement I have here in this:

NOTE TO SETTLERS' UNION.

FORT DODGE, IOWA, ——, 187—.

Sixty days after the resumption of the so-called river lands, by act of Congress, as Government land, by which acts, as a bona fide settler, I may perfect my title under Government to the following lands, to wit:

The —— of section No. ——, township —— north, of range No. —— west, fifth principal meridian, Iowa.

I promise to pay to treasurer of Settlers' Union, or bearer, the sum of —— dollars, being at the rate of one dollar per acre on said tract so confirmed by Congress in me by means of resumption of the so-called Des Moines navigation and railroad lands. Said sum so owing by me shall be and become and remain a mortgage lien on said piece or parcel of land claimed by me until said note is paid. Also, said note is and shall be a special lien on any compensation or indemnity that may be granted by Congress and accepted by Settlers' Union or myself in lieu of said land, and be paid as soon as such compensation or indem-

nity is set apart for such purpose by such act, and retained out of such moneys by the "Settlers' Union" for payment of this note.

But in case the Settlers' Union fails to secure the title as above, or compensation, or indemnity, then this note is null and void.

——— ———.
——— ———.

STATE OF IOWA, —— *County, ss:*

On this —— day of ——, 187 , before me, a —— in and for said county, personally appeared ——— ———, to me well known to be the identical person whose name is signed to the foregoing instrument, and acknowledged same to be his voluntary act and deed.

Witness my hand and seal the day and date herein written.

——— ———.

The schemer who prepared this form was sharp enough to make the amount that should be filled in "a special lien on any compensation or indemnity that may be granted by Congress * * * in lieu of said land," thus "casting an anchor to the windward" in time.

The entire contention arises under the act of Congress approved August 8, 1846, the principal sections of which are as follows:

An act granting certain lands to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River, in said Territory.

Be it enacted, etc., That there be, and hereby is, granted to said Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines River from its mouth to the Raccoon Fork (so called), in said Territory, one equal moiety, in alternate sections, of the public lands remaining unsold and not otherwise disposed of, incumbered, or appropriated, in a strip 5 miles in width on each side of said river, to be selected within said Territory by an agent or agents, to be appointed by the governor thereof, subject to the approval of the Secretary of the Treasury of the United States.

* * * * * * * *

SEC. 4. *And be it further enacted*, That whenever the Territory of Iowa shall be admitted into the Union as a State the lands hereby granted for the above purpose shall be and become the property of said State for the purpose contemplated in this act, and for no other: *Provided*, The Legislature of the State of Iowa shall accept the said grant for the said purpose.

Approved August 8, 1846.

On the 23d of February, 1848, Richard M. Young, Commissioner of the General Land Office, communicated to the board of public works of the State of Iowa his construction of this grant, as follows:

A question has arisen as to the extent of the grant made to Iowa by the act of 8th August, 1846, and the opinion of this office has been requested on that point.

By the terms of the law the grant is of an equal moiety in alternate sections of the public lands remaining unsold and not otherwise disposed of, incumbered, or appropriated, in a strip 5 miles in width on each side of the river, to be selected within said Territory, etc., and the proceeds are to be applied in the improvement of the navigation of that river from its mouth to the Raccoon Forks. Hence the State is entitled to the alternate sections within 5 miles of the Des Moines River, throughout the whole extent of that river, within the limits of Iowa.

In pursuance of the instructions of Hon. Robert J. Walker, then Secretary of the Treasury (who then had control over the General Land Office), Mr. Young, the Commissioner of the General Land Office, directed the register and receiver at Iowa City to withhold from sale the land north of the Fork. The following is his letter of June 1, 1849:

GENTLEMEN: The Secretary of the Treasury having decided that the grant to the State of Iowa under the act of the 8th of August, 1846, extended along the Des Moines River to its source, and that it did not stop at the Raccoon Fork, as this office had previously decided, you are hereby directed to withhold from sale all lands situated on the odd-numbered sections within 5 miles on each side of that river above the Raccoon Fork. Inclosed I send you a diagram, upon which the State selections above that point are colored yellow.

I have also to request that you will make out a list, showing the sales and locations which have been made within these selections, as it is designed to endeavor to procure some legislative action on the part of Congress confirmatory of them. The diagram inclosed extends 89 north, 26 west, being as far as the surveys have progressed in that direction.

This was the original order withholding the lands in controversy from sale, and from that date to this day these lands have been held in reservation, and not subject to sale by the Government nor subject to entry by homesteaders or otherwise.

By an act of Congress approved March 3, 1849, the Department of the Interior was organized and jurisdiction over the subject of public lands was transferred from the Department of the Treasury to it. Hon. Thomas Ewing, of Ohio, became Secretary of the Interior on the 8th day of March, on the accession of the administration of President Taylor. Soon after his installation the construction which had been placed upon the grant by the Secretary of the Treasury was challenged, and on the 6th of April, 1850, Secretary Ewing reversed the ruling of Mr. Walker and held that the grant was limited to the lands below the Raccoon Fork.

The conclusion of his letter is as follows:

As Congress is now in session, and may take action on the subject, it will be proper, in my opinion, to postpone any immediate steps for bringing into market the lands embraced in the State's selections.

It will be seen that Mr. Ewing, while differing in his construction of the act, saw proper to continue the order of his predecessor, withholding these lands from market. He evidently anticipated that the uncertainty would be resolved by some act of Congress which was then in session.

This construction given to the act by the Secretary of the Treasury and Commissioner Young, of the General Land Office, was sustained by the opinion of the then Attorney-General, Mr. Johnson, rendered July 19, 1850, to whom the matter had been referred by the President. This opinion is shown by the following extract:

The grant of alternate sections of land on the Des Moines River to Iowa, by the act of 8th August, 1846, extends the entire length of the stream, as well above as below the Raccoon Fork. The purpose of the grant was to aid Iowa to improve the navigation of the said river from its mouth to the Raccoon Fork, but the grant itself is not limited to the section to be thus improved.

But the question was disposed of by a former Secretary of the Treasury while the Land Office belonged to his Department, and the subject is now *res adjudicata* and beyond the control of the Secretary of the Interior. (Bank of the Metropolitan *vs.* The United States, 15 Peters, 401).

The State of Iowa contended that the grant extended to the Minnesota line. Many eminent jurists sustained the claim in elaborate and carefully considered opinions.

October 29, 1851, Mr. Secretary Stuart said:

In view of the opinions of several eminent jurists which have been presented to me in favor of the construction contended for by the State, I am willing to recognize the claim of the State and to approve the selections without prejudice to the rights, if any there be, of other parties, thus leaving the question as to the proper construction of the statute entirely open to the action of the judiciary.

You will please, therefore, as soon as may be practicable, submit for my approval such lists as have been prepared, and proceed to report for like approval lists of the alternate sections claimed by the State of Iowa above the Raccoon Fork as far as the surveys have progressed, or may hereafter be completed and returned.

Under this ruling of Secretary Stuart the lands north of Raccoon Fork for a distance of 80 miles, which was as far as the lands had been at the time surveyed, were certified as inuring to Iowa under the act of 1846, and these selections were formally approved by the Secretary of the Interior in an order dated October 30, 1851.

There were approved in October, 1851, March, 1852, and December, 1853, lists of lands above the Fork which were certified to the State of Iowa, covering lands amounting to 271,572 acres.

After the State of Iowa had expended $475,000 upon this Des Moines River improvement, and while it was indebted for expenses incurred in the work, and after freshets and floods had destroyed or greatly injured many of the improvements made by the State under the stimulation of this very national grant, then the State entered into a contract with the Des Moines Navigation and Railroad Company, which undertook to receive payment in land and go on with the expenditure and continue the work.

By the terms of the contract the company bound itself to expend the sum of thirteen hundred thousand dollars in the construction and improvements contemplated, and to receive in payment for the money thus advanced conveyances of these lands, which had been certified to the State of Iowa under the grant of 1846. This contract was regarded as being a proper execution of the trust under that act, because whenever $30,000 or more of the money advanced by the company had been invested in the improvement, it was regarded the same as if the company had purchased the lands and paid that sum of money to the State and the State had then used it for the purposes of the improvement.

There seems never to have been any question but that this contract was valid and proper under the act of Congress. It is to be observed, however, that by the terms of this contract the State of Iowa incurred no personal obligation whatever, and made no agreement to pay to the company any sum of money or other consideration as a State; it simply obligated itself to convey to the company, in accordance with the terms of the contract, the lands which the State had received from the Federal Government under the original act of Congress, and such conveyance by the State was to be a full compensation and acquittance for the moneys advanced by the company.

Particular attention is called to this contract, because it constitutes the initial right which the Des Moines Navigation and Railroad Company acquired to these lands. As already explained, at that time it was the accepted opinion in Iowa that the State had acquired a valid title to the lands and that the grant extended above the Raccoon Fork, and this contract constituted an executory bond on the part of the State to convey these lands to the company upon the performance of certain precedent conditions by the company, and their claim to the lands as bona fide purchasers originated in this contract, which, as will hereafter appear, was executed and carried out by the State by a formal deed which would have the effect of vesting in the company all the legal title which the State possessed.

After the company had entered upon its performance of the contract, and after it had expended thereunder, as was agreed between the State and the company, the sum of $332,644.04, all began to doubt whether the river could be made navigable, and railroad projects and other interests began to make themselves felt, and further work was abandoned and a settlement between the State and the company was concluded in the execution of the following deed:

This indenture, made this 18th day of May, 1858, by and between the State of Iowa, party of the first part, and the Des Moines Navigation and Railroad Company, parties of the second part, witnesseth that the said party of the first part, for and in consideration of $1 paid by the parties of the second part, and in pursuance of the contracts and agreements between the State of Iowa and the said Des Moines Navigation and Railroad Company for the improvement of the navigation of the Des Moines River, in the State of Iowa, and in pursuance of a joint resolution of the General Assembly of the State of Iowa, approved the 22d day of March, 1858, does hereby sell, grant, bargain, and convey to the Des Moines Navigation and Railroad Company the following-described lands, to wit: All lands granted by an act of Congress approved August 8, 1846, to the then Territory of Iowa to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the General Government, saving and excepting all lands sold and conveyed, or agreed to be sold or conveyed, by the State, by its officers and agents, prior to the 23d day of December, 1853, under said grant; and said company or its assigns shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full

power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the General Government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of said grant entirely released from any claim by or through said company. And it is understood that among the lands exempted and not granted by the State to said company are 25,487.78 acres lying immediately above Raccoon Fork, supposed to have been sold by the General Government the day and year first above written, and of the State of Iowa.

[L. S.] RALPH P. LOWE.

By the governor:

ELIJAH SELLS, *Secretary of State*,
By JNO. M. DAVIS, *Deputy*.

It will be noticed that this deed purports to convey to the navigation company all of the lands granted by Congress and certified to the State by the General Government, and the company is vested with all the rights of the State to such land under said grant or in any manner whatever.

Iowa claimed the lands above the Fork. These lands had, under limitations, been certified to her by the General Government, and in contemplation of all possibilities of decisions and legislation, all possible rights of the State were transferred to the company in settlement of all matters existing between the parties.

The amount of land conveyed by the deed comprised about 270,000 acres (different reports vary as to the precise amount), and it was the purpose of the Legislature of the State of Iowa that the remaining land intended to be conveyed by Congress and extending north of the Fork should be applied, with the consent of Congress, to the construction of a railroad along the Des Moines Valley.

Following these grants, expenditures, and settlements came the decision, in 1860, in the Supreme Court of the United States, of Denver and Pacific Railroad Company *vs.* Litchfield (23 How., 66), holding that the Congressional grant of 1846 carried no land above Raccoon Fork.

This decision unsettled the title to over 40,000 acres sold by the State to individuals, and also the grant to the navigation company, much of which had passed into the hands of grantees.

The whole Iowa delegation in Congress besought Congress to confirm these titles and protect the grantees of the State, including the company.

In response to this movement the following joint resolution was passed:

[12 Stat. at Large, 251.]

Joint resolution to quiet title to lands in the State of Iowa.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all the title which the United States still retain in the tracts of land along the Des Moines River and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior, as part of the grant by act of Congress approved August 8, 1846, and which is now held by bona fide purchasers under the State of Iowa, be, and the same is hereby, relinquished to the State of Iowa.

Approved March 2, 1861.

July 12, 1862, Congress, in order to terminate the whole matter, and being moved thereto by the Representatives of the State of Iowa and the others interested, passed the following act:

That the grant of lands to the then Territory of Iowa, for the improvement of the Des Moines River, made by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers), lying within 5 miles of said river, between the Raccoon Fork and the northern boundary of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines and Minnesota Railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa approved March 22, 1858. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, excepting those released by the United States to the grantees of the State of Iowa under joint resolution of March 2, 1861, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *Provided*, That if the State shall have sold and conveyed any portion of the lands lying within the limits of this grant the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof by virtue of the provisions of this act shall inure to and be held as a trust-fund for the benefit of the person or persons respectively whose titles shall have failed as aforesaid.

Approved July 12, 1862. (12 United States Statutes at Large, 1862, page 543.)

These lands were publicly and notoriously held in reservation from the issuing of Commissioner Young's letter of June 1, 1849, until this final grant by Congress, July 12, 1862. The terms of this Congressional grant are unequivocal, yet the vetoed bill before us assumes to validate the titles of those who managed to get upon the land previous to 1880 and claim title thereto; and provides that the Attorney-General shall seek to destroy the grant which was finally made perfect by this act of July, 1862.

An unbroken line of decisions supports and confirms the claim of the holders under the navigation company to the lands above the Fork.

At the December term, 1866, was announced the opinion of the Supreme Court in Wolcott *vs.* Des Moines Navigation and Railroad Company, 5 Wallace, 681. It was an action upon a warranty in a deed of conveyance by the company to Wolcott of one of the tracts of land above Raccoon Fork, being a part of the land conveyed by the State to the company under the deed heretofore set forth, and by the latter conveyed to Wolcott by warranty of date August, 1859, and it was claimed by the plaintiff that there had been a breach of the warranty, and that the company had never had any title to the land. The court held, first, that Wolcott's title was valid under the joint resolution of March 2, 1861, and the act of July 12, 1862, and that these subsequent acts inured to the benefit of the grantees of the State and to their grantees. After citing the history of the subject, the joint resolution of 1861, and the act of July 12, 1862, the court says:

If the case stopped here it would be very clear that the plaintiff could not recover; for, although the State possessed no title to the lot in dispute at the time of the conveyance to the Des Moines Navigation and Railroad Company; yet having an after acquired title by the act of Congress, it would inure to the benefit of the grantees, and so in respect to their conveyance to the plaintiff. This is in accordance with the laws of the State of Iowa.

After this followed Secretary Browning's unfortunate and wrongful holding in May, 1868, by which he encouraged settlers to enter upon the land and ignored the navigation company's title to the 271,000 acres that had been received by the State deed as confirmed by the Congressional act of 1862.

The only settlers in good faith concerned in this controversy who do not hold under the navigation company are those who went upon the land under the ruling of Secretary Browning, and from May 20, 1868, to January, 1870, as in December, 1869, the Supreme Court again rendered a decision upon the questions involved, and this decision disposed of the rulings of Mr. Secretary Browning:

December term, 1869, Hannah Riley, appellant, *vs.* William B. Welles. No. 379. Appeal from the circuit court of the United States for the district of Iowa.

Mr. Justice Nelson delivered the opinion of the court:

This is an appeal from the circuit court of the United States for the district of Iowa.

This case is not distinguishable from that of Wolcott *vs.* The Des Moines Company (5 Wall., 681). Welles, the plaintiff below, derives his title by deed from this company, the same as Wolcott in the former case. The suit in that case was brought to recover back the consideration money from the Des Moines Company, the grantors, on the ground of failure of title. The court held that Wolcott received a good title to the lot in question under his deed.

In that case it was insisted that the title was not in the Des Moines Company, but in the Dubuque and Pacific Railroad Company.

In the present case the defendant claims title under and in pursuance of the pre-emption act of September 4, 1841. Her husband took possession of the lot in 1855, and she was permitted by the register to prove up her possession and occupation May, 1862. The patent was issued October 15, 1863.

It will appear from the case of Wolcott *vs.* The Des Moines Company that the tract of land, of which this lot in question was a part, had been withdrawn from sale and entry on account of a difference of opinion among the officers of the Land Department as to the extent of the original grant by Congress of lands in aid of the improvement of the Des Moines River, from the year 1846 down to the resolution of Congress of March 2, 1861, and the act of July 12, 1862, which acts we held confirmed the title in the Des Moines Company. As the husband of the plaintiff entered upon the lot in 1855 without right, and the possession was continued without right, the permission of the register to prove up the possession and improvements, and to make the entry under the pre-emption laws, were acts in violation of law, and void, as was also the issuing of the patent.

The reasons of this withdrawal of the lands from public sale or private entry are stated at large in the opinion in the case of Wolcott *vs.* The Des Moines Company, and need not be repeated. The point of reservation was very material in that case, and we have seen nothing in the present one, either in the facts or in the argument, to distinguish it.

The decree below affirmed. (See also Railroad Co. *vs.* Fremont County, 9 Wall., 89; Railroad Co. *vs.* Smith, *Id.*, 95.)

These cases were followed by that of Williams *vs.* Baker, announced at the December term, 1872. This was an action by Baker claiming under the Des Moines Navigation and Railroad Company, and Williams claiming under the railroad act of 1856. The court, recognizing the principle that a plaintiff must recover upon the strength of his own title, declared that the certified lists, such as were issued to the State of Iowa under the act of 1846, have always been considered the proper mode of evidencing the title of the State under such acts. It was held that in consequence of the land having been previously withdrawn or reserved for sale, as explained in the proviso in the act of 1856, known as the railroad act, prevented the lands from coming under such railroad act, and that the subsequent joint resolution of 1861 and the act of 1862 confirmed and validated the original grant, and invested the Des Moines Navigation and Railroad Company with the title, and after a review of the former decision, the court say:

We therefore reaffirm, first, that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines River grant of 1846; and, second, that by the joint resolution of 1861 and the act of 1862 the State of Iowa did receive the title for the use of those to whom she had sold them as part of that grant, and for such other purposes as had become proper under that grant.

The next decision in order of the Supreme Court of the United States is that of Homestead Company *vs.* Valley Railroad Company, 17 Wallace, 153, decided at the December term, 1872. The Valley Railroad Company was a company which had succeeded to the rights of the Keokuk, Fort Des Moines and Minnesota Railroad Company, which was the original beneficiary of the indemnity act hereinbefore alluded to, and which began the construction of the railroad up the valley of the Des Moines River, that was completed by its successor, known as the Valley Railroad Company; and this case involves the effect of the Harvey adjustment of the indemnity land under the act of 1856 to the railroads and the State of Iowa, and that part of the act of July 12, 1862, which provides for an indemnity, if any of such lands above Raccoon Fork shall have been sold or otherwise disposed of and the title thereto proved invalid, etc.

In this decision the court declare:

It is therefore no longer an open question that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines River

grant of 1846, and that the joint resolution of 2d of March, 1861, and act of 12th of July, 1862, transferred the title from the United States and vested it in the State of Iowa for the use of its grantees under the river grant.

But the Homestead Company in this case claimed that if they could not recover the identical lands they should be entitled as *cestui que trusts* to a portion of the indemnity lands obtained by the State under the act of July 12, 1862, and the Harvey adjustment. The court then proceeds to consider that question, and held that the Homestead Company was not entitled to such indemnity, and that that adjustment between the State and the Federal Government had no effect whatever upon the title to these lands. The court also held that the act of July 12, 1862, was intended to place the State exactly where it would have been had the original grant of 1846 extended above the Fork, and that—

The State of Iowa had always maintained that the original grant, properly construed, extended above the Raccoon Fork, while on the contrary the United States had, at different times, both admitted and denied the claim of the State.

At the October term, 1879, was announced the decision of the Supreme Court in Wolsey *vs.* Chapman, 101 U. S., 755. It was a suit in equity, by Chapman, who claimed under the river grant and sought to quiet title against Wolsey, who claimed under the State, under a patent for lands ceded to the State under the act of 1841, granting 500,000 acres for internal improvement, approved September 4, 1841. Held that by the action of the departments in withdrawing these lands under the act of 1846, above the Raccoon Fork, from entry, etc., they came within the proviso and reservation of the act of 1841, and that the grant of the 500,000 acres did not authorize settlement of any of the lands so withdrawn under the act of 1846. The order withdrawing them was valid and effectual. Also held that Wolsey could not take under the act of March 22, 1861, for the reason that that act inured only to the grantees under the river act of 1846, while he was a grantee under the act of 1841. He was not a purchaser under the river grant. Also held that the adjustment made by the State as to the indemnity lands settled no rights between any other parties than the State and the United States, and left the title which had been conveyed to the Des Moines Navigation and Railroad Company valid and unaffected; and that the State had the right to convey the lands to the Des Moines Navigation and Railroad Company.

The court said:

As to the right of the governor to convey the lands in question to the Des Moines company under the joint resolution of March 22, 1858, authorizing a conveyance upon settlement with the company:

The original contract between the State and the company contemplated a conveyance of all the river-grant lands not sold by the State on the 23d of December, 1853. This should be construed in the light of the fact that the act making the river grant provided for sales of the granted lands to furnish the means of making the required improvement, and if this contract stood alone, we should have no hesitation in holding that the sales referred to were such as had been made in the execution of the trust under which the lands were held, but if there could be any doubt upon that subject, the resolution which authorized the settlement removes all grounds for discussion. By that resolution, all the lands which had before that time been approved and certified to the State under the river grant were to be conveyed to the company, excepting such as had been sold or agreed to be sold by the officers of the State prior to December 23,1853, "under said grant." The land now in controversy had been so certified, and it had also been sold under that grant. Therefore, the governor was expressly authorized to include it in his conveyance.

This case was followed by Litchheld *vs.* Webster County, 101 U. S., 773.

Then follows another case where the points decided are very distinctly specified:

Dubuque, etc., R. R. *vs.* D. M. V. Railroad, 109 U. S. Reports, 229.

Mr. Chief-Justice Waite delivered the opinion of the court, saying:

The following are no longer open questions in this court:

1. That the grant of lands to the Territory of Iowa for the improvement of the Des Moines River made by the act of August 8, 1846 (c. 103, 9 Stat., 77), did not extend above Raccoon Fork. (23 How., 66.)

2. That notwithstanding this the odd-numbered sections within 5 miles of the river on each side above the Raccoon Fork and below the east branch to which the Indian title had been extinguished were so far reserved "by competent authority" for the purpose of aiding in the improvement of the Des Moines that they did not pass under the act of May 15, 1856 (c. 28, 11 Stat., 9), granting lands to the State of Iowa to aid in the construction of certain railroads; and

3. That the act of July 12, 1862 (c. 161, 12 Stat., 543), "transferred the title from the United States and vested it in the State of Iowa for the use of its grantees under the river grant," citing 5 Wall., 681; 17 Wall., 144; 17 Wall., 153; 101 U. S., 753, 767.

The conclusion of the court as stated by Mr. Chief-Justice Waite in this subdivision 3 practically determines the law governing the questions heretofore raised in this contention and also the issue sought to be revived by this act now under consideration.

Finally, since the election of the members of the present Congress, and since the discussions upon and the veto of an act similar to the one before us in the Forty-ninth Congress, and in May, 1887, comes the decision of the Supreme Court of the United States in the case of—

BULLARD VS. DES MOINES AND FORT DODGE RAILROAD.

Error to the supreme court of the State of Iowa. Argued May 4, 1887. Decided May 23, 1887.

In equity, in a State court of Iowa, to quiet title to land. The complaint set up a pre-emption title. The respondent claimed under the act of July 12, 1862 (12 Stat., 543). The bill was dismissed, and on appeal the decree was affirmed by the supreme court of the State. The complainant sued out this writ of error. The case is stated in the opinion of the court.

Mr. Justice Miller delivered the opinion of the court.

This is a writ of error to the supreme court of the State of Iowa.

The case originated in a suit in equity brought in the district court of that State, for the county of Humboldt, by Edward F. Bullard, who is the appellant here.

The object of the bill was to quiet or remove clouds upon the title of the plaintiff to certain lands in that State, to which the defendant filed an answer and cross-bill, asking that its own title might be declared to be good and established by the decree of the court. The district court of that county made a decree in favor of the defendant, which, on appeal to the supreme court of the State, was affirmed.

There were many questions considered in the State courts of which this court can take no jurisdiction. But the main question raised there, and the only one here, has relation to a subject which has been often considered by this court. It arises out of what is called the Des Moines River land grant, which was originally made by the Congress of the United States to the then Territory of Iowa. A short history of the matters growing out of that grant, with some references to the decisions of this court, will simplify the complex record presented in this case.

By the act of Congress of August 8, 1846 (9 Stat., 77), there was "granted to the Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines River from its mouth to the Raccoon Fork (so called) in said Territory, one equal moiety, in alternate sections, of the public lands (remaining unsold and not otherwise disposed of, encumbered, or appropriated), in a strip 5 miles in width on each side of said river; to be selected within said Territory by an agent or agents to be appointed by the governor thereof, subject to the approval of the Secretary of the Treasury of the United States."

Soon after the passage of this statute the State of Iowa created a board of public works to take charge of this river improvement under a system of slack-water navigation on that stream. The contract for the execution of the work came into the hands of a corporation called the Des Moines Navigation Company. The work progressed for a number of years, several dams and locks being built from the mouth of the river upwards, the means for paying the contractors coming solely from the sales of the lands granted to the State for that purpose. These lands, as the work went on and the money was needed, were certified to the Secretary of the Treasury, and by it either sold to purchasers or conveyed to contractors who did the work. The State made no appropriations and furnished no means from any other source than this for the prosecution of the enterprise.

So long as no request on the part of the State for the certification of lands lying above the mouth of the Raccoon Fork was made of the Secretary of the Treasury, no question arose as to the extent of the grant. Afterwards, however, when a demand was made on that officer that such lands should be certified, he objected on the ground that the grant of lands did not extend beyond that point; that, as by the language of the statute making the grant it was "for the improvement of the Des Moines River from its mouth to the Raccoon Fork," it was not intended to grant lands lying above that point, although the same river ran through the entire length of the State, from near its northwestern corner in the Territory of Minnesota to the southeast corner, where it flows into the Mississippi River.

This question became the subject of active negotiations and controversy between the State of Iowa, through its governor and members of Congress, and the Treasury Department, as well as the Interior Department, which was created during this time and succeeded to the charge of this subject. Meanwhile one of the Secretaries certified to the State a part of the land in dispute, running to a certain range of townships above the Raccoon Fork. It may as well be stated here that the lands now in controversy were not among the lands so certified, but are among the odd sections lying north of those thus certified and within 5 miles of the Des Moines River.

On April 6, 1850, Secretary Ewing, while concurring with Attorney-General Crittenden in his opinion that the grant of 1846 did not extend above the Raccoon Fork, issued an order withholding all the lands then in controversy from market "until the close of the then session of Congress," which order has been continued ever since, in order to give the State the opportunity of petitioning for an extension of the grant by Congress. This court has decided in a number of cases, in regard to these lands, that this withdrawal operated to exclude from sale, purchase, or pre-emption all the lands in controversy, and unless the case we are about to consider constitutes an exception, it has never been revoked.

In 1856 Congress granted to the State of Iowa, for the purpose of aiding in the construction of several railroads across that State, from the Mississippi to the Missouri River, every alternate section, as shown by odd numbers, of the lands on each side of said roads, each of which, when the line was fixed, crossed the Des Moines River and ran through the lands which the State claimed had been granted to it for the purpose of improving the navigation of that stream.

Pending this controversy between the State of Iowa and the authorities of the United States as to the extent of the grant a suit was brought by one of these railroad companies that the question might be decided by this court. The case is reported as the Dubuque and Pacific Railroad Company *vs.* Litchfield, 23 How., 66, decided in 1860, and it was held that the grant did not extend above the Raccoon Fork. As soon as this decision was made the State, through its Congressional delegation, sought the action of the Congress of the United States to obtain the passage of an act which would secure the grant to the State and its grantees in the full extent which they believed Congress had originally intended by the act of 1846. That the propriety of some action by Congress and the demand for it was pressing is obvious when we consider that the Des Moines Navigation Company, under contract with the State, had spent large sums of money beyond what they had received from the State, and beyond the value of the lands certified to the State by the Secretary. The work, with all the material and implements on hand, was suspended, and the danger of the works being swept away and ruined by floods in the river was imminent. The whole subject was before Congress, but, without waiting to dispose of it entirely, that body, by way of immediate relief, passed the joint resolution approved March 2, 1861, 12 Stat., 254.

* * * * * * * *

At the next session of Congress a statute was passed, approved July 12, 1862.

By this joint resolution and this act of Congress the United States relieved, so far as it could, the misfortune of the construction of the grant to the Territory of Iowa of 1846, made by this court, and ratified the construction which had always been claimed by the State.

During all this controversy there remained the order of the Department having control of the matter withdrawing all the lands in dispute from public sale, settlement, or pre-emption.

* * * * * * * *

The broader and larger question of the title to the lands within 5 miles of the Des Moines River, above Raccoon Fork, which had not been certified to the State, and which were declared by the decision of Dubuque and Pacific Railroad *vs.* Litchfield not to be included within the grant of 1846, Congress retained for further consideration, and at its next session after this joint resolution was passed it completely disposed of the whole subject, so far as it was within its power to do so, by validating the grant of 1846 to the full extent of the construction claimed by the State of Iowa. If the order of the Commissioner of the General Land Office of May 18, 1860, was in force up to the passage of the joint resolution, it is not possible to perceive why it terminated then. It was declared by the Commissioner that the order or notice was made to protect these lands from location by any species of scrip or warrant, notwithstanding the decision of the Supreme Court to afford time for Congress to further consider the case.

This is not the way in which a reservation from sale or pre-emption of public lands is removed. In almost every instance in which such a reservation is terminated there has been a proclamation by the President that the lands are open for entry or sale, and, in most instances, they have first been offered for sale at public auction.

It can not be seen, from anything in the joint resolution, that Congress either considered the controversy ended or intended to remove the reservation instituted by the Department.

Its immediate procedure at the next session to the full consideration of the whole subject, shows that it had not ceased to deal with it; that the reason for this withdrawal or reservation continued as strongly as before, and it can not be doubted that the subject was before Congress, as well as before its committees, and that the act of July 12, 1862, was, for the first time, a conclusion and end of the matter so far as Congress was concerned.

The title of the plaintiff, therefore, rests upon settlements upon odd sections of land within 5 miles of the Des Moines River, which were reserved from sale or pre-emption at the time the settlements were made. Two of the settlements, which are the foundation of plaintiff's title, were made in May, 1862, only a few days before the passage of the act of July in the same year; and one of the settlements under which the plaintiff claims was made after the passage of that act. The title was transferred by that act to the State of Iowa for the original purposes of the grant of 1846.

The object of this bill is to have a declaration of the court that the title of the plaintiff under those settlements and pre-emptions is superior to the title conferred by Congress on the State of Iowa and her grantees under the act of July 12, 1862. If the lands were at the time of these settlements and pre-emption declarations effectually withdrawn from settlement, sale, or pre-emption by the orders of the Department, which we have considered, there is an end of the plaintiff's title, for by that withdrawal or reservation the lands were reserved for another purpose, to which they were ultimately appropriated by the act of 1862, and no title could be initiated or established because the Land Department had no right to grant it. This proposition, which we have fully discussed, will be found supported by the following decisions, which are decisive of the whole controversy: Dubuque and Pacific Railroad *vs.* Litchfield, 23 How., 66; Wolcott *vs.* Des Moines Company, 5 Wall, 681; Homestead Company *vs.* Valley Railroad, 17 Wall, 153; Williams *vs.* Baker and Cedar Rapids *vs.* Des Moines Navigation Company, 17 Wall, 144; Wolsey *vs.* Chapman, 101 U. S., 755; Dubuque and Sioux City Railroad *vs.* Des Moines Vally Railroad, 109 United States, 329, 334.

The judgment of the supreme court of the State of Iowa, founded on the same view of the subject as above set forth, is therefore affirmed.

After these proceedings, expenditures, enactments, and decisions he would be a very bold lawyer indeed who, possessing the intelligence requisite for admission to the bar of the Supreme Court, should now argue before that court that the question of the title of the navigation company, or of its grantees, is an open one; or that the lands covered by such titles can, by an act of Congress, be taken from the grantees of the State of Iowa and given to squatters or constituted a portion of the public domain.

Now, gentlemen have said here that the grantees have never earned this land. It has been repeatedly asserted that there was no money laid out here in any improvements for the navigation. These gentlemen must be mistaken. Their statement is direct, but it is entirely erroneous. Their statement is not based upon facts as the record gives them.

Here are the facts, and I ask attention to them. They can not be controverted. The State of Iowa itself paid out and expended on these Des Moines improvements under this act of Congress $475,000. What do gentlemen mean by saying that there has been nothing done under this act of 1846 that we have under consideration?

Mr. HOLMES. Nothing by the river company.

Mr. PARKER. Does the gentleman deny my statement that the State of Iowa paid out this money?

Mr. HOLMES. Certainly it did that. That is all right. That had nothing to do with this land whatever.

Mr. PARKER. Now the new company were intending to expend, according to their deed, $1,300,000. Therefore, add what that deed contemplated to what was expended by Iowa and that would amount to $1,775,000, to be expended, according to their theory, for lands below the Fork, of which there were only a little over 217,000 acres; or, in other words, the theory of our opponents involves the conclusion that those who improved the river should give one and three-fourths millions dollars for lands worth less than three-fourths of a million dollars.

Now I go on to what was expended by the Des Moines Company. The Des Moines Company expended, as shown by their statement, as certified by their officers, and as agreed upon by the State of Iowa, the sum of over $362,000.

Mr. HOLMES. Has the gentleman any evidence of that except the certificate of the governor?

Mr. PARKER. I have the evidence here in my hand under the signature of Edwin Manning, who was the commissioner for the State of Iowa. Does the gentleman deny that the State settled upon that basis?

Mr. HOLMES. I deny that the company expended the money——

Mr. PARKER. Do you deny that the State settled upon that basis?

Mr. HOLMES. I deny the truth of the certificate of the governor. It was collusive and fraudulent from the start.

Mr. PARKER. The gentleman does not deny my statement that this amount was agreed upon between the State and the company as having been expended by the company, and I hold in my hand the certificate of the commissioner of Iowa showing that it was expended, and here are some of the items showing the places where the expenditures were made. At St. Francisville, $6,115.04; at Bellfast, $15,933.03; at Croton, $19,114.08; at Plymouth, $37,053.39; at Keosauqua, $36,491.36; at Pittsburgh, $5,000.74; at Litchfield, $9,409.70; at Cyrille, $10,238; at Jordon's or Iowaville, $15,937.74; at Alpine, $6,276.44; at Whitebreast, $3,076.70; aggregating over $167,000 of the amount expended by the company.

Mr. HOLMES rose.

Mr. PARKER. If the gentleman thinks he can make this speech better than I can, he had better take my place. If he proposes to go tandem upon it, I reject the association. [Laughter.] I do not propose that my time shall be used by the gentleman.

Mr. HOLMES. I do not want to use the gentleman's time.

Mr. PARKER. Now, Mr. Speaker, to show the ideas that obtained in those times, I will read an extract from the certificate of this man who represented the State of Iowa. He says:

> The progress of the work to this time shows an aggregate outlay by the State and the company of nearly $800,000, and that portion constructed by the company is mostly in an unfinished condition.
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> * * * * * * *
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> The great and fundamental principle of this grant, and that which is paramount to all others, is to spread and diffuse the blessings of commerce and navigation throughout this entire valley; all other advantages being contingent thereto. If we fail of the first and main object aimed at—to bring the commerce of the world to our own doors, on a scale that places us on an equality with our commercial neighbors—then the object of the grant will be thwarted, the commercial and agricultural interests languish, and the citizens of the valley become crippled in their enterprises generally.

All parties then believed that the improvement of the Des Moines River would, as the State commissioners phrased it, "spread and diffuse the blessings of commerce and navigation throughout the entire valley."

That all parties misjudged does not justify one party to the contract in repudiating it after the money has been paid out in its performance by the other.

The purpose was to create navigation and bring commerce along this stream which ran through a secluded and then almost valueless portion of the now wealthy and powerful State.

This was the object that they were then working for. They believed honestly that it could be done by this navigation company. The navigation company believed it could be done. They went on and spent their money. They spent it against nature, and against the commercial developments of the time. The floods came and swept away the improvements. The railroads came across in the other direction and took away the freight and did the carrying, and the whole project failed, as other splendid projects have failed many and many a time.

Now, Mr. Speaker, I ask attention for a moment to another point. I suppose it will be contended here that great injury and injustice is being done to individuals who are upon these lands. I have seen a slip handed around here, which, after the time had been fixed when this case should come before us, was printed in our papers here, a slip headed "Worse than Ireland." What is it? Why, it is a statement that the landholders, immediately after the adjournment of Congress in March, will drive out and evict the settlers, because if they do not do so this bill will become a law later and they can not obtain possession of these lands; that is, you are asked to believe that these men are undertaking to cut their own throats by sending a notice here and having it printed in the Washington Star that immediately after the adjournment of Congress, if this bill passes, they are going to evict six or seven hundred people in order to avoid the effect of the thing which the article is intended to bring about. What does it mean? It is simply a back fire, and carelessly placed. It probably comes from the same source as the opposition to the veto. I say it is simply a back fire. We are told that one of the members of the Sixth Massachusetts Regiment, accounting for his absence at a critical moment during the famous encounter in Baltimore in 1861, explained that he had been creating a diversion. "What were you doing?" he was asked. His reply was: "I was creating a diversion." "What sort of diversion?" "I went around a corner and set a building on fire." [Laughter.] These men are "creating a diversion." An analysis of the statements contained in this printed list furnishes strong evidences that the friends of this bill are having telegrams sent from Des Moines and from different parts of Iowa to excite feeling here on this subject, so that feeling and prejudice may control our action against the decisions of the courts, which have been given time after time affirming the rights of this company and of the hundreds of individual settlers who have purchased from the company.

Another circumstance must be remembered. Of the squatters who are now complaining not one in forty, probably, ever paid a dollar upon the land they claim. A few—and there are hardly a dozen of these that have not been settled with—went on under Secretary Browning's rulings; a few have honestly settled as pre-emptors or homesteaders; but the great mass of the claimants have occupied and do occupy, rent free and tax free. The representatives of the company have paid for the land and pay the annual and other taxes, while the squatters, who have never paid a dollar, occupy the land and gather the crops untroubled by calls for purchase-money, rents, or taxes.

They may well afford to organize a "Settlers' Union" and pay $1 per acre into a common fund to keep them in possession, rent and tax free.

In one case the State of Iowa obtained a judgment against one of the holders under the navigation company for taxes in an amount exceeding $10,000, and the class of such holders have paid taxes upon lands

which our opponents claim never passed to Iowa, to the amount of hundreds of thousands of dollars.

Another fact must be considered in contemplating this proposed enactment. Large amounts of money have been loaned upon these lands to the holders of title under the State of Iowa as established by the act of 1862. I have here a printed schedule of nearly a dozen pages, showing an abstract of claimants, holders, mortgages, etc., in Webster County, but it is sufficient to say that the mortgages upon these lands situated in Webster County amount to $400,000, and such mortgages upon the total of such lands in the valley is estimated at not less than $2,000,000. The holders of these securities are scattered throughout the country.

The veto should be sustained, this bill should be defeated, and Congress at some future time should amply compensate all who went upon the lands that have been subject to contention, upon the invitation or under the encouragement of officials of the United States.

Commercial Union with Canada.

REMARKS

OF

HON. CHARLES S. BAKER,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889.

The House having under consideration the joint resolution (H. Res. 129) to promote commercial union with Canada—

Mr. BAKER, of New York, said:

Mr. SPEAKER: The relations between the United States and our Canadian neighbors have given rise to much discussion of late. With many of our own people the question has been whether friendly feelings could much longer endure the strain to which they have been subjected for some years. The pending resolution is perhaps well enough so far as it goes, but while liberalizing the policy governing between the two countries in respect of their trade relations it should not be forgotten that several matters growing out of the past dealings between our citizens and the Canadian Government demand consideration and adjustment.

It always tends to promote good feelings to have past wrongs righted. It is my purpose in a few brief observations to call attention to some of the matters to which I refer. It would hardly serve a good purpose to assert that our friends residing north of the imaginary line that separates the United States with their sixty millions of people from the Dominion of Canada with her much smaller population have been wronged and cheated under every treaty that has ever been made between the two countries.

It is not necessary to repeat any of the language used by members on this floor during the discussion of the fishery question last summer. It will be remembered, however, that on the 2d day of April last year I introduced certain preambles and resolutions in the following words:

Whereas "Her Majesty, by and with the advice and consent of the senate and house of commons of Canada," did by due statutory enactment, assented to May 15, 1879, provide that "any or all of the following articles, that is to say, animals of all kinds, green fruit, hay, straw, bran, seeds of all kinds, vegetables, including potatoes and other roots; plants, trees, and shrubs, coal and coke, salt, hops, wheat, pease and beans, barley, rye, oats, Indian corn, buckwheat, and all other grain; flour of wheat and flour of rye, Indian meal and oatmeal, and flour or meal of any other grain; butter, cheese, fish (salted or smoked), lard, tallow, meats (fresh, salted, or smoked), and lumber, may be imported into Canada free of duty, or at a less rate of duty than is provided by this act, upon proclamation of the governor in council, which may be issued whenever it appears to his satisfaction that similar articles from Canada may be imported into the United States free of duty, or at a rate of duty not exceeding that payable on the same under such proclamation when imported into Canada;" and

Whereas the Senate and House of Representatives of the United States of America in Congress assembled did, by act approved March 3, 1883, duly provide that plants, trees, shrubs, and vines of all kinds, and seeds of all kinds, fresh fish, fruits, green, ripe, or dried, eggs, and a large number of articles specifically named, should be admitted into the United States free of duty; in consequence whereof it appears that large quantities of plants, trees, shrubs, vines, and seeds, eggs, aggregating in value in the year 1885 $1,831,000; in the year 1886, $1,728,000; in the year 1887, $1,827,000, and great quantities of fish and other products of the Dominion of Canada have been imported into the United States duty free, while that Government has neglected, failed, and refused to keep or observe Her Majesty's standing offer of reciprocity in respect of the articles specified, or of many of them, and have, as is alleged, exacted large sums by way of duty upon many of the articles specified, which have been imported into Canada from the United States; and have, as is alleged, levied and assessed ad valorem duties upon American goods at the actual retail price or value at which such goods are sold for home consumption even when shipped, imported, and sold in large quantities at wholesale prices, notwithstanding and in disregard and violation of the spirit and letter of the Canadian statutes; and

Whereas it is claimed on the part of Canadian officials that the citizens of the United States can avail themselves of the privileges of reciprocity under the act first above quoted only after all the articles therein specified shall be admitted free of duty by United States laws: Therefore,

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report as speedily as practicable to this House the kinds and quantities of goods and products imported into the United States from Canada free of duty during the past five years, and also the quantities of similar goods and products exported from the United States into Canada during the same period, together with a statement in detail, showing the amount of duties, specific and ad valorem, paid thereon, to the end and purpose of ultimate recovery thereof, and of an adjustment of the differences resulting from such breach of faith on the part of the Canadian Government.

Resolved further, That the Committee on Ways and Means report to the House within ten days a bill providing:

First. For an ad valorem duty of 25 per cent. upon all plants, trees, shrubs, and vines of all kinds imported into the United States from the Dominion of Canada.

Second. For a specific duty of 5 cents per dozen upon eggs so imported.

Third. For a specific duty of 1 cent a pound upon all fish so imported.

Fourth. That in all cases a duty shall be imposed upon all goods and products now on the free-list whenever similar goods and products are subject to duty under the laws of Canada, at a rate equal to that imposed thereunder.

Fifth. That ad valorem duties imposed by the laws of the United States on goods, wares, and merchandise imported from foreign countries shall be assessed upon the actual retail price or value at which such goods are sold for home consumption in the country of production or export, whenever in the country of such production or export ad valorem duties upon goods, wares, and merchandise imported into such country by the United States are assessed upon the retail price or value at which such goods are sold for home consumption in the United States.

It may not be known to all the gentlemen of this House that within three days thereafter "the governor-general in council" issued the proclamation in accordance with the obligation imposed by good faith—the proclamation which should have been issued several years before.

It should be borne in mind that during the long delay practiced in performing its duty in respect of the matters referred to our people were subjected to payment of large sums by way of duties upon nursery stock, seeds, and other things, which ought of right to be refunded. We shall fail of our duty to our own industries and to the good and loyal citizens whose energy and enterprise hath made us great as a people if we do not take some steps looking to the repayment of the duties thus wrongfully imposed and collected. It will be noticed that the Secretary of the Treasury was directed to make a report to this House which would form the basis of intelligent action in respect of such wrongfully imposed duties.

But the majority of the Committee of Ways and Means, pressed as it was during last summer, charged by the self-imposed duty of legislating in the interest of foreign rather than home industries, failed to report back the resolution, but the same, unlike their bill, sleeps temporarily, to be acted on, let us hope, early in the next Congress. Credit should be given the Dominion Government for its partial performance of duty. That credit, however, is of doubtful value when we consider that an honorable member of the Dominion Parliament on the 18th day of last April proposed the passage of a bill in the following language:

An act to prevent practice of fraud by tree peddlers and commission men in the sale of nursery stock.

Whereas it is necessary and expedient to prevent the practice of fraud by tree peddlers and commission men in the sale of nursery stock: Therefore Her Majesty, by and with the advice and consent of the senate and house of commons of Canada, enacts as follows:

1. No person, and no agent of any corporation or association, shall sell or offer for sale any tree, plant, shrub, or vine or other nursery stock not grown in Canada without first filing with the secretary of state an affidavit setting forth his name, age, occupation, and residence, and, if an agent, the name, occupation, and residence of his principal, and a statement as to where the nursery stock aforesaid to be sold is grown, together with a bond to Her Majesty in the penal sum of —— dollars, conditioned to save harmless any citizen of Canada who is defrauded by any false or fraudulent representations as to the place where such stock sold by such person, corporation, or association was grown, or as to its quality, variety, or hardiness for climate: *Provided*, That the bond aforesaid shall, when the principal is a resident of Canada, be given by such principal and not the agent.

2. The secretary of state shall, on full compliance with the foregoing provisions, give to the applicant aforesaid a certificate under his official seal setting forth in detail the facts and stating that there has been full compliance by the said applicant with the provisions of this act, and such applicant shall exhibit the same or a certified copy thereof to any person to whom stock is offered by him for sale.

3. Every person, whether in the capacity of principal or agent, who sells or offers for sale in Canada, either as principal or agent, any foreign-grown nursery stock, shall furnish to the purchaser of such stock a duplicate order, with a contract specifying that such stock is true to name and as represented.

4. Every person who sells or offers for sale in Canada, either as principal or agent, any foreign-grown nursery stock without first complying with the requirements of this act, or refuses to exhibit the certificate mentioned in section 2 of this act, whenever demanded, or by means of any advertisement, circular, notice, or statement, printed or written, published or posted, or circulated by the agency of any officer, agent, or other person, or by any other means, falsely represents to any person or to the public that such nursery stock is grown in Canada, and is hardy, and is adapted to the climate thereof, is guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than $25 nor exceeding $100, or to imprisonment for a term not less than ten nor more than sixty days.

At the same time steps were taken looking to the reimposition of duties on nursery stock. Moreover, it appears that even now the introducer of the bill just read is endeavoring to secure consideration and passage thereof by the Dominion Parliament, while interested parties in Canada are procuring and presenting daily to the house of commons in Ottawa petitions—

for reimposing duties on fruits and nursery stock removed last session, and for increasing the duty on all vegetables, including melons, to 30 per cent. ad valorem "when imported from the United States."

The question of the export duty on logs has also attracted, indeed even now attracts, much attention on both sides of the line. In view of these things can it be wondered that our relations are somewhat strained? I have introduced and urge upon Congress the passage of a bill which is now before the Committee on Ways and Means, which I ask to read. It is entitled "A bill to regulate commerce between the

United States and foreign countries." Its preamble and provisions read as follows:

Whereas the Dominion of Canada did by proclamation of date of April 13, 1888, declare that under the provisions of chapter 33 of the customs act of Canada green fruits, certain seeds, trees, shrubs, plants, and vegetables, all specifically prescribed, should from that time, and until otherwise provided, be admitted into Canada free of duty; and

Whereas the Canadian Government is now contemplating the rescinding of such action and the restoration of the duties on the above-mentioned articles, and further has exhibited a disposition to favor other legislation of a hostile character; and

Whereas there has been introduced into the Canadian Parliament a measure known as the Boyle bill (No. 105), which places the sale of nursery stock grown by American nurserymen under certain restrictions and regulations, with the intention of excluding such American nurserymen from Canadian territory, and thus crippling an important branch of American industry; and

Whereas by recent legislation the Canadian Government has imposed an increased export duty on pine saw-logs and round unmanufactured timber, with the intention of making the exportation of such merchandise prohibitory: Therefore,

Be it enacted, etc., That all articles imported into the United States, in addition to the import duties now or which may hereafter be imposed by the laws of the United States thereon, shall pay an additional duty equal in amount to any export duty which may be imposed on the shipment of like articles to the United States.

SEC. 2. That in case any foreign country shall impose an export duty upon logs, shingle bolts, or other kinds of wood that may be designed for or used as the raw material of any American saw-mill, mill, or factory, that the sawn lumber, shingles, or other manufactured product of such kinds of logs, bolts, or wood as may have an export duty imposed upon it by such country shall, when imported from such country, be subject, in addition to the regular duty provided by law, to an additional duty equivalent to the amount of such export duty.

SEC. 3. That all articles, on shipment into the United States, whether embraced in the free-list of the United States or otherwise, shall pay no less rate of duty than is or may be chargeable by the laws of the country of export on like articles imported into said country from the United States.

SEC. 4. That the following articles shall, on importation into the United States, be subject to the following rate of duty:

Eggs, 5 cents per dozen.
Hay, 25 per cent. ad valorem.
Straw, $3 per ton.
Potatoes, 25 cents per bushel.
Fish (fresh for immediate consumption), 1 cent per pound.
Apples (green), 40 cents per bushel.
Apples (dried), 2 cents per pound.
Poultry and game of all kinds, 20 per cent. ad valorem.

SEC. 5. That all ad valorem duties imposed by the laws of the United States on goods, wares, and merchandise imported from foreign countries shall be assessed upon the actual retail price of or value at which such goods are sold for home consumption in the country of production or export, whenever in the country of such production or export ad valorem duties upon goods, wares, or merchandise imported into such country from the United States are assessed upon the retail price or value at which such goods are sold for home consumption in the United States.

SEC. 6. That should any country impose a duty on the packages in which are contained goods, wares, and merchandise imported into that country from the United States, there shall be imposed a like duty on similar packages in which goods, wares, and merchandise are imported into the United States from the country imposing such duty.

SEC. 7. That this act shall take effect from and after the date of its passage.

Now, I appeal to the House and to the country if it is not fair and just to ourselves and to those we represent that we should enact this or some other just measure in the way of precaution at the very earliest date? As to the log question I have said:

It is not merely the rate of duty we object to. We have adopted the principle that if any country imposes an export duty on logs or the product of the forests the amount of such export duty shall be added to the prevailing duty upon lumber imported from that country into the United States. This principle is too sound to be abandoned. For instance, our present customs duty on sawn lumber is $2 per thousand feet. If the Canadians continue their export duty of $3 per thousand upon logs we will add that $3 to our duty, making the import duty on lumber $5 per thousand. Ten times as many logs are shipped from the United States to Canada as are imported into this country, yet our Congress is prohibited by the Constitution from putting an export duty on anything. That disadvantage we hope to overcome in another way, unless the Canadians agree to treat the business of exporting logs as we do.

Our policy with respect to that question is embodied in the tariff measure lately passed by the Senate. We propose to reduce the lumber duty from $2 to $1.50 per thousand feet; but in the case of countries imposing an export duty on timber or woods of any kind we will add the amount of such export duty to our duty on the sawn lumber imported from such country. For instance, the Canadians impose $3 a thousand feet export duty. If they continue doing so or impose any rate of export duty the duty on Canadian sawed lumber brought into the United States will, under our bill, be $4.50 per thousand feet. If they reduce the export duty to $2, the American duty on lumber will be $3.50 per thousand. If the Canadians abolish the export duty altogether, then of course Canadian lumber will only be subject to the regular duty of $1.50 per thousand feet.

We do not desire or intend to dictate to a friendly power any course of legislation they may in their judgment deem it for their interest to maintain. We simply desire to enact such laws as will be constitutionally protective of American interests. There is no retaliation involved in the question. Export duties on raw material is a relic of barbarism.

Our logs in immense volume go out free to any country which desires them and always will. Fair play is a jewel. We want it and must have it.

The course it is proposed to adopt in the bill is a means to an end. Read it very carefully and see in it a beacon light for the commercial world and all governments alike.

Now, suppose the Dominion Parliament reimposes the duty on our nurserymen and enact the pending bond bill. True they hurt both themselves and our people at the same time. It may be said that they will suffer in the greatest degree. I think they would, but we owe it to "humanity" to prevent even our Canadian friends from inflicting wrongs upon themselves. But to enact the pending legislation referred to in the Dominion Parliament would be a flagrant wrong—an act of bad faith on the part of the Canadian Government that would seriously impair existing friendly trade relations. Its very proposal seems to demand and justify the legislation by Congress now proposed.

The great need at this time on the north side of the line is wise counsels, statesmanlike leadership.

In a few days we shall pass out from the "dreary waste and desert" through which the country has been traveling for four years, and will come once more into the sunlight of a new and wiser administration. One "by the people, of the people, and for the people," and if our neighbors on the north will afford us the opportunity we will teach them wisdom and give their representatives, if they will spend a little time here as our guests, an opportunity to study our institutions on the spot.

I remember, Mr. Speaker, that when in the dark days of rebellion our call went forth to the brave men of the North to volunteer in defense of the Union, over forty-six thousand Canadians enrolled themselves among its defenders. The time is coming when they will be in the Union themselves, a part of us, they and their children and their lands. God speed the day! I am hoping to see the day of Canada's richest blessing when she becomes a part of our confederation. Her people are ready. Let them speak and their leaders must heed. "Commercial union" we will not favor, except as a means to a speedy end. Meanwhile, Mr. Speaker, I conceive it to be our imperative duty to enact such legislation as will enable our Government to afford speedy protection to our own vast interests at the instant of any hostile or unfriendly legislation by the Dominion Parliament.

We have always met our Canadian neighbors in a generous spirit, and ever will. The trouble is and has been that we have not been treated in good faith. We notice with unconcern the development of the British scheme which is said by some to be a menace to the navigation, transportation, and commercial interests of the United States, and we are not unmindful of the military preparations of the British Government on this continent. The people of the United States, who fought the greatest war of all ages and at its close sent back to the pursuits of peace a million trained soldiers and in two decades achieved the material victories that they have, need have no concern, while ever watchful of the affairs of our neighboring nation. As a people we wish them well, but for our own we demand justice and fair play.

Interstate Commerce.

SPEECH
OF
HON. CHARLES H. GROSVENOR,
OF OHIO.
IN THE HOUSE OF REPRESENTATIVES,
Saturday, March 2, 1889.

The House having under consideration the bill S. 2851, being an act to amend an act entitled "An act to regulate commerce," approved March 4, 1887, and the question being upon agreeing to the report of the conference committee—

Mr. GROSVENOR said:

Mr. SPEAKER: The amendment which I had the honor to offer, and which is to be abandoned by the report of the conference committee, is in the following words:

Add at the end of section 1 the following:

"*Provided, however*, That it shall be unlawful for any common carrier subject to the provisions of this act to carry refined oil or other petroleum products, cotton-seed oil, or turpentine, for any shipper, in tank or cylinder cars, except upon the condition that said carrier shall charge the same rate, respectively, for the transportation of said products in wooden packages or barrels, in car-load lots, as in said tank or cylinder cars, the said tank and cylinder and said wooden packages and barrels being carried free in each case."

I do not occupy the ground which has been so eloquently covered by the gentleman from Iowa [Mr. ANDERSON], nor do I join that gentleman in the criticisms of the railroad corporations of the country. My position upon that subject is perfectly well known and understood. I believe that all railroad corporations brought into existence in response to public demand were ready, willing, and capable of transacting the business of the country in a manner entirely just to all the business interests of the communities; and if left to themselves that competition would have better regulated the whole subject than any enactment of law.

I had the distinguished honor, and it gives me great satisfaction, of voting against the interstate-commerce bill at every stage; and I have voted against this bill and shall continue to do so. I voted against the original act known as the interstate-commerce law. I did it because I believed that it would result in just what it has resulted in—absolute failure to accomplish its purpose.

Whatever may have been the original purpose of the inventors or projectors of this special legislation, it is very certain that the people of the United States have received no possible benefit from it. It has placed upon their shoulders the burden of an enormous increase of public expenditure, but has resulted in nothing valuable whatever. I speak with some feeling about this provision in its effect upon the section of the country where I live. I know that it has deranged the

business of the country; that it has injured shippers—ruined many of them—to enable the corporations which saw fit to do so to shield themselves behind the provisions of the law, to do injustice wherever they saw proper to do so.

At the time the original act was pending I called the attention of the House to the presence in the bill of this remarkable language, "Under substantially similar circumstances and conditions," and I said then that if I were permitted to do so I would move to strike that language out of the bill; but I was not permitted to do so, for I was gagged by the previous question, and the dragon's teeth of these words thus sown under our own observation have produced a crop of bad results. That language was skillfully conceived and adroitly inserted in the enactment. It could have but one effect, and that was to disorganize and to create misunderstanding. But it was adhered to with great tenacity by the sponsors of this legislation at the other end of the Capitol, and even greater than was any other enactment of the bill. It was the favored legislation, it was the favored enactment, it was the bantling of somebody's ingenuity, and it was adopted by all the promoters of this bill and no argument could effect any change of purpose. Out of it has grown all the wrong of which we complain in Ohio. If it was not put into the bill for the purpose of enabling certain shippers to procure certain discrimination, then the constructors of that bill builded wiser than they knew.

And now, Mr. Speaker, I make the broad charge here that there has been no step taken under this enactment that has ever resulted in breaking down discrimination by railroad corporations throughout the country, and that there exists to-day, fortified behind this legislation, a system of discrimination more flagrant, more glaring, more outrageous, and more inconsistent with the original pretended purpose of this legislation than any discrimination that was ever attempted or dared to be attempted by any corporation prior to this enactment. Jurisdiction has been assumed by this commission, and I cast no aspersion against that body. It rises just about as high as its source; it bears about the same comparative relation to effecting a valuable legislation in this behalf as a eunuch bears to the human family; it has no power in itself. It is a mere fulminating machine to utter platitudes to the people of the country without any power of enforcing its judgment.

I undertake to say that this assumed power over the railroads of the country has operated in one way or another to exclude the jurisdiction of State Legislatures and State tribunals to such an extent as to leave the shippers of the country substantially without protection, and I call attention to the fact, which must be an impressive one to the men who hoped that some good was to come of this legislation, that notwithstanding the presence of this law for nearly two years and its operations in all directions, no case has been made that has reached a final result. The best legal minds of the country doubt the constitutionality of many provisions of this law. I doubt them, although I do not class myself with the best legal minds of this country. I never did believe that certain provisions of this law were constitutional, and yet, Mr. Speaker, no railroad company has ever been put into a position such that it desired the question of the constitutionality of this law tested, so far as I know. They have been quite content with the muddle that has been produced by it, and are willing to go on stirring the muddy waters of uncertainty while great interests are crushed to death.

Now, Mr. Speaker, after a great deal of consideration a provision was brought here to relieve the difficulty growing out of the original act, and the House of Representatives introduced the amendment about which I am speaking into the bill, a very simple provision, a provision to compel railroad companies to carry and transport oils, turpentine, etc., in barrels, in car-load lots, at the same rate as they carry a similar quantity in tank car-load lots; but the moment that this was put into the bill, just so quick the distinguished gentlemen at one end of the Capitol or the other, who had been posing as the friends of the people and insisting upon equal rights to all, and who were hostile to the greediness of the railroad corporations, shrank from their duty in this behalf and ran away. No matter that appeal after appeal came here from the manufacturing interests of the country; no matter that it was pointed out from one end to the other that the discrimination was glaring and outrageous, they started at the other end of the Capitol with the proclamation that it was class legislation, and some distinguished authorities in this country have gotten it into their heads that where you legislate upon provisions to carry oil and turpentine and name it, that that is class legislation.

Why, we have legislated upon the subject of classes; but to get rid of their position the suggestion is made that the "naming" of oil is a great political crime in this country. This is the proposition that was made:

That it shall be unlawful for any common carrier subject to the provisions of this act to transport cars for any shipper who shall own or control the same, except upon condition that the same shall carry by such car the property of all shippers without discrimination or favor, or shall furnish similar cars to all shippers upon the same terms and conditions.

Now the charge of class legislation was gotten rid of; here was general legislation—a general topic, but it met with exactly the same fate. It was a proposition looking to put into plain English language what was alleged, but fraudulently alleged in my judgment, to be the original purpose of this act. There it stands, embodied in plain English. It meant simply this: There shall be no discrimination among shippers; one man shall have as fair a chance as another; all men shall stand alike in this country with relation to the common carriers of the country. It is an embodiment of all that ever was worthy of an honest man's consideration for one moment. It is all there. It is the gist and marrow of the whole plan, and these projectors, its high priests, its sponsors, ran from its cradle and fled with the precipitancy of ancient Peter from the guard. They ran away from the whole business and let it die, and let the evil stand.

The whole miserable muddle, gentlemen of the House of Representatives, is this: It is the putting upon the statute-book a thing "without beginning of days or end of years;" without authority to enforce the opinions of its tribunal, barring the right of citizens to enter tribunals near the homes and business places of the injured, fencing up the avenues of redress in such a way as to make them impossible of travel by the persons interested, and when traveled valueless as means of redress. It created a board, as I have said, for the mere purpose of fulmination, and it now appears that whenever there is an amendment suggested to this legislation that is likely to touch anything, accomplish anything, hit anything, its authors flee from it. This amendment is the first proposition that has ever been made to steer this law up against anything. It has gone wending its way through the mazes of Congressional complication, and has successfully avoided putting its finger on anything, and now when an effort is made that is practical these gentlemen jump up and figuratively shout: "Look out, you will hit something if you do not mind!" There is something in the way. What is it that is in the way? Great monopolies, enormous enterprises are in the way.

So we came here with an amendment meeting the identical case, applying it to oil, turpentine, etc., just the things to which they had called attention. Then, when the great posers and imposers upon the public of this country denounced it in the other end of the Capitol, we said, "We will shear it; it shall be shorn of all special features and we will make a general, sweeping, equitable provision, which shall say that the railroad company, if it carries for A a car-load of oil in a tank, at a given price, shall also carry for B a similar quantity, or furnish him a car and do the same by him." There is no way, my countrymen, but for this House, the Representatives of the people, with the intelligent knowledge which we now have, to stop further proceedings, defeat this bill, and some time or other secure the passage of legislation that will cure the evils under which the people are complaining.

I denounce, as an outrageous betrayal of the confidence of the people of this country, the rejection of this amendment. I am not complaining, Mr. Speaker, of the Committee on Commerce of this House. I accord to them the utmost fair dealing and intelligent consideration of this great problem. In their deliberate judgment, patriotically reached I agree, they have said it is better to take something than to get nothing. My opinion is, however, that they will grasp at a shadow of something, and will find when they have taken hold of what they think is something, in fact it is nothing. It is a shadow, it is a myth, it is an apparition of justice, and not justice; and the strongest argument against what is left in this report, to my mind is that it has received the sanction of the members of the conference committee at the other end of the Capitol.

I do not believe they would have consented to anything that would have the slightest effect on God's earth except creating a commission to draw their salaries. But I do not complain of this commission, as I have already said; a stream does not rise any higher than its source. We have been living under this act for, lo! these many months, and I have here in my hand an utterance of this very commission saying that in the decision of this very question in the case of Rice against a railroad company there was an opening in the statute, a defect that ought to be filled up and improved by legislation; and we came here with that identical legislation—the very thing the commission said ought to be put into the constitution, and this conference committee rejects it.

Mr. BUTTERWORTH. I understand that the amendments proposed by my colleague met just the requirements suggested by the commission.

Mr. GROSVENOR. Coming to the fact that there was a discrimination which they could not cure with the law as it stood, the commission said:

These facts are noted for the purpose of placing the whole subject distinctly before the National Legislature. If it is the will of Congress that all transportation of persons and property by rail should come under the same rules of general right and equity, some further designations of the agencies in transportation which shall be controlled by such rules would seem to be indispensable.

From this—this is a commission that has not any power except to talk—they talk and speak in plain English—they said that this discrimination by tank-car business was a violation of the law, and they said if it is the will of Congress that all transportation of persons and property shall come under the same rules of general right and equity, then this thing ought to be relieved against, and I stand here to-day and say in plain English that the action of these men in refusing this amendment justifies me in saying in the very language of this demand—these gentlemen do not desire, do not intend, will not have it, "That all transportation of persons and property by rail shall come under the same rules of general right and equity."

There never was a more simple proposition made to anybody, never a proposition more easy of accomplishment, never a betrayal more unjustifiable. We simply say to the railroad corporations, if you carry a car-load of oil in a tank at a given price, you shall either furnish another the same car at the same price or else you shall carry a similar quantity in barrels at the same price.

Mr. Speaker, it was said by my friend from New York [Mr. WHITE] in the debate a few days ago that the presence of these corporations in this matter had cheapened oil everywhere, and I grant that there is much in the figures or history of all transactions to justify his statement; but I desire to put into my speech some figures which will go very far to show that the gentleman's statement must be taken with many grounds of allowance.

It is true that by reason of the pipe-line system and the enormous increase in the production, and many other reasons, this product has been greatly cheapened; but in a trial upon one of these questions in a court in Ohio evidence was offered, and not contradicted, showing the effect which the competition of one individual, Mr. George Rice, a citizen of my district, had upon the market; and I append here a table showing the effect of this competition upon the market in a large number of places.

Now, it is a well-known fact that the Standard carries its oils almost wholly in tank-cars and dumps same into iron reservoirs at central points in all the States, and distributes same into barrels and tank-wagons, and yet with these great advantages in their favor of 12 cents to $2.39 per barrel (between barrels and same number gallons in tank-cars, 50 each barrel), one George Rice has sent his oils (per his own sworn statement before the Manufactures Committee of last session) to far-off distant points and reduced the price of Standard oils from 5 to 11 cents per gallon, as the following statement shows:

Prices made by Standard Oil Company before the oils of Geo. Rice entered the points below, and also prices to which they were cut by the Standard after entry of said oils.

Names of towns.	Kinds, and how delivered.	Prices.	
		Before entry.	After entry.
Paris, Tex	110° fire test, in barrels.....per gallon	$0.15	$0.10
Do	175° fire test, in barrels.....do	.20	.13
Corpus Christi, Tex	110° fire test (two 5-gallon cans in boxes), per case.	2.30	1.40
Laredo, Tex	.....do	2.40	1.65
San Antonio, Tex	.....do	2.30	1.75
San Marcos, Tex	.....do	2.60	1.50
Calvert, Tex	.....do	2.50	1.50
Weatherford, Tex	110° fire test, in barrels.....per gallon	.18	.10
Do	110° fire test, two 5-gallon.....per case	2.20	1.80
Victoria, Tex	.....do.....do	2.30	1.50
Athens, Tex	.....do.....do	2.20	1.50
Flatonia, Tex	.....do.....do	2.20	1.50
Jacksonville, Tex	.....do.....do	2.40	1.70
Whitesborough, Tex.	(No competition.)		
Do	110° fire test, two 5-gallon.....do	2.40	.....
Clarksville, Tex	110° fire test, in barrels .....per gallon	.15	.....
Do	(No competition; same freight rate as Paris.)		
Cleburne, Tex	110° fire test, two 5-gallon.....per case	2.20	1.70
Austin, Tex	175° fire test, two 5-gallon .....do	3.20	1.50
Do	175° fire test, barrels.....per gallon	.22	.10
Galveston, Tex	110° fire test, barrels.....do	.13½	.10
Do	110° fire test, two 5-gallons .....per case	1.60	1.40
Round Rock, Tex	.....do.....do	2.30	1.70
Do	175° fire test, two 5-gallons.....do	3.30	2.20
Honey Grove, Tex	110° fire test, two 5-gallons.....do	2.20	1.80
Jacksonville, Tex	110° fire test, barrels.....per gallon	.20	.15
Ennis, Tex	110° fire test, two 5-gallons.....per case	2.20	1.50
Tyler, Tex	.....do.....do	2.20	1.30
Navasota, Tex	.....do.....do	2.20	1.50
Hubbard City, Tex	.....do.....do	2.20	1.60
Gilmer, Tex	.....do.....do	2.30	1.75
Little Rock, Ark	150° fire test, in bulk .....per gallon	.16	.05
Morrillton, Ark	150° fire test, in barrels.....do	.18	.08
Searcy, Ark	.....do.....do	.15	.11½
Selma, Ala	115° first test, in barrels .....do	.15	.08
Birmingham, Ala	.....do.....do	.13	.09
Anniston, Ala	.....do.....do	.14	.09½
Mobile, Ala	110° fire test, in barrels.....do	.12½	.09
Huntsville, Ala	.....do.....do	.16	.08½
Memphis, Tenn	150° fire test, in barrels.....do	.16	.08
Union City, Tenn	.....do.....do	.16	.12
Nashville, Tenn	.....do.....do	.16	.08½
Jackson Tenn	.....do.....do	.15	.10
Knoxville, Tenn	.....do.....do	.16	.09½
Chattanooga, Tenn	.....do.....do	.13	.09
Jackson, Miss	110° fire test, in barrels .....do	.16½	.13
Vicksburg, Miss	.....do.....do	.11½	.09
Holly Springs, Miss	150° fire test, in barrels .....do	.17	.12½
Winona, Miss	.....do.....do	.16	.12
Grenada, Miss	130° fire test, in barrels .....do	.14	.10
Aberdeen, Miss	150° fire test, in barrels .....do	.13½	.11
Natchez, Miss	110° fire test, in barrels .....do	.11	.08½
Meridian, Miss	.....do.....do	.14	.09
Water Valley, Miss	.....do.....do	.15	.11
Paducah, Ky	150° fire test, barrels .....do	.10½	.07½
Atlanta, Ga	120° fire test, barrels.....do	.15	.09
New Orleans, La	110° fire test, barrels.....do	.12	.08½
Shreveport	.....do.....do	.14	.08

Which conclusively proves that competition is the sole and principal reason for low prices; and if a gallon of oil in a barrel is allowed to be carried as cheap as a gallon in a tank-car there will be freer competition and much lower prices. Increased production has also helped to lower prices.

Oils ought to be carried cheaper by the gallon in a barrel than in a tank-car, because it is worth one-third as much to haul back an empty tank-car as it is worth to carry the load forward, based on low-class freight like oil, coal, pig-iron, etc. Tank-cars are not adapted to return freight except in a few isolated cases from the South, turpentine and cotton-seed oil—which the Standard has the monopoly of.

It is also said that each case must stand on its own bottom, which means that one must enter complaint against every road in the United States on one plain state of facts, as there is no difference in any case, except as the commission has construed, where return loads are applicable, which is not 5 per cent. of all in the United States, but at the same time these return loads, what there is, is absolutely controlled by the Standard Oil Company.

This assertion is sufficient of itself of a denial of justice to the people. This broad principle should be asserted: That the roads must carry a gallon of oil in a barrel as cheap as a gallon in a tank-car, until they furnish the tank-cars to all shippers who apply or provide the two methods.

Page 15, First Annual Report of the Commission, places the same before Congress for their action.

Mr. Speaker, there is no way to remedy this evil but for this House, with the intelligent knowledge which we now have, to stop further proceedings upon this bill, and at some time or other to secure the passage of legislation which will cure the flaws in it of which the people are complaining. I do not believe that any good result has grown out of this intermeddling with the business affairs of the country, and if this law is here to stay, if a law born of prejudice and misunderstanding is to remain a permanent fixture upon the statute-books, then let us remedy it, let us build it up as other laws have been built.

It is not strange, Mr. Speaker, that this enactment failed in its first enforcement. Other great departments of legislation have had similar results. Most of our statutes in the States have been matters of growth. The municipal laws of our States consisted originally of but a few sections. The laws regulating the construction, repairs, and maintenance of the different railroads of the country were all embodied in a few paragraphs, and time suggested to wise statesmanship here another idea to be put on, and there another, and here some new feature developed, and so the municipal laws of the country and the various regulations and the great system of legislation of the country have been matters of growth. They have been built by the push, study, and application of wise and just statesmanship, and so it is not wise that the progenitors of this law stand across the pathway of this reform.

The interstate-commerce law as it was passed and as it has been attempted to be enforced has impeded, disarranged, and destroyed business. It has made it possible for great corporations to combine more secretly and securely than ever before to produce the destruction of smaller ones; it has given them intrenchments behind which they could terrify the country with their exactions and discriminations, and it has done no good whatever.

Here is an extract or two from a letter I received to-day from one of the leading miners and shippers of coal in the Northwest:

As I stated to you in a personal conversation in Columbus, this whole interstate-commerce act is a delusion and a snare, and helps no one except the wealthy railway companies of the country. You can see from the recommendations of Judge Cooley, appearing from time to time in the public press, that he is far more solicitous for the welfare of the stockholders of railroads than for that of the general public. Although almost every railway in the country has violated, and is daily violating, the provisions of the interstate-commerce act, not a single fine or penalty has yet been imposed for any violation of this law. Indeed, the commission have rendered certain decisions not only in violation of the interstate-commerce law but in violation of every principle of justice. Coal mined in your district, and indeed in Ohio and Pennsylvania, is now excluded from large markets in Minnesota, Dakota, and elsewhere in the Northwest by reason of the Interstate Commission upholding a most unjust discrimination in favor of coal mined in Illinois and Indiana.

About a year ago certain of the railway general managers of lines running from here to the Northwest, in order to favor in a special manner the sale of coal along their lines from mines in which they and their friends own stock and have controlling interest, made a certain schedule of rates from Chicago to points west of the Mississippi River that for like distances and under like conditions gave an advantage of 40 cents a ton to Illinois coal over that mined in Ohio. As an illustration, when coal is shipped from Wilmington, Ill., to St. Paul, Minn., it comes here over the Alton road to Chicago at a cost of 40 cents per ton. From here it is shipped to St. Paul at a rate of $2 a ton. The Northwestern Railway pays back to the Alton road the entire cost of the carriage of this coal to Chicago. As a consequence the net rate to St. Paul is $1.60 on Illinois from Chicago and $2 on the Hocking Valley coal. Other railroads running to the Northwest allow a similar rebate on coal mined in Southern Illinois and in Indiana, but refuse to make any rebate on Eastern coal.

This case of discrimination was laid before the Interstate Commission, and the facts were admitted by the company against which the complaint was made. If this is not a case of discrimination it would be impossible to find a case of railway discrimination. Suit was brought in accordance with the unanimous wish and upon the request of the coal operators of Ohio and Pennsylvania. In the face of the admitted facts Judge Walker rendered a decision against us and in favor of the railway company, alleging in substance that it was not deemed policy to disturb existing relations between the railway lines in the Northwest. At the very time this decision was rendered statements appeared in the public press that this very Judge Walker was the choice of the Northwestern and other railroads as their pool commissioner. It appears, then, that at the very time he rendered this decision he was negotiating for a lucrative position with the very railway company in whose behalf the decision was rendered. At a meeting

held in Indianapolis of the miners and operators of several States this matter was taken up, and a resolution was unanimously passed to lay before the Congressmen of the States of Ohio and Pennsylvania the facts of the discrimination here alluded to, and also the injustice and wrong done by the decision of Judge Walker. Will you kindly let me know in what shape it would be best to present this matter?

It seems to me it is high time that some Representative in Congress shall inaugurate some action looking to the abolishment of this colossal farce known as the interstate-commerce law.

The writer is a shipper and is interested in low freights and fair dealing.

And now, for the first time, the Congress of the United States is brought face to face with a practical proposition, a practical effort to do a practical thing. The question is: Shall one man, or, if you please, one individual, crush everybody else and break them down, and then when they appeal to the courts, or appeal to Congress, shall they be met by the statement that what they propose is class legislation?

Whatever may have been the original purpose and intention of the originators of this enactment, surely, if it was a wise and good purpose, it has failed, and the reason I say this now is that when these men are confronted with the manifest evils which have resulted in a large degree from this enactment, then you are presented with a plan by which relief can be had; a plan proposed by the commission of the law itself; a commission which they have called upon to administer this law that refuse to do anything.

The whole law is class legislation, and if my friend from Georgia [Mr. CRISP], the able chairman of the conference committee, occupied an antagonistic position to mine, I would challenge him to say here to the hearing of the whole country whether this whole law is not class legislation. The pretext of class legislation for the breaking down of wholesome enactments is the battle cry of the uneducated and the ignorant. The man who fortifies himself behind the cry of class legislation nine times out of ten will be found to have a small investment of intellectual capital, and that what he has is largely prejudice, and appeals to prejudice, and the great defect of his character is his total ignorance of what he is talking about. The railroads themselves are a class of property. Goods to be transported by railroad are a class of property as contradistinguished from all the property of the real estate of the country; and so you can not legislate upon any of these subjects without being just as open to the charge of class legislation as in the present case.

We come here, Mr. Speaker, with a case—a case that no man has broken down, a case that comes within the scope of the legislative power of Congress, if it ever had any power in this direction. We have made a case that no man has offered or sought to gainsay as to its equity and justice. We have appealed on behalf of a great class of manufacturers in this country that they shall not be destroyed by a single power, and that is our proposition here to-day, simply and plainly stated. I hope this House will adhere to its amendment and put the onus upon the other end of the Capitol of defeating this legislation.

Land-Grant Forfeitures.

REMARKS

OF

HON. JOHN L. MACDONALD,

OF MINNESOTA.

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889,

On the report of the committee of conference on the disagreeing votes of the two Houses as to the bill (S. 1430) to forfeit certain lands heretofore granted for the purpose of aiding in the construction of certain railroads, and the amendments of the House to the same.

Mr. MACDONALD said:

Mr. SPEAKER: To better understand the questions involved, it will be well to recall to our minds what has been the difference between the Senate and House upon this subject of forfeiture of lands heretofore granted to railroads.

In May last the Senate passed the bill (S. 1430) under consideration. The effect of that bill will be (according to the report of the Committee on the Public Lands, made by its chairman, Mr. HOLMAN) to forfeit to the United States the lands heretofore granted to railroads to aid in their construction, which pertain to and are coterminous with the portions of such railroads as are not now completed and in operation. This would be to declare a forfeiture of portions of the following grants, which are now understood to be claimed and controlled by the following railroad companies:

First. The Florida Railroad Company; that part of the grant lying between Plant City and Tampa, and that portion of the Cedar Keys branch of said road lying between Waldo and Cedar Keys, a distance of 20 miles of railroad, now unconstructed.

Second. The Tennessee and Coosa Railroad Company; that part of the grant from Gadsden to Guntersville, Ala., a distance of 36 miles, unconstructed.

Third. The Coosa and Chattanooga Railroad Company; that part of the grant from Gadsden to Georgia State Line, a distance of 37.5 miles, unconstructed.

Fourth. The Mobile and Girard Railroad Company; that part of the grant from Troy to Mobile, a distance of 139.6 miles, unconstructed.

Fifth. The Alabama and Tennessee Rivers Railroad Company; that part of the grant from Jacksonville to Gadsden, a distance of 23.42 miles, unconstructed.

Sixth. The Marquette and Ontonagon Railroad Company; that part of the grant from L'Anse to Ontonagon, a distance of 46 miles, unconstructed.

Seventh. The Ontonagon and State Line Railroad Company; that part of the grant from Rockland to Wisconsin State line, a distance of 55 miles, unconstructed.

Eighth. The Amboy, Lansing and Traverse Bay Railroad Company; that part of the grant from Jonesville to Amboy, a distance of 20 miles, unconstructed.

Ninth. The Gulf and Ship Island Railroad Company; that part of the grant from Brandon to Mississippi City, a distance of 170 miles, unconstructed; being the entire line of the road.

Tenth. The Minnesota and Pacific Railroad Company; that part of grant opposite to and coterminous with remainder of line uncompleted, 5.37 miles.

Eleventh. Southern Minnesota and Minnesota Valley Company; that part of the grant from St. Anthony via Minneapolis to Shakopee, west of Mississippi River, a distance of 25 miles, uncompleted.

Twelfth. The Southern Minnesota Railroad Company; that part of the grant from Houstan to Rochester, a distance of 58.5 miles, unconstructed.

Thirteenth. The Portage and Winnebago Railroad Company; that part of the grant from Ashland to Superior City, a distance of 84 miles, unconstructed.

Fourteenth. The Sioux City and St. Paul Railroad Company; that part of the grant opposite to and coterminous with, a distance of 26.91 miles, is unconstructed.

Fifteenth. The Northern Pacific Railroad Company; that part of the grant from Wallula Junction, Washington Territory, to Portland, Oregon, a distance of 225 miles, unconstructed.

Sixteenth. Southern Pacific Railroad Company; that part of the grant from Tres Pinos to Huron, a distance of 84 miles, unconstructed.

So that the aggregate number of miles of the uncompleted railroads to aid in the construction of which lands had been granted by Congress is, according to the report of the General Land Office, 1,049.23 miles.

When this bill was received here from the Senate it was referred to the Committee on the Public Lands, and that committee, in June last, reported it back to the House with an amendment in the nature of a substitute, which the majority recommended being adopted, and which was as follows:

An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes.

Be it enacted, etc., That all lands heretofore granted by Congress to any State or to any corporation to aid in the construction of a railroad or a railroad and telegraph line opposite to and coterminous with the portion of any such railroad not constructed and completed within the time specified in the law making the grant for the construction and completion of the whole of such railroad are hereby declared forfeited to the United States, and the United States resumes title thereto, and all such lands so granted lying opposite to and coterminous with the portion of any such railroad not constructed and completed within the time prescribed by the act of Congress making such grant for the construction and completion of the whole railroad as provided for by such act, is hereby restored to the public domain and declared to be a portion thereof: *Provided, however*, That the forfeiture hereby declared shall not extend to the right of way through the remainder of the route, including the necessary depot grounds, switches, side-tracks, and turn-tables of any such railroad corporation as now occupied and used by such corporation, or to lands included in any village, town, or city within the limits of the lands hereby declared forfeited.

SEC. 2. That the forfeiture hereby declared shall not extend to lands adjacent to and coterminous with any portion of any such railroad which is now completed which were sold by the company controlling or owning such railroad prior to January 1, 1888, to bona fide purchasers for a valuable consideration, but the title to such lands are hereby confirmed to such purchasers, their heirs or assigns, upon condition that all persons claiming the benefit of this section shall, within one year from the passage of this act, make and file before the register and receiver of the proper land office, subject to an appeal to the Commissioner of the General Land Office, proof of the good faith, consideration, date, and extent of his or her purchase; and after hearing such proofs and investigating each case the register and receiver shall determine whether any alleged purchase was in fact made in good faith, for a good and valuable consideration, prior to January 1, 1888, and shall note the finding in each case on the records of the local land office, and shall thereafter certify the same to the Commissioner of the General Land Office: *Provided*, That nothing herein contained shall be construed to confirm any such purchases of land upon which there were prior bona fide pre-emption or homestead claims, valid and subsisting on the 1st day of January, 1888, arising or asserted under color of the laws of the United States, and all such pre-emption and homestead claims are hereby confirmed.

SEC. 3. That all settlers upon any of the land forfeited by this act are hereby permitted and authorized to acquire title to not exceeding 160 acres in each case, as a homestead, under and pursuant to the laws relating thereto, and in making final proof of such homestead the settler shall be allowed for the time he has already resided upon and cultivated the same.

SEC. 4. That no land declared forfeited to the United States by this act shall inure to the benefit of any State or corporation to which lands may have been granted by Congress; nor shall this act be construed to enlarge the area of land originally covered by any such grant, or to waive or release in any way any right of the United States to have other lands granted by them as recited in the first section forfeited for any failure, past or future, to comply with the conditions of the grant.

SEC. 5. That all lists of lands heretofore certified and all patents issued to any State and all patents heretofore issued to any corporation for lands embraced in any grant beyond the portion thereof coterminous with the railroad actually completed within the time prescribed by law for its entire completion are hereby declared inoperative and void, and proper proceedings shall be instituted by the Attorney-General to annul the same.

SEC. 6. That all acts in conflict with this act are repealed.

It should also be stated that two members of the majority of the committee (Messrs. STONE, of Missouri, and MCRAE) united in a separate report, in which they approved of the majority report as far as it went, but insisted that it should have provided for a forfeiture of all lands where the railroad has not been built within the time provided in the granting act.

The minority of this committee made a report dissenting from the views of the majority, and recommending the adoption of a substitute proposed by them, which was substantially the same as the Senate bill.

Soon after these reports were made the bill and proposed amend-

ments came before the House, and after discussion the substitute proposed by the majority of the committee was adopted by the House and passed and sent to the Senate as the views of this branch of Congress upon the subject of railroad land forfeiture. It was at an early day taken up by the Senate, and that body by vote refused to recede and asked for a committee of conference; which was granted, and on the 6th day of July last, nine months ago, this committee (consisting of Messrs. HOLMAN, STONE of Missouri, and PAYSON) was appointed.

This important matter has therefore remained in the hands of the conference committee until yesterday, when the report now under consideration was made.

The gentleman from Missouri [Mr. STONE] having by his "filibustering" tactics succeeded, with the aid of two or three other gentlemen, in defeating any action upon the report of the committee of conference upon this bill, providing for a forfeiture of all lands pertaining to the uncompleted portions of all the land-grant roads, I feel it incumbent upon me as a member of the Committee on Public Lands, and in justice to myself, to make some remarks upon this action of these gentlemen, and upon the bill and report and statement of the conferees on the part of this House.

I feel, sir, that in failing to secure the forfeiture and return to the public domain of any of the public lands subject to forfeiture we have signally failed in the performance of an important public duty incumbent upon us, and that the country will hold us responsible for this; and feeling, as I do, that the responsibility for this failure should be placed where it belongs, I am prompted to thus attempt to place it there.

To begin with, the passage of this bill or any similar measure at this session of Congress has been defeated by the inexplicable delay of the members of the conference in reporting upon it to this House, and withholding both until the last day but one of the session. The members of the conference were appointed as long ago as the 6th of July last, and it has been held by them nine months and not reported until within one day of the final adjournment of this Congress. The majority of the conferees on the part of the House (Messrs. HOLMAN and STONE) have submitted a statement purporting to be an explanation of the report—a statement that, everything considered, I regard as of the most remarkable character—but no where in it do they attempt to explain or give any reason for this long delay and failure to report this very important measure before this very late hour. Desiring to do perfect justice to all and to misrepresent no one, I must state that the Senate conferees claim that they have been at all times ready and willing to meet with the House conferees and to consider this measure and the differences which have existed between the bill which we passed and the one the Senate adopted, and that the gentleman from Illinois [Mr. PAYSON] claims that he himself has ever since the appointment of the conferees occupied a similar attitude, and has been not only willing but desirous to meet with the Senate conferees and perform the duty assigned to them.

The chairman of the House conferees [Mr. HOLMAN] has frequently, in response to frequent inquiries by me as to what they were doing, and to urgent appeals for them to do something, given me to understand that he was waiting until he could secure the co-operation of the gentleman from Missouri [Mr. STONE], while in justice to the gentleman from Missouri [Mr. STONE] it must be stated that he claims that he has at all times been ready and willing to meet any conference and act upon this measure, and has been only waiting the invitation or call of the chairman of the conferees [Mr. HOLMAN]. It would be a useless and unprofitable task to attempt to determine from these conflicting statements as to who of the three members, if any, have been determined to prevent action upon this measure by the conference committee. It is enough to say that it was the bounden duty of the chairman of the House conferees [Mr. HOLMAN] to have months ago secured action upon this measure or to have reported to the House that they were unable to agree. I regret to have to say this, but it is due to myself, and, I might add, every member of the Committee on Public Lands, that this statement should be made.

As I have already remarked, the chairman of the House conferees and of our Committee on Public Lands has not attempted in that statement any explanation or excuse for this long delay, and if those of us who have been anxious to secure some action which would result in the forfeiture of at least the land about which there was no controversy feel prompted in our disappointment to thus severely criticise his delay and to regard it as conclusive evidence that he was opposed to the taking of any action which would result in an agreement between the House and the Senate upon the subject of land forfeitures he must not complain. Equally significant with this long delay is the fact that during all the time members of this House have struggled to secure action upon this eleventh-hour report and have been prevented by the obstructive tactics of the gentleman from Missouri [Mr. STONE], he [Mr. HOLMAN] has remained quietly in his seat, and, although expressing himself as in favor of some action being taken, has not uttered one word or raised his voice in advocacy of any proposition or in opposition to the dilatory and obstructive tactics of the gentleman from Missouri and his two or three associates and their action in defeating the forfeiture of any railroad lands at this Congress.

I came to this Congress desirous that some action would be taken which would result in restoring to the public domain at least that portion of the public lands which pertained to the uncompleted portions of the several land-grant railroads, and which are generally denominated "unearned" lands. I was in favor of securing the forfeiture of more land if we had the legal and constitutional power to secure such forfeiture, but knowing that it is claimed by many able lawyers, and has recently been decided by more than one court, that our power to declare a forfeiture was limited to lands pertaining to the uncompleted parts of the roads, I have had serious doubts as to our power to do more than this. But not wishing to be an obstructionist, and in the hope that out of whatever action we in this House and in the Committee on Public Lands would in the first instance take there would come an agreement to secure at least these unearned lands, I silently acquiesced in the action of the majority of the Committee on Public Lands and the majority of the members of this House at the last session; stating, however, and upon all occasions, to persons with whom I conversed upon the subject, that I did so for the purpose of securing some such result as I have indicated and an agreement between the Senate and the House upon some forfeiture measure, and that if the Senate refused to adopt and pass the forfeiture bill which we sent to them as an amendment, and substituted the one first passed by them and sent to us, that I should be in favor of yielding, as far as it was necessary, to secure some definite results in the form of a forfeiture of some portion of these railroad lands. I was aware that because of a disagreement between the Senate and House in former Congresses the amount of these so-called unearned lands has been largely reduced, by several millions of acres, in consequence of the railroads, to aid in the construction of which they were granted, having been in the mean time built.

It is manifest to any one that this statement of the majority of the House conferees has been prepared for the purpose of influencing the members of this House against the adoption of the Senate proposition to forfeit over 5,627,000 acres of land. For no other purpose could the table purporting to show the number of acres which will be forfeited by the Senate proposition, and which would be forfeited by the bill passed by the House at the last session of this Congress, as well as what would be forfeited in the event of forfeiture of the entire grant of the several railroads, have been inserted in this statement. That my remarks in relation to this table may be fully understood, and that I may not misrepresent any one, I will here present it entire:

Name of railroad.	Estimated number of acres which will be forfeited—		
	By Senate bill.	By House bill.	In event of forfeiture of entire grant.
Gulf and Ship Island	652,800	652,800	652,800
Coosa and Tennessee	140,160	140,160	140,160
Coosa and Chattanooga	144,000	144,000	144,000
Mobile and Girard	536,064	651,264	858,624
Selma, Rome and Dalton*	89,932	258,624	642,624
Atlantic, Gulf and West India Transit	76,800	676,000	1,171,200
Pensacola and Georgia	None.	679,680	1,178,880
Vicksburg, Shreveport and Texas	None.	364,800	725,760
Jackson, Lansing and Saginaw	None.	176,256	898,560
Marquette, Houghton and Ontonagon	294,400	294,400	627,200
Ontonagon and Brulé River	211,200	288,000	288,000
La Crosse and Milwaukee	None.	195,724	235,773
Chicago, St. Paul, Minneapolis and Omaha	None.	1,446,400	1,446,400
Wisconsin Central	406,880	464,480	1,800,000
St. Vincent extension, St. Paul and Pacific (now St. Paul, Minneapolis and Manitoba)	None.	1,113,600	2,009,600
Western Railroad	None.	243,712	243,712
Southern Minnesota Railway Extension	None.	832,115	1,787,955
Hastings and Dakota	None.	819,840	1,293,440
Northern Pacific	2,000,000	36,907,741	46,947,200
California and Oregon	None.	1,740,800	3,686,400
Oregon and California	None.	2,086,400	4,608,000
Southern Pacific	1,075,200	4,147,200	7,116,800
Total	5,627,436	54,323,996	78,503,088

*Lands certified to State for this road prior to May 23, 1872, amounting to 440,709.16 acres, were confirmed to State by act of that date (17 Stat. L., 159), for sole use and benefit of the Selma, Rome and Dalton Railroad Company. The lands so confirmed may not be subject to forfeiture.

Now, sir, with all due deference and respect to the gentlemen signing this statement of the majority of the House conferees, I must say that it is not only remarkable but misleading, and I must also say here that this table of lands purporting to show how many acres would be forfeited under the different propositions indicated is equally misleading and very incorrect. This may appear singular language for me to use with reference to a table which was incorporated and made a part of the report of the majority of the Committee on Public Lands and generally adopted by us in the discussion of the different land forfeiture measures which were considered at the last session, but the fact is that it was not seen by me until long after the report was made to the

House. The members of the committee were informed, when the report was authorized to be made, that such a table would be prepared and published and I took it for granted that it would be so prepared with a reasonable degree of accuracy as to the amount of land which could be forfeited in either case, having in view the legal questions involved.

Being a new member, I relied with confidence upon the statements of my associates upon the committee who had had long experience in Congress, and whom I supposed to be thereby capable of advising me. In answer to my inquiry as to what were the principal railroads that would be affected by the forfeiture proposed by the House measure, I was advised that they were the Northern and Southern Pacific Railroads and the Oregon and California and California and Oregon Railroads, and that as to all the other railroads the lands pertaining thereto were insignificant in amount, and that as to the State that I in part represented, there was but little to be affected by the bill. In this connection I wish to state that when I made my remarks in support of the bill to provide for the forfeiture of lands granted to the Hastings and Dakota Railway Company, and which passed this House at the last session, I stated that I would incorporate this table in my remarks. I had not then examined it, but having stated that I would incorporate it in my remarks I felt in duty bound to do so. I make this statement in explanation of the appearance and publication of this table in my remarks upon that bill.

I have said that this table was misleading and incorrect. To prove it I will refer to what it shows with reference to certain railroads in Minnesota. It represents that the House bill would forfeit 1,113,600 acres which were granted to the St. Paul and Pacific (now St. Paul and Manitoba) Railroad Company. Now, the facts with reference to this road are that the road for the construction of which these very lands were granted has been completed and in active operation for over fifteen years, and that before being built the original company to which they were granted defaulted in its obligations, and the railroad was placed in the hands of a receiver, and that nearly all of the road to which these lands pertain was constructed by that receiver under and pursuant to an order of the United States court for the district of Minnesota, and that the money was raised to build the same upon debentures issued pursuant to the order and direction of that court, the payment of which was secured by mortgage upon these lands which these gentlemen now seriously and deliberately propose to declare forfeited, and insist that it should be done by the rejection of the proposition to now forfeit only that which pertains to the parts of the several railroads which are now uncompleted. It also includes in it lands granted to the railroad now called the Chicago, St. Paul, Minneapolis and Omaha Railway, amounting in the aggregate to 1,446,400 acres, which is the entire amount of the grant.

Now, included in that estimate are the 10 sections per mile granted to aid in the construction of the formerly called St. Paul and Sioux City Railroad Company, 25 miles of which (being from St. Anthony's to Shakopee City) has not been built. This grant to aid in the construction of this 25 miles amounts in the aggregate to 160,000 acres of land. But it is unfortunate for the accuracy of this statement that there can not be found one acre of land within the limits of this grant to apply thereto which has not been certified to other parts of the road. All of the lands within these last-mentioned granted limits have been applied to the construction of the line of that road which extends from St. Paul to the Iowa line, and it is a notorious fact that a great portion, if not all, of these lands stated as subject to forfeiture, which pertain to the Chicago, St. Paul, Minneapolis and Omaha Railroad Company, have been decided to be not subject to forfeiture.

As to the lands granted to the Hastings and Dakota Railroad Company, and which I claim should be forfeited, I will simply now say that they were in a different condition as to forfeiture from that of the others. I insist that they were by the express terms of the grant, and without further legislation to revert to the United States if not earned in the time specified in the grant, and without an act of forfeiture, and that for this reason, and because of the further facts upon which the supreme court of the State of Minnesota declared the charter of this railroad company to be forfeited, that company had placed itself in a position where it was not entitled to be considered as having earned these lands before the Government of the United States, through its legislation or judicial branch, had taken any steps to declare a forfeiture of the same.

I have here shown enough to satisfy me of the great incorrectness of this table and the claims based upon it that the House bill, if passed, would secure a forfeiture and restoration to the public domain of 54,000,000 acres of land, as is claimed in this statement of the majority of our conferees. I have no doubt that if the same examination is made into the condition of other grants made in aid of the construction of roads other than those which I have mentioned, that the number of acres specified will as seriously, and to as astonishing a degree, be diminished and reduced.

It is evident that this table is made to produce this large aggregate of 54,000,000 acres of land as the amount which the House bill would forfeit by, in the first instance, multiplying the number of acres stated in the act to be granted per mile with the total number of miles, and then deducting therefrom the number of acres which the several companies have received for that portion of their several roads which was completed within the time specified in the granting act. No allowance whatever is made for deficiencies, although it is a notorious fact that there are very few land grants the total amount of which can be found within the granted limits.

To state these facts is all that is necessary to show how utterly unreliable this table is. Further than that, it specifies as the amount which the House bill would forfeit, which pertains to the Northern Pacific Railroad Company, as 36,000,000 acres, which amount is of course ascertained by the application of the rule of multiplication which I have suggested. Now, any person who has traveled over that railroad, or who is at all familiar with the Rocky Mountains, and the character of the land embraced within the limits of that grant, knows as well as I do that the proportion of the lands granted to that company, which are so rocky, barren, and sterile as to be wholly unfit for agricultural purposes, is very great. No allowance is made for this class of barren and waste lands when the majority refer to the lands embraced in the House bill, while at the same time they do not hesitate to characterize nearly all of the lands embraced in the Senate proposition as very poor, if not worthless. I have referred to these matters as much for the purpose of presenting the case fairly to the country as to show the unfairness, if I may so use the term, of the statements presented in connection with this conference report.

But, sir, there are other and more serious and weighty reasons why we should not wait any longer in the hope of doing better than this and why we should recede from our position and agree to that submitted to us by the Senate in the conference report now under consideration. There is such a thing known to the law as vested rights, and since the last session of this Congress I have been to considerable pains to investigate as to the legal status of these lands, and particularly those of the Northern Pacific Railroad Company. I was prompted to make this investigation because the discussion which followed the making of our report at the last session satisfied me that I ought not to have relied upon the opinion of others, and should have investigated more thoroughly for myself. I found by investigation that an act was passed by Congress on the 1st day of March, 1869, authorizing that company to mortgage its railroad and telegraph lines to secure means to construct its road, and that thereafter and on the 31st day of May, 1870, Congress, by joint resolution, granted to it an additional 10-mile indemnity, and authorized it to issue its bonds to aid in the construction and equipment of its road, and to secure the same by mortgage of its property and rights to property of all kinds and description, real, personal, and mixed, including its franchises, as a corporation, etc.

After these resolutions mortgages were issued, as follows:

1. The mortgage of July 1, 1870, now represented by the preferred stock of the company.
2. The Missouri Division mortgage of March 1, 1879.
3. The Pend d'Oreille mortgage on that portion of the line of September 1, 1879.
4. The general mortgage of June 1, 1881, at the rate of $25,000 per mile, now the first mortgage on the greater portion of the main line.
5. The second mortgage of November 20, 1883, for $20,000,000.

The outstanding mortgage bonds of the company were as follows, by July 30, 1885, the close of last financial year:

General first-mortgage bonds	$43,403,000
General second-mortgage bonds	18,857,000
Missouri Division mortgage bonds	2,233,500
Pend d'Oreille Division mortgage bonds	3,240,000
Total	67,833,500

And this is only what has been done in the case of the St. Paul and Pacific, and presumably the others, except the Hastings and Dakota Company, which sold the road and retained the lands.

Now, if these acts and resolutions of Congress, authorizing the Northern Pacific to mortgage its property, are ever brought into court to be construed as I am now considering them, I have no doubt but that this authority to mortgage, which was given to this railroad company by the United States, will be held to be a consent that this railroad company shall go on and construct and complete its road within such a time as it could reasonably do so, all things considered, and that it will be held to be in equity an assent on the part of Congress to whatever extension of time was necessary to enable this company to complete its road within this reasonable time mentioned.

Considering them as an impartial tribunal will, who is the member of the legal profession—in good standing—who is willing to hazzard his reputation as a lawyer by declaring that, in his opinion, the rights of these mortgagees in and to these lands and other mortgaged property have not become vested, and that the courts would not protect them from any legislation that would attempt to interfere with these rights?

My investigation has led me to the further discovery that the decisions of the courts already made are much more emphatic and explicit, upon the point in controvery, than I previously supposed; and I find that the opinion of the report in the recent case of Denney *vs.* Dobson, decided in the circuit court of the United States for the district of Oregon, and delivered by Mr. Justice Fields of our Supreme Court (who was then presiding), in express terms, held that lands lying opposite roads constructed and accepted, but constructed out of time, were not subject to

forfeiture, and were relieved from the possibility of forfeiture for breach of conditions of the grant, as to time.

The case is reported in volume 32, Federal Reporter, page 899.

In that, the court holds that the grant was *in præsenti;* that the title to the land passed by the grant under condition; that—

While a legal title to the sections described, as distinguished from a merely equitable or inchoate interest, passed to the railroad company by the act, it was not a title that could be disposed of by the company without the consent of Congress, except as each 25-mile section of the road was completed and accepted by the President, so as to cut off the right of the United States to compel the application of the lands to the purpose for which they were granted, or to prevent their forfeiture in case of the company's failure to perform the conditions of the grant.

Speaking of the construction, acceptance by the President (and issue of patents where the statute provides for patent, but which, all the committee agree, does not make additional title), the court says:

They would identify the lands which are coterminous with completed road; they would be evidence that the grantee, in the construction of that portion of the road, had fully complied with the conditions of the grant, and to that extent the grant was relieved of the possibility of forfeiture for breach of its conditions.

The lands were granted to aid in the construction of the road.

The road opposite the premises in controversy having been completed and accepted, the title however imperfect, whilst incumbered, if it may be so termed, by the uses to which the lands were to be applied, has become perfect and indefeasible; and the costs of surveying, selecting, and conveying the lands having been paid, the only remaining obstacle to their sale, or other disposition, has been removed.

It is not a violent presumption that, in delivering this opinion in a case of this importance, Mr. Justice Fields had some knowledge as to the views of his distinguished associates upon the Supreme Bench, if he did not actually consult them.

This, then, is the legal status of these lands, according to the last decisions rendered, and it can only be said, in answer to this assertion, that there is a bare possibility (with no probability) that the Supreme Court might reverse this decision of one of its members. Considered in connection with the fact that with all the forfeitures that have already been declared by Congress, aggregating over 50,000,000 acres of land, not one has involved an acre opposite constructed road, any court would be likely to conclude that it is the sense of Congress, and in the nature of a legislative determination, that forfeitures should be limited to lands pertaining to unconstructed roads.

The following is a list of the grants heretofore declared forfeited:

Name of railroad.	Congress.	Acres.
Oregon Central	Forty-eighth	810,880
Texas Pacific	do	18,500,000
Iron Mountain of Missouri	do	300,000
Atlantic and Pacific	Forty-ninth	23,871,360
Tuscaloosa and Mobile		
Mobile and New Orleans		
Elyton and Beard's Bluff		
Memphis and Charleston		*7,000,000
Savannah and Albany		
New Orleans and State Line		
Iron Mountain of Arkansas		
Total		50,482,240

*Estimated.

Now, sir, in view of all these facts, is it not holding out a shadow of hope of the faintest character to claim that we can in the future succeed in securing a forfeiture of more than the 5,627,436 acres covered by the proposition now under consideration? And is it not wrong, as well as impolitic, to hold out to the country that there is within the reach and power of Congress to forfeit the enormous amount of 54,000,000 acres when in fact there is no such number of acres, and every reasonable inference is that an attempt to forfeit that amount or whatever there is over and above that involved in the proposition pending would be declared void by the courts, as has already in effect been done?

For these reasons I have been in favor of receding from the position which we took when we passed the substitute to the Senate bill, and of thus being able to say when I return to my constituents that we succeeded in restoring to the public domain and for homestead settlers these 5,600,000 acres. I am unable to understand why the gentleman from Missouri [Mr. STONE] and the few assisting him should feel it to be their duty to prevent this being done by resorting to that reprehensible practice known now as "filibustering." It is no excuse to say that this is a closing of the matter, for, if Congress has the power to forfeit all that these gentlemen claim it has, this right is expressly reserved in the provisions of the bill agreed upon. They are manifestly determined to continue the practice of insisting upon "the whole or none," but I do not believe that their constituents or the country will approve of this action.

I predict that no more than these 5,627,436 acres will be forfeited; and it is very probable that that amount may be reduced by the further construction of some of these uncompleted roads before Congressional action can again be had upon this subject. I have always believed that in a matter of this kind it was the part of wisdom to endeavor to secure all that was desired, and if you were likely to fail in this, to then labor to secure as much as could be; and if this had been the policy in the past of those favoring these forfeitures there would have been three times as much of these granted lands that could have been restored to the public domain as "unearned," and which would be conceded by all to be forfeitable, than there is now.

Our clear duty was to forfeit what we can now (these 5,627,436 acres), and let future Congresses decide as to those about which there is dispute. But this opportunity is lost, and I have endeavored to place the responsibility of this failure where it belongs.

I feel and speak thus because I have become fully convinced that the effect of delay in the settlement of the status of these land grants will be to prolong a very damaging condition of affairs which now exists. I have, in common with every member of this House, no doubt, received a letter from three gentlemen representing themselves as a committee on legislation of the Knights of Labor, advising against the passage of a bill forfeiting less than the lands pertaining to that portion of the roads unbuilt and those built out of time for reasons assigned, which show that they have little or no knowledge of the actual situation of the most of these lands, or the important questions of constitutional law which must control Congressional action. For precisely the same motives which I understand to actuate these gentlemen in their opposition, namely, restoring as much as possible of the public lands to homestead settlers, I have favored forfeiting what we could now and letting succeeding Congresses settle the question still undetermined. I now predict that subsequent events will vindicate the wisdom of the policy I now advocate.

If gentlemen realized how injurious the present unsettled condition of affairs are as to these lands they would not be surprised at my advocacy of doing what we can, and only that which we are confident will be sustained by the courts. The recent action of ex-Commissioner of the General Land Office Sparks, in deciding that the Northern Pacific Railroad Company was not entitled to select lands within the so-called "second indemnity belt," is a case in point. His decision was sustained by the Interior Department, and hundreds of settlers rushed upon these lands and made homestead entries, often ignoring rights of prior good-faith purchasers. Subsequently this decision was reversed by the Attorney-General, and these deluded settlers had the only alternative of abandoning the land or buying it from the company, while some had an action for trespass staring them in the face.

The common people rely upon the regularity and legality of the action of our Department officials, and the validity of laws passed by Congress, and act upon it as such, and it is only a want of careful consideration, on the part of either branch of the Government, that will produce such an unfortunate condition of affairs. To such hasty and ill-considered action must be attributed the unfortunate condition in which the settlers upon the "Des Moines River Improvement" lands find themselves, and which we have ineffectually tried to remedy at this session.

Can any of us say that—in the face of the decision of Denny *vs.* Dobson—it is not reckless for us to do more than absolutely forfeit the lands about which there can be no dispute, and leave it to a future Congress (it is too late for us now to do this) to provide for an adjudication by the Supreme Court of the power of Congress to do more than this? For one I regard this as the only safe and wise course.

French Spoliation Claims.

SPEECH

OF

HON. SAMUEL DIBBLE,

OF SOUTH CAROLINA.

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, August 21, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 10896) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1888, and for prior years, and for other purposes—

Mr. DIBBLE said:

Mr. CHAIRMAN: Spoliations of our commerce by both the British and the French occurred during the existence of the war between France and England, which broke out on February 1, 1793; but we are now concerned only with the claims of our citizens for French spoliations committed prior to July 31, 1801, as the cases reported from the Court of Claims have been determined by that court under the act of Congress of January 20, 1885, which limits the jurisdiction of the court to that period, embracing about eight and one-half years.

THE JURISDICTION OF THE COURT.

The act of January 20, 1885, gave jurisdiction to the Court of Claims to "determine the validity and amount" of all such claims "according to the rules of law, municipal and international, and the treaties of

the United States applicable to the same." The act further provides for periodical reports to Congress, for final action, of all such conclusions of fact and law, as may affect the liability of the United States to the several claimants, and declares that the finding and report of the court shall be merely advisory as to the law and facts found. Ultimate action, therefore, remains for the Congress of the United States, enlightened by knowledge of ascertained facts, and assisted by the legal opinions reported by the Court of Claims.

THE LIABILITY OF THE UNITED STATES.

We have a number of these claims now reported, and the liability of the United States to the claimants is based upon two propositions: First, that these were valid claims of our citizens against France for indemnity, which the United States undertook to collect from the French Government; and secondly, that by the convention between the two Governments, signed September 30, 1800, and ratified July 31, 1801, the United States released France from further liability for them, in consideration of the renunciation by France of certain claims against the United States.

The claims thus far reported are included in this bill, by virtue of a resolution of instruction to the Committee on Appropriations, offered by myself, and adopted by the House on December 19, 1887. They embrace demands aggregating $1,088,000, of which sum $740,606.63 has been allowed by the court, and the rest has been rejected. The court excluded all claims arising from spoliations committed between September 30, 1800, and July 31, 1801, holding that only claims in existence at the time of signing the convention were embraced in its terms. The court also held that no claims later than July 7, 1798, depending upon violations by the French of the treaties of 1778, could be allowed, because on July 7, 1798, Congress declared the treaties of 1778 should thereafter be no longer binding. Other cases were dismissed for want of evidence.

RELATIONS WITH FRANCE.

In discussing the liability of the United States, it is necessary to review briefly the state of affairs which existed when these spoliations were committed. The treaty relations between the United States and France are set forth in the treaty of amity and commerce, and in the treaty of alliance, both of which were signed February 6, 1778, and in the consular convention of November 14, 1788.

TREATY OF AMITY AND COMMERCE.

First, there was the treaty of amity and commerce. In its first article, it was agreed that there should be perpetual peace and friendship between the United States and France.

By the second article, both powers agreed to grant no favor to any other nation, either in regard to commerce or navigation, which shall not by the grant to the third nation apply equally to each. This was a favored-nation clause.

Then Articles VI and VII in that treaty provided, that the armed vessels of each should protect ships of the other, and that ships of either, taken within the jurisdiction of the other, should be restored.

The twelfth and thirteenth articles provided, that vessels of either, bound to a port belonging to an enemy of the other, and having goods contraband of war, should be deprived of the contraband of war, and then allowed to proceed upon their voyage; and the contraband goods were to be carried on shore, and inventoried by the officers of the admiralty.

The fourteenth article provided, that the goods of either, on the ships of an enemy of the other, were to be confiscated after two months from the declaration of war against such enemy. But within two months, even the contraband of war should be restored to owners ignorant of the existence of war, simply with the provision that they should not be carried to the enemy.

The fifteenth article was an important one regarding these spoliations. It provided as follows: That the ships of war and privateers of one shall be prohibited from doing injury to the ships of the other; and if they do, they shall make full reparation with interest thereon. The damage was to be met and interest was to be paid for the spoliation.

The seventeenth article of the treaty was, that ships of war and privateers of either may enter freely into the ports of the other, with their prizes, and depart at will, simply showing their commissions, and shall pay no duties; that such as have made prizes of the property of the one party shall have no refuge or shelter in the ports of the other, and if driven in by stress of weather, vigorous means shall be used to send them out as soon as possible. The substance of this was, in case France became engaged in war with England, that France should have the right to come with her ships of war and her privateers with their prizes into our ports; that England, as an enemy of France, should not be allowed to bring her prizes into a port, nor should any of her war vessels that had taken French vessels be allowed asylum in an American port.

The twenty-first article prohibited citizens of one from taking commissions and letters of marque to act as privateers against the other, on pain of being punished as pirates.

The twenty-second article provided that no foreign privateers, the enemy of one, should be allowed to fit out in the ports of the other, or sell captured property there, or even purchase victuals, except enough to carry them to the nearest port of their own sovereign.

By the twenty-third article, freedom of trade was allowed either party with the enemy of the other, between neutral ports and such enemy's ports, or between enemy's ports; and that free ships should make free goods, except contraband of war.

The twenty-fourth article designates what is contraband of war, and says, that clothing and provisions and naval stores are not to be contraband of war, except to besieged and blockaded ports.

The twenty-fifth and twenty-seventh articles of the treaty provided another point, upon which contention arose with France, and it was this: That ships must have passports or sea letters, and certificates as to what comprised the cargo, which was to be examined when it was put on board. A certificate was to be made of the cargo, and it was to be considered as final, and ships of war must remain out of cannon-shot, and send a boat, with not more than two or three persons to go on board of the merchant vessel, and they should examine her passport and certificate, and see if the form of the passport was that which was prescribed in the treaty. All American vessels carried passports of that form.

THE TREATY OF ALLIANCE.

On the same day that the foregoing treaty was made, there was also concluded a treaty of alliance. And the main provision of that treaty, with which we are at present concerned, is found in the eleventh article, and it consisted in a mutual guaranty, made by the King of France on the one side, whereby he guarantied the independence of the United States of America, as well in matters of government as of commerce; and the United States on their side guarantied that if France was involved in war with Great Britain in consequence of her treaty of alliance with us, then the United States would guaranty the West Indian and other American possessions of France against capture by the enemy, and that this should apply also to any war in which France should thereafter be engaged at any time; and that guaranty was to be a perpetual one. She on the one side guarantied our independence, and on the other side we guarantied the integrity of her American possessions.

THE CONSULAR CONVENTION.

The consular convention of November 14, 1788, provided, that consuls should have power to arrest deserters from the ships of their own nation in the territory of the other, and on application should be assisted by the courts and officers of the country; and should be allowed to adjudge differences between citizens of their own country, with an appeal to the tribunals of their own country; and that consuls of either party should have all additional privileges allowed consuls of any foreign power in the territory of the other.

FRENCH AID DURING THE REVOLUTIONARY WAR.

In addition to these treaties, France lent the United States 18,000,000 livres, and guarantied the Holland loan of 10,000,000 livres, and it was agreed by the contract of 1782, that the loan which was made by France directly to this country was not to bear interest until three years after a treaty of peace. It was to be paid in twelve annual installments, with interest commencing three years after such treaty of peace as guarantied the independence of the United States from Great Britain, and France also assumed to pay the Holland loan in the first instance, and the United States was to pay it back to France in ten annual installments.

This shows that at the outbreak of the war in 1793, the United States and France were allies, bound in an alliance consecrated by the achievement of our independence with the aid of French armies and ships of war, on which France expended for the independence of the United States $280,000,000 for which she made us no charge at all, as this last expenditure was made to carry out her guaranty of our independence, under the eleventh article of the treaty of alliance.

THE SPOLIATIONS.

It is unnecessary, Mr. Chairman, to do more than to refer briefly to the nature of the depredations upon our commerce during the existence of the conflict between France on the one side, and England, with a large part of continental Europe, on the other. Early in the struggle, England and her allies determined to treat provisions and clothing on neutral vessels as contraband of war, contrary to the law of nations; and this course provoked similar action on the part of France. American merchants, who had the right as neutrals to trade with either of the belligerent nations, suffered the unjust seizure of their vessels, and their condemnation in British prize courts, or in French prize courts held in French or Spanish ports.

So general were these depredations on our commerce, that, in order to encourage our ships to go to sea, Mr. Jefferson, Secretary of State, in a circular letter issued August 27, 1793, declared:

I have it in charge from the President, to assure the merchants of the United States, concerned in foreign commerce or navigation, that our attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the law of nations and existing treaties, and that, on their forwarding hither well-authenticated evidence of the same, proper proceedings will be adopted for their relief. (*French Spoliations, Ex. Doc.* 1826, page 217.)

In accordance with this declaration, the Government of the United States presented the claims of our citizens against England and France, and also against Spain, for permitting French prize courts in Spanish ports to condemn American vessels and cargoes, carried there by French cruisers and privateers. These claims were acknowledged, and England and Spain have long ago made payment of the estimated damages.

Spain, in accordance with her treaty with France, similar to ours, having in it provisions by which French ships could carry prizes into her ports, permitted the French vessels, which had spoliated our commerce, to carry American ships into Spanish ports, and permitted French tribunals in Spanish ports to condemn those ships as prize, for violation of the laws of neutrality; and what was the result?

Spain, by the treaty of 1819 with the United States, engaged to pay the damages sustained by our citizens by spoliations, which differed neither in time nor in circumstances from these under discussion, except in one particular—that, instead of being carried to French ports for condemnation, they were carried to Spanish ports for condemnation. Spain admitted these claims for such French spoliations as resulted in condemnation in Spanish ports; and under the treaty of 1819 it was provided that Spain should pay to this Government $5,000,000, which was the estimated amount of these claims; while this Government agreed to distribute this to that particular class of claims; and the United States under the treaty further agreed, that we would turn over to Spain, on demand, the evidence on which we distributed the money, so that Spain might demand repayment from France, if she felt disposed so to do at any future time.

THE CLAIMS AGAINST FRANCE.

It seems strange, under these circumstances, that it should be averred that the claims against France for similar outrages are not valid. And to my mind, Mr. Chairman, it appears still more unreasonable to magnify these outrages, and the protective measures which we adopted against them, into such a state of war, as absolved France from all liability to make indemnity for them. And yet the opponents of this measure, driven from every position assumed by them, by the application of principles which they can not even plausibly avoid, have made their final rally upon this doctrine, as their last ditch in this struggle.

SPOLIATIONS WERE NOT WAR.

We have already considered the treaty relations existing between the United States and France in 1793. And what was one of the first acts of France after her war with Great Britain began?

She passed a decree on the 19th of February, nineteen days after that war commenced, in which it was decreed by the National Convention of France, that French ports should be open to American vessels on precisely the same terms as to French colonial vessels, and that our goods should pay only the duties which goods from French colonies paid.

On the 3d of September, 1794, a year later, Mr. Monroe, who was then the accredited minister of the United States to the French Republic, in a letter in which he was presenting complaints about spoliations made by the French upon our commerce, and complaining of the Bordeaux embargo, where many of our ships had been seized, did not recognize these acts as constituting a condition of war with France; but says in that letter, "Besides, we are the allies and, what is more, the friends of France."

There was some question, in the negotiations in France, as to the execution in full of the treaties of 1778, and whether, by mutual consent, for mutual convenience, they would waive for a time some of their stipulations, and it was submitted to the French National Convention and on the 13th day of January, 1795, Mr. Monroe writes to the Secretary of State of the United States:

A decree has passed the convention since my last, whereby it is resolved to carry into strict execution the treaty of amity and commerce subsisting between the United States and this Republic. I beg leave to congratulate you upon this event.

But there was a still more significant illustration of the fact that the spoliations, up to that time, had not disturbed the friendly feelings between the United States and France. That illustration occurred on 1st day of January, 1796, three years after the war between France and England commenced. Adet, the minister accredited to the United States from the French Republic, brought over with him, in accordance with a resolution of their legislative body, the colors of France, to be presented to the United States, with a statement, that in their legislative hall the colors of the United States were floated beside the colors of France, and as a New Years' offering of good-will and affection from France to the United States, presented them to Washington; and Washington, in accepting the colors, said:

The transaction will be announced to Congress, and the colors will be deposited with those archives of the United States, which are at once the evidences and the memorials of their freedom and independence. And may the friendship of the two republics be commensurate with their existence.

Yet gentlemen on this floor say that during all that time, these spoliations upon our commerce had created a state of war between France and the United States!

But there is still more striking evidence that no state of war existed, to be found in the diplomatic correspondence on the 15th day of November, 1796. Minister Adet had addressed four questions to the Secretary of State, Timothy Pickering. There had been diplomatic controversy and complaint, and claims pro and con that each side owed indemnity to the other for what had occurred during this time, but which did not amount to war, as will be shown by the extract which I will now have read. Minister Adet, as I have said, submitted four questions to the Secretary of State, Timothy Pickering, to which the Secretary made this answer, which I will ask the Clerk to read.

The Clerk read as follows:

To the four questions stated in your letter, be pleased to accept the following answers:

First. Will the prizes made by the ships of the Republic upon the English continue to be sold here?

I have had the honor in some former letters to state to you the sense of the Government on this point, with the reasons to support it. Permission to sell prizes was considered by the Government not demandable as of right. The power permitting could therefore restrain the sales. The only restraint yet imposed has respected captures made by privateers.

Second. Will the prizes made by the privateers of the Republic upon others than the English be sold?

As the original permission to sell prizes extended to those taken from all the enemies of the French Republic, and as the restraint lately imposed refers merely to British vessels, pursuant to the article of the treaty just mentioned, so the indulgence is to be considered as remaining at present on its original footing.

Third. Shall we unconditionally enjoy the right of unloading prizes in case of damage, and of having them repaired?

The right of unloading prize vessels, when they are so damaged as to be unfit to proceed to sea without repairs, will not be controverted; but the unloading and storing of the cargoes must be under the inspection of the proper officers of the United States as a necessary precaution against the transgression of our laws. And in case the prize vessels are really irreparable, and in consequence are regularly condemned as unfit ever to proceed to sea, their cargoes may be exported as French property in other bottoms.

Fourth. Can a part of the prize, sufficient only for the expense of repairs, be sold?

So much of the prize cargo may be sold, as shall bona fide be necessary for the repairs, without which the vessel will be unfit to proceed to sea. But such sales must be made under the inspection of the collectors, pursuant to instructions from the Treasury Department, for securing the duties on imports, and confining the amount of the sales to the necessity of each case.

With respect to the ship Amity at Charleston, the collector of that port will be instructed to permit her departure as a French prize.

This letter, in substance as it now appears, was prepared to be sent you in the last month, but doubts arose on some points, concerning which legal opinions were taken, and occasioned the further delay to this time.

I have the honor to be, with perfect respect, sir,

Your most obedient servant,

TIMOTHY PICKERING.

Mr. DIBBLE. Now, Mr. Chairman, that letter shows that as late as November, 1796, all prizes of British ships captured by French public men-of-war were permitted to be brought into our ports, and to be sold as prize of war, recognizing the treaty; that the only restriction was as to privateers that had captured British vessels; and that a distinction was made on account of the treaty of 1794 in favor of the English as to prizes captured by privateers of the French—no further; that as to all other enemies of France, France was at liberty to bring her prizes in, and to sell them in American ports. Yet gentlemen say a state of war existed.

Why, sir, take the inaugural address of President Adams in 1797, in which he says that he will maintain "peace and inviolable faith with all nations, and that system of neutrality and impartiality among the belligerent powers of Europe which has been adopted by the Government." He goes on to say, that his intention is to "pursue by amicable negotiations a reparation for the injuries that have been committed on the commerce of our citizens by whatever nation—to maintain peace, friendship, and benevolence with all the world." And even when, in consequence of strained diplomatic relations, the French Government, deeming that she had been wronged by us, refused to receive Pinckney as a minister, and sent Monroe from France, she states that although she refuses to hold diplomatic relations through a minister with the United States—these are the words of her minister of foreign affairs—"the ordinary relations subsisting between the two peoples in virtue of the convention and treaties shall not on this account be disturbed. The consuls will remain charged to superintend them."

Such was the position of France. What was the position taken by the United States at that time? Although Pinckney was not received, President Adams at once sent three ministers—Pinckney, John Marshall, and Elbridge Gerry—to attempt to open further negotiations with France. He called a special session of Congress in 1797, and reported that he had taken this step; and the Congress of the United States, in an address to him in reply to his message, said that they approved of it. This address goes on further to say:

We therefore receive, with the utmost satisfaction, your information, that a fresh attempt at negotiation will be instituted, and we cherish the hope that a mutual spirit of conciliation, and a disposition on the part of France to compensate for any injuries which may have been committed upon our neutral rights, and on the part of the United States to place France on grounds similar to those of other countries in relation and connection with us, if any inequalities should be found to exist—

Alluding to the claim which France made, that, by the British treaty, we had violated the clause which gave to France the privileges of commerce and navigation accorded to the most favored nations, and that from this cause damage had resulted to her in her war with England.

I could refer, if time permitted, to the letter which was written at that time confidentially by the Secretary of State to Mr. Murray, the minister to The Hague, in which he says that the address to President Adams, as first drawn up, was not accepted by the House of Representatives, until they had inserted in it that clause relating to the wish of the House that justice should be done also to France.

Such was the condition of things, during the war between France and England, up to the time when our measures were taken in 1798. Let us see what measures were then taken. We come now to the part of this case which embraces what gentlemen have called the period of limited war. But before going into that, I will call the attention of the House to this: I think I have thoroughly established the proposition that the treaties of 1778, and the condition of friendship and alliance with France, existed in full force up to July 7, 1798. On that day, Congress passed an act, in which it declared that, in consequence of the continued violation of the law of nations and of these treaties, the treaties should not thereafter—that is, from that date, July 7, 1798—be recognized as binding upon the United States.

I wish the House to look into the question in view of these dates, and to notice that when the Congress of the United States took that position the greater number of these spoliations had already occurred; that they occurred while a state of absolute peace existed between the two countries; that the United States did not consider them as constituting even such a state of hostility as would suspend the treaties, because in this act of July 7, 1798, Congress does not say that these treaties have long since been abrogated; that the action of France has abrogated them but that because of the action of France and her not having given reparation to this country, they shall not "henceforth" be binding; that from that time the relations between the United States and France shall be those of the law of nations, not those of treaty.

I will say here, Mr. Chairman, that the Court of Claims, in accordance with the act of July, 1798, have rejected some claims, conforming their decision to this declaration of the political branch of the Government.

As a matter of fact, how do these claims stand in relation to that period? Of the claims actually decided and now submitted for your consideration and vote in the deficiency bill, amounting to $740,606.63, we find that $397,735.99, or in round numbers say $40,000 out of $740,000, are for claims prior to that period, when the Congress of the United States, the President of the United States, and the French Government, all united in the declaration that the treaties were still in force, and said that amity existed between the United States and France.

Mr. COBB. Were not the treaties annulled by the Congress of the United States because of the commission of the acts out of which these very claims arose?

Mr. DIBBLE. I would like to answer the gentleman from Alabama later. I propose to discuss further on in my remarks why the treaties were repealed. Can any member on this floor allege, under the condition of amity which existed between the two Governments, although it was recognized that both sides were violating those treaties, that because armed ships of the two countries afterwards met and exchanged shots with each other—can any one hold that the very first time that French and American war vessels got into conflict—such single conflict wiped out all of the claims of the United States for spoliations committed in time of peace?

Are we ready, as the branch of the Government representing the sovereignty of the people, to declare to the world by our action, that, in any future war between powers with which the United States may have treaties, if they violate our neutral rights when engaged in such war, and continue violating our neutral rights until we send out ships of war to defend our commerce—are we ready to say that, by the act of resorting to force to defend our commerce on the high seas, we "wipe out" all claim for spoliation previous to that period?

Mr. HEARD. I do not rise for the purpose of interruption, but merely to see whether I understand the position of the gentleman from South Carolina, and I hope he will not object.

Mr. DIBBLE. Certainly not, if you will not take up too much of my time.

Mr. HEARD. If I understand the gentleman, he says that by the act of 1798, that by the enactment of that statute by our Congress, there can be no doubt about the amicable arrangements and the absolute force of treaty according to that statute. I understand the gentleman to say further that these claims, for which appropriation is asked, amounting out of the $740,000 to $397,000 or $400,000, in round numbers, are on account of losses which occurred before this act of 1798 was passed. I understand him to say still further that the Court of Claims felt called upon to reject some claims because they had occurred subsequent to that date. If $400,000 of these claims occurred before that time, out of the $700,000—if they occurred before the act of 1798, I take it then that $300,000 of these claims covered the remaining period.

Mr. DIBBLE. I merely wish to state that of the claims now in this bill, there are more than one-half in amount which accrued while the treaties of 1778 were admitted to be of force by both sides.

Mr. HEARD. I merely wanted to understand the difference between those claims which have been accepted and those claims which have been rejected.

Mr. SENEY. I was not present during the time the gentleman from South Carolina was discussing the point referred to by the gentleman from Missouri, but I would like to have his opinion. Why is it these claims compose the bill from the Court of Claims?

Mr. DIBBLE. The claims subsequent to July, 1798, will be considered in the line of my future remarks, and I expect to treat that portion of the bill before I get through. I now desire to proceed to the consideration whether a state of war existed or not after July, 1798.

Mr. SENEY. It is a very material question whether Congress ought to appropriate money to pay these claims without first being satisfied by the judgment of the highest court in the land as to their validity, for that is a disputed question of such a nature and so complicated by questions of maritime and international law that nothing will satisfy the people, save and except the judgment of the Supreme Court of the United States.

Mr. DIBBLE. I am prepared to give my views on that question.

Mr. BRECKINRIDGE, of Kentucky. Are not those of us who are members and who are interested in the claims responsible whether we shall establish the precedent of submitting political questions to the Supreme Court?

Mr. SENEY. I can answer the gentleman from Kentucky by saying these are not political questions at all.

Mr. BRECKINRIDGE, of Kentucky. They are in my view.

Mr. SENEY. But not in the view of others.

Mr. DIBBLE. I simply wish to state that I do not consider claimants as coming to Congress to say where this matter shall be determined, but as I look upon it, that the Congress of the United States is to decide the whole matter itself.

From my standpoint of view, we are the proper ones to determine it. I do not feel like shirking any of the responsibilities of this floor. It appears to me this is a question to be settled here; not because the claimants prefer it, but because this is the proper place, in my judgment.

But allow me now to proceed as I was proceeding when interrupted.

Mr. SENEY. I would be glad to have the gentleman explain why he proposed to send these claims to the Court of Claims in the first instance, in view of what he has just said. I would like to have information upon that point.

Mr. DIBBLE. I stated the reason for this in the outset of my remarks; and I refer the gentleman to the opinion of Chief-Justice Taney in Gordon *vs.* United States:

> Congress may undoubtedly establish tribunals with special powers to examine testimony and decide, in the first instance, upon the validity and justice of any claim for money against the United States, subject to the supervision and control of Congress, or a head of any of the Executive Departments. In this respect the authority of the Court of Claims is like that of an auditor or comptroller, etc. (117 U.S., 699.)

The reports of the Court of Claims are merely advisory; but they assist Congress in ascertaining the facts in the manner of a judicial tribunal, and protect the Government by a more rigid scrutiny of these claims, and a classification of them, by which all claims concerning each vessel and its cargo are heard together, thus preventing exaggeration of amounts, and duplication of the same claim by separate claimants.

I was going on to say, Mr. Chairman, when interrupted, that a majority of these claims occurred during the period when there could be no question of war. The fact of their being valid claims against the Government of France is undoubted. It is undoubted that France seized our vessels in violation of the treaties. It is undoubted that she carried them into her ports, and under decrees which violated the treaties she condemned the vessels, and had them sold; and more than half of the claims embodied in this bill are claims arising at a time when there was no pretense on either side of the existence of war.

Furthermore, it is well to state here that the number of these claims is very much exaggerated. I took occasion to send to the clerk of the Court of Claims for some information on the subject.

A great deal has been said here about the claims aggregating thirty or forty millions of dollars. In reply to this, it is enough to say that the claims for spoliation committed on our commerce during that war were variously estimated at that time by those who knew as between fifteen and twenty millions. It appears all through the dispatches, sometimes more than fifteen millions and sometimes approaching twenty millions. But of the claims so classified we made Spain pay for five millions of them, and we made Great Britain pay for a large proportion of them, while a great many of them were committed after the 30th of September, 1800, which came under the treaties of 1803 and 1831. So that there only remained the claims that originated prior to September 30, 1800, and I will cite a few figures to show the status of them.

There have been filed 5,569 petitions. Of course a great many of these relate to the same ships—one for the cargo, for instance, another for the ship, another for another portion of the cargo, and so on. But a very significant fact is, that, although the bar of the statute of limitations has now prevailed for a year and a half, out of the 5,569 claims filed, the parties have not been able to find evidence in more than a little over 2,000 of them, or less than half of the whole number. The clerk of the Court of Claims states, that on July 6, 1888, out of the claims filed, there are 3,292 claims in which no evidence has been furnished up to this date.

So that these claims may be well presumed either to be unfounded in fact, or to have failed from the loss of evidence, and that will very materially reduce the aggregate. If the Government paid all the claims, they would amount to about $10,000,000.

Again, it is not fair to draw comparisons from the amounts stated in the claims themselves, because a very large number of the claims were filed at the last moment, in the rough, to prevent the bar of the statute of limitations operating against them. Persons came forward, who said they had claims, but could not give the particulars, and an attorney would put in a petition, in order to avoid the bar of the statute, with the hope of obtaining the evidence afterwards to substantiate it. Of course, in claims of this character, the amounts were exaggerated.

Now, of the claims which have been filed, it is reasonable to presume that the claimants would put the best claims in front, to get decisions upon them in the first instance. But the amount of the claims, as I have it from the clerk of the court, whose communication on the subject I will publish, was $1,088,000 whereas the amount allowed by the court was only $741,000, or about 68 per cent. So that there will be a reduction, as all of the claims have to go through a judicial scrutiny. Thus the House will see that the question of amount, with all the disadvantages around it, is a question of about $8,000,000. The further question is, whether the United States Government will consider the amount of $8,000,000 as an element in settling the controversy whether claims justly due ought to be paid or not. That is the vital question, and not the amount involved.

Mr. Chairman, the claims of this country arose in the first instance, as history shows, and as the French Government explained, in a great many instances from mistaking Americans, who spoke the same language, for the English, and very likely, too, there may have been English ships on the sea which would carry American colors. But the advantage of this scrutiny of the Court of Claims is that ships of that kind will not be paid for, because they require proof before that court of the American register, of the American ownership of the vessel, of the American ownership of the cargo which was seized, and other complete particulars; so that the rights of this Government will be fully preserved, in dispensing justice simply to American citizens.

Then the French Government proclaimed an embargo at Bordeaux, but she apologized to the minister of the United States for the detention of American ships, and actually promised indemnity in the case of the Bordeaux ships. In some few instances, that indemnity was paid, but the great majority still stand open as unpaid claims against France. Then there was another class of claims, which arose after we had made a treaty with England—the Jay treaty in 1794—which was ratified in 1795, and established with England a different rule in regard to search of neutral ships from the rule of our treaty with France. Under the French treaty, free ships made free goods, and provisions and naval stores were not counted as contraband of war. Under the English treaty, we acknowledged that Great Britain should have the right to go on our ships, not only to impress seamen, as she did, but further, that she should search our ships, and that naval stores should be regarded as contraband of war; that provisions on our ships bound to a French port should be so far regarded as contraband of war that they would have the right to seize and carry them into an English port, paying the owner for them; rules which were denied to France.

And France complained, that, while the nations of Europe by actual treaty, as shown by the treaty of England with Prussia, and England with Russia, and other European powers, with whom she had formed alliances, attempted to starve out France, France did not have the right to stop American vessels carrying provisions into English ports, while they had the right to stop and seize American vessels carrying provisions to French ports; and for that reason France passed a decree that the French should treat neutral vessels in like manner as such neutrals permitted the English to treat them.

And she passed a further ordinance, that every vessel that was not identified as an American vessel by a crew list, which was signed by officers in this country, would be considered not an American vessel for failure of proof, and would be treated as an enemy's vessel. This decree was passed in consequence of our treaty with Great Britain, and I am not afraid to say, what was said at the time by Congress, and what was said in the correspondence, that the treaty had operated to the disadvantage of France while France was our ally, and while we had agreed by treaty with her that we would not give any other nation, either in commerce or in navigation, any advantage that we denied to her.

The French decrees, nevertheless, were violative of our treaty with France, because they were not justified either by treaty or by the law of nations, and we had rightful claims for indemnity against her.

And these indemnities have been recognized. I will show by the correspondence that they were positively admitted by France.

CONGRESSIONAL ACTION.

But I must return from my digression, Mr. Chairman, and consider the effect of the legislation by Congress in 1798 upon our relations with France, and upon the liability of France for depredations upon our commerce after such legislation.

As introductory to this inquiry a brief sketch of the state of affairs existing just before such legislation will assist materially in arriving at correct conclusions.

THE NEGOTIATIONS OF 1797-'98.

In 1797, Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry were constituted envoys to the French Republic; and Timothy Pickering, Secretary of State, on July 15, 1797, formulated their instructions, from which I will make a few extracts:

> Not only the recent depredations, under color of the decrees of the Directory of the 2d of July, 1796, and the 2d of March, 1797, or under the decrees of their agent, or the illegal sentences of their tribunals, but all prior ones, not already satisfactorily adjusted, shall be put in this equitable train of settlement. * * *
>
> Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed, yet it is not to be insisted upon as an indispensable condition of the proposed treaty. You are not, however, to renounce these claims of our citizens. * * * Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States. * * *
>
> The proposed alterations and arrangements suggest the propriety of revising all our treaties with France. In such revision, the first object that will attract your attention is the reciprocal guaranty in the eleventh article of the treaty of alliance. * * * But if France insists on the mutual guaranty it will be necessary to aim at some modification of it. * * * On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money or quantity of provisions at the option of France, the provisions to be delivered in our own ports, in any future defensive wars. The sum of money, or its value in provisions, ought not to exceed $200,000 a year during any such wars. * * *
>
> To state the cause and pretenses that have been already advanced by the Government of France, its agents and tribunals, as the grounds of the capture and condemnation of American vessels and cargoes, would doubtless give pain to any man of an ingenuous mind, who should be employed on the part of France to negotiate another treaty, or a modification of the treaties which exist. * * *

From these extracts it will be observed that the envoys were to obtain a modification of existing treaties, or a new treaty, if possible. They were instructed to offer money or provisions up to $200,000 a year during any defensive war in place of the guaranty in the treaty of alliance. They were to obtain indemnities for the wrongs done our citizens, if possible; and while they were authorized to postpone these claims, if they could not otherwise make a new treaty, they were forbidden to renounce them.

On October 19, 1797, the envoys reported to the Secretary of State the substance of a conference with representatives of the French Government, from which I call attention to the following extracts:

> The subject of the *rôle d'équipage* was also mentioned. * * * M. Bellamy said that he did not assert the principle of changing treaties by municipal regulations, but that the Directory considered its regulation concerning the *rôle d'équipage* as comporting with the treaty. We observed to him that none of our vessels had what the French termed a *rôle d'équipage;* and that if we were to surrender all the property which had been taken from our citizens, in cases where their vessels were not furnished with such a *rôle*, the Government would be responsible to its citizens for the property so surrendered, since it would be impossible to assert that there was any plausibility in the allegation that our treaty required a *rôle d'équipage.* * * *

On January 17, 1798, our envoys presented in a letter to Talleyrand the American claims, describing them as follows:

> These claims consist—
>
> Of claims uncontroverted by the Government of France, and
>
> Of claims founded on captures and condemnations, the legality of which has not yet been admitted.
>
> In the first class are arranged—
>
> First. Those whose property has been seized under the decree of the National Convention of the 9th of May, 1793;
>
> Second. Those who are entitled to compensation in consequence of the long detention of their vessels at Bordeaux, in the years 1793 and 1794;
>
> Third. The holders of bills and other evidences of debts due drawn by the colonial administration in the West Indies;
>
> Fourth. Those whose cargoes have been appropriated to public use without receiving therefor adequate payment; and
>
> Fifth. Those who have supplied the Government under contracts with its agents, which have not yet been complied with on the part of France.
>
> * * * * * * * *
>
> They pass to complaints still more important for their amount, more interesting in their nature, and more serious in their consequences. On the 14th Messidor, fourth year of the French Republic, one and indivisible (July 2, 1796), the Executive Directory decreed "That all neutral or allied powers shall, without delay, be notified that the flag of the French Republic will treat neutral vessels either as to confiscation, as to searches, or capture, in the same manner as they shall suffer the English to treat them." This decree, in any point of view in which it can be considered, could not fail to excite in the United States the most serious attention. It dispenses at once, as they conceive, with the most solemn obligations which contract can create, and consequently asserts a right on the part of France to recede, at her discretion, from any stipulations she may have entered into. * * *
>
> This power has been exercised by France on the rich and unprotected commerce of an ally, on the presumption that that ally was sustaining the same injuries from Britain, at a time when it is believed that the depredations of that nation had ceased, and the principle of compensation for them had been recognized. In the West Indies similar depredations have been experienced.

The envoys then proceeded to complain of the colonial decrees of August 1, 1796, November 27, 1796, and of February 1, 1797, and the wrongs done to American ships and cargoes thereunder.

The envoys then denounce the requirements of a *rôle d'équipage*, on the ground that the treaty of 1778 enumerates the form of passport required to establish the neutrality of a vessel and her crew, as between the United States and France.

On March 18, 1798, Talleyrand replied to the American note, contending that the conduct of France became necessary, from inexecution of treaties by the United States, and from the British treaty, which gave Great Britain rights denied to France, and unfriendly conduct of the United States since the British treaty, for all of which he claimed

indemnity. Talleyrand refers for details to numerous official communications made to the Government of the United States by the French ministers, from time to time.

We thus have the claims on both sides duly formulated; and it is to be observed that they are based by both parties on the continued existence of the treaties, and that the decrees of which the American envoys complained were decrees against neutrals, not against enemies of France.

But the negotiations failed, and the envoys withdrew from France, first Pinckney and Marshall, and afterwards Gerry. But before the departure of Gerry, and before the act of Congress of July 7, 1798, abrogating the treaties, Talleyrand, on June 10, 1798, writes to Gerry as follows:

All negotiations between France and the United States must essentially rest upon three principal points:
1. Frank and amicable declarations concerning certain circumstances, which malevolence has and may yet misrepresent. * * *
2. Fixing the meaning of several articles of the treaties between the two countries, and the absolute enjoyment of the rights which flow from them. * * *
3. The impartial examination of the damages which have resulted from the deviation from the treaties of 1778.

THE POSITION OF FRANCE.

We have already stated that every seizure made by the French was under color of some one or more of the French decrees against neutrals, so that France did not commit a single one of these grievances as an act of war. And this is true for the entire period from 1793 to 1800, inclusive; and after our legislation in 1798, the French Government modified materially its instructions to its cruisers.

The Executive Directory on July 31, 1798, in a decree, declared that vessels fitted out in the French colonies as cruisers had violated the law of nations and rights of neutrals and of allies, and withdrew from the colonial government the right to issue letters of marque.

On August 16, 1798, they decreed that embargo on American vessels should be immediately raised.

On March 18, 1799, the Directory declared that the decree of March 2, 1797, as to *rôles d'équipage* had been improperly interpreted as to American vessels, and that obstructions to navigation of vessels of that nation should be removed, and decreed that American vessels should not be subject to other conditions than all other neutrals.

I desire to call attention, also, to Talleyrand's letter to our consul-general at Paris, dated August 6, 1798, in which he says:

You will have seen in No. 961 of the Redacteur a copy of a decree made by the Directory, in order to cause privateers to return within the rules and limits, whence they ought never to have departed.

Observe also the following extract from the circular of the French Minister of Marine and the Colonies, Bruix, to the agents of the marine in the ports of the Republic, dated August 11, 1798, concerning detention of crews of American vessels:

The intentions of the Government were very badly understood, when a measure was adopted, which, in the first place, hazards the safety of these vessels, and in the second place appears to place us in a hostile attitude towards the United States, whilst the acts of the Government evince, on the contrary, that it desires a good understanding between the two Republics.

The same minister, on August 16, 1798, issued another circular to all the principal officers of the ports, civil and military, in which he uses the following language:

Our political situation with regard to the United States not having as yet undergone any change which can affect the respect due to neutral nations—

Copies of these two circulars of the french minister of marine were officially transmitted to Mr. Skipwith, our consul-general at Paris, August 20, 1798, by Talleyrand, with a letter, in which he remarks:

Their contents will prove to you the intention of the Government to remedy the abuses committed against its intentions.

The policy of France is illustrated in a letter of Talleyrand to M. Pichon, French secretary of legation at The Hague, dated August 28, 1798, in which he comments as follows:

What, therefore, is the cause of the misunderstanding, which, if France did not manifest herself more wise, would henceforth induce a violent rupture between the two Republics? * * *
The Government of the United States surrounds itself with precautions against an imaginary attack. To stretch the hand to deluded friends is what one republic owes to another, and I can not doubt that the dignity of that attitude will convince the President of our pacific intentions.

Here we find that the French Government distinctly says that a "violent rupture" might come in the future but for the pacific policy which France was pursuing.

So that France, by all her actions and declarations, was estopped from defending any of the claims of our citizens for indemnity, on the ground that the French spoliations were acts of war.

THE ACTS OF CONGRESS.

Let us now examine the position of the United States during the years 1798, 1799, and 1800.

The act of May 28, 1798, reciting in its preamble that armed vessels, sailing under authority or pretense of authority from France, had committed depredations on the commerce of the United States, and captured vessels and property of our citizens on and near our coasts, in violation of the law of nations, and of the treaties between the United States and the French nation, authorized the President to instruct our Navy to seize vessels committing such depredations, or hovering on our coast for the purpose of so doing, and to retake American vessels captured by them.

This was manifestly in maintenance of our neutral rights, and in protection of our commerce. No French merchant ships were to be molested, nor even armed vessels, except such as were preying upon our maritime trade.

On June 13, 1798, Congress passed an act to suspend commercial relations with France and her colonies, and forbade American vessels to sail for French ports, or French vessels to enter American ports without the President's permission, or in stress of weather, and it provided that French vessels be ordered to depart from our ports; with the penalty of forfeiture against American vessels, and seizure and detention, at the expense of the United States, by the collector of customs, of French vessels violating the act. This was an act authorizing civil process for its violation; and the penalties were more severe for American than French vessels; and the fourth section limited the act to the end of the next session of Congress; and the fifth section provided that the President might dissolve these prohibitions whenever France disavowed and refrained from these violations of treaties and the law of nations, and acknowledged our—

just claims to be considered in all respects neutral and unconnected in the present European war.

The act of June 25, 1798, authorized the commander and crew of any vessel, owned wholly by American citizens, to resist depredations committed under French colors, to capture the depredators, and to recapture American merchant-vessels captured by vessels under French colors; and provides that in case of capture of any vessel sailing under the French flag, condemnation proceedings may be instituted in United States courts, and the crew and commander shall be turned over to the collector of the port, to be held at the expense of the United States, until the pleasure of the President of the United States shall be known. The act is limited in duration to one year, and to the end of the next session of Congress thereafter; and the President is authorized to suspend it, whenever French armed vessels "refrain from lawless depredations and outrages" against our merchantmen, and observe "the laws of nations." This act is not a declaration of a state of war between the United States and France; for, if war existed, the French depredations would no longer be "lawless," or contrary to the "laws of nations."

Next in order comes the act of July 7, 1798, which we have before alluded to, and which recites in its preamble that the treaties have been repeatedly violated by France, our just claims for reparation have been refused, and our attempts to negotiate have been repelled with indignity; and that "a system of predatory violence infracting the said treaties and hostile to the rights of a free and independent nation" is yet pursued under authority of the French Government. This act declares:

That the United States are of right freed and exonerated from the stipulation of the treaties and of the consular convention heretofore concluded between the United States and France, and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States.

And then comes the act of July 9, 1798, entitled "An act further to protect the commerce of the United States," which authorized the President to instruct commanders of public armed vessels, and to grant special commissions to private armed vessels of the United States, authorizing the capture of any French armed vessels in the jurisdictional limits of the United States, or on the high seas, and the condemnation "as forfeited" of the vessels and their armaments, and other French property aboard of them; and also authorizing private armed vessels, so specially commissioned, to recapture American vessels, in like manner as public armed vessels could lawfully do; and providing that all French persons, and others acting on board captured French vessels, should be reported to the collector of the first port entered, and should—

be delivered to the custody of the marshal, or of some civil or military officer of the United States, or of any State in or near such port, who shall take charge for their keeping and support, at the expense of the United States.

It is from this act of July 9, 1798, and the deeds of our cruisers and private armed vessels under it, that there arose what has been termed a condition of "limited hostilities" or "imperfect war," which gentlemen here have attempted to magnify into the existence of a general public war between the two countries.

There is no doubt that the Congress of the United States, when it passed the act of July 9, 1798, realized that it might finally result in the breaking out of war; but it is equally clear that it was not intended as a declaration of war with France.

This is shown by other acts of the same Congress. For instance, the second section of the act of July 16, 1798, authorized the President to raise twelve regiments of infantry and six troops of cavalry (additional to the regular military establishment)—

to be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged.

And the act of March 2, 1799, provided that—

in case war shall break out between the United States and a foreign European power—

the President might still further increase the regular Army, and accept and organize a volunteer force: a power that was not exercised, because the authority was "eventual," as stated in the title of the act, and the event (*i. e.*, the breaking out of the war) did not occur.

Let us merely notice, in addition, the act of March 3, 1799, "vesting the power of retaliation, in certain cases, in the President of the United

States," a power which it did not require legislation to bestow upon the commander-in-chief in time of war.

But in the act of Congress of February 20, 1800, the distinction is more strikingly set forth than in any other. This act suspended further enlistments under the second section of the act of July 16, 1798, above cited, authorizing the increase of the regular Army—

unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war shall break out between the United States and the French Republic.

When we consider that by Article I, section 8, of the Constitution, the power "to declare war" is a legislative power, these acts of Congress are "the supreme law of the land," and are conclusive upon this subject, and estop the Government from saying to these claimants that war then existed; especially when Congress, as late as February 20, 1800, declared that war had not yet broken out.

But against these acts and declarations of the war and treaty-making powers of both Governments are presented two decisions of the Supreme Court of the United States. I allude to the cases of Bass *vs.* Tingy, 4 Dallas, 37, and Talbot *vs.* Seeman, 1 Cranch, 1. I propose to show that these decisions are not contrary to the views I have maintained, but assist in their correct analysis.

But were they contrary to the determinations of the war-making branch of the Government of the United States, as set forth in the acts of Congress which I have cited, the political decision of them must prevail, for the reason given by Justice Miller in the Clinton Bridge case, when, in delivering the judgment of the court, he used the following language:

Questions of this class are international questions, and are to be settled between the foreign nations interested in the treaties and the political department of our Government. When those departments declare a treaty abrogated, annulled, or modified, it is not for the judicial branch of the Government to set it up, and assert its continued obligation. If the court could do this, it could annul declarations of war, suspend the levy of armies, and become a great international arbiter, instead of a court of justice for the administration of the laws of the United States.

But let us see what the case of Bass and Tingy was. The Eliza, an American ship, was taken by a French privateer on the 31st of March, 1799, and recaptured on the 1st of April, 1799, by the United States ship Ganges. There was a claim of salvage, and the question was, whether France could be considered as an enemy. I wish to call the attention of the committee particularly to the language, which is used by the members of the Supreme Court, who delivered opinions in that case. Judge Moore said, in the first place, that our condition had no precedent, and that the case presented was one that would have to be decided now for the first time. His language is:

Our situation is so extraordinary that I doubt whether a parallel case can be traced in the history of nations.

Judge Washington stated that a "perfect state of war" was not intended by the United States—

That the hostilities were limited as to places, persons, and things, and this is more properly termed imperfect war; because not solemn, and because those authorized to commit hostilities act under special authority, and can go no further than to the extent of their commissions.

Judge Chase, in delivering his opinion, said:

Congress is empowered to declare a general war, or Congress may wage a limited war; limited in place, in objects, and in time. If a general war is declared, its extent and operations are only restricted and regulated by the *jus belli*, forming a part of the law of nations; but if a partial war is waged, its extent and operations depend on our municipal laws.

Judge Patterson said:

The United States and the French are in a qualified state of hostility. An imperfect war, or a war as to certain objects, and to a certain extent, exists between the two countries; and this modified warfare is authorized by the constitutional authority of our country. It is a war *quoad hoc*. As far as Congress tolerated and authorized the war on our part, so far may we proceed in hostile operations.

Let us apply these principles to the case of the American vessels, engaged in peaceful commerce, and which, unresisting, succumbed to armed cruisers and privateers of France.

Under that decision, I grant that if an American vessel, even though she had on board goods for the purpose of trading, should be commissioned under the act of Congress to recapture prizes from French vessels, and in such an attempt should be seized, she would then come within the state of limited hostilities. But that is not the case of these ships. They were not going out to recapture prizes from France, they were not going out as privateers to war on French commerce; but they were the private ships of the country, proceeding on the lawful and peaceful missions of trade; and they did not come within any class of vessels which were committing hostilities against the vessels of France. And, as Justice Patterson remarked, only so far as Congress authorized the war on our part, only to such extent did this limited or imperfect war exist.

Apply to this case also the tests furnished by the opinions of Justice Washington and Justice Chase. Judge Chase says that this was "a limited, partial war," "limited in place, in objects, and in time." Judge Washington says it was an "imperfect war," "limited as to places, persons, and things." The only objects of the war were defense of our commerce; the only place was on the high seas, and no vessels were engaged in it on our part, except the public armed ships or privateers, and such private armed vessels of this country as attempted to recapture a prize from a French vessel.

The only objects against which hostilities were directed were French armed vessels, either public vessels of war or French privateers. Our vessels had no right to attack private vessels of France. There was nothing allowed in the nature of reprisal against French merchantmen. Chief-Justice Ellsworth, a member of the Supreme Court, when envoy to France, on the 11th day of April, 1800, united with Davie and Murray in a letter addressed to Joseph Bonaparte and the other French plenipotentiaries, in which he stated:

With respect to the acts of Congress of the United States, which the hard alternative of abandoning their commerce, ruin imposed, and which far from contemplating a co-operation with the enemies of the Republic, did not even authorize reprisals upon her merchantmen, but were restricted solely to the giving of safety to their own, until a moment should arrive when their sufferings could be heard and redressed—

thus distinctly repudiating any co-operation with the enemies of the Republic of France, and asserting that the measures adopted by this country were simply defensive.

But let us see what there was on the side of France. Was the act of France an act of war? I say emphatically, and I am prepared to prove by the decision of our own Supreme Court, that the act of France, while it was an outrageous act, while it was an act for which we had a right to claim indemnity, was not an act of war. Take, in the first place, the French decrees. The French were proceeding in obedience to their laws. Every one of their decrees is a decree, not against an enemy, but against neutrals. One of them says, "We will treat the vessels of neutral powers as those ships allow the British to treat them." Another one says that any vessel claiming to be a neutral vessel must have a crew-list in a certain form, or be condemned. France herself, under her law, did not commit these acts as acts toward an enemy, but in every instance as acts toward neutrals.

But we have an express decision of the Supreme Court of the United States on this point, and it is the very case which has been cited by gentlemen on the other side, in order to include this matter within the limits of war. I allude to the case of Talbot *vs.* Seeman. What was that case? A ship (the Amelia) belonged to a citizen of Hamburg, a foreign free city, which at that time was at peace with us, and at peace with France. France did not devote her attentions exclusively to the United States at that time in depredating on commerce. She depredated on the commerce of Denmark, Sweden, and Hamburg as well as on that of the United States. This was a Hamburg ship; and it was taken by a French war vessel; and being sent off as prize, was recaptured by an American ship, the Constitution. Our law provided that in case of recapture, certain salvage was to be allowed; the expression used in the act of Congress was 'recaptured from the enemy." On that phrase, "the enemy," turns one point of the decision, which bears out the position I take. The salvage to be allowed was one-half of the value of the ship. Our vessel recaptured from the French this Hamburg prize, and brought it into our ports for salvage; and they claimed one-half of the value of the ship as salvage, under the act of Congress which spoke of "recaptures from the enemy."

And, while the court decided that the Constitution, a public armed ship of the United States, was within the terms of the acts of Congress, in recapturing from a French prize crew the Hamburg ship, and could recover salvage, yet the salvage could not be measured on the basis of recapture "from the enemy," because France, in seizing the Hamburg ship and putting a prize crew aboard of her, did not thereby assume the relation of an enemy to the Hamburg vessel or its government. From which follows inevitably the conclusion, that if the act of a French armed vessel, acting under the French laws, in the seizure of a merchant vessel of Hamburg on the high seas, and in claiming it as prize, was not an act of war towards Hamburg, then a similar act, under the same French laws, could not be an act of war towards the United States.

Such is the doctrine of Talbot *vs.* Seeman. It simply indicates that while we could not have claimed indemnity from France for damages sustained by our cruisers or our privateers from French armed vessels, because such of our vessels were, by express designation, included in the terms of the acts of Congress authorizing the limited hostilities; nevertheless, the vessels which were engaged in the peaceful voyages of commerce, and which suffered seizure, and were condemned and sold as neutrals by the decrees of French courts, are entitled to all the rights of neutrals as much as if no state of limited war existed, embracing other classes of American ships.

But in conclusion let me refer to a case in the English admiralty (The Santa Cruz, Rob., 54), where Sir William Scott spoke of the relation between the United States and France as "the present state of hostility (if so it may be called) between America and France." In this case the presiding judge doubted whether the words "state of hostilities" were applicable to the situation.

And still spoliations of our commerce, under color of the decrees affecting neutrals, continued; but, as will reasonably be seen, they were not so frequent, because of the French orders of marine, and more especially because our cruisers prevented depredations in many cases. For instance, on April 24, 1799, Mr. Pickering, Secretary of State, writes to our minister at The Hague that—

our vessels trading to the West Indies are generally convoyed home by the public armed vessels, which are cruising in that region. We have not heard of a French privateer on our coast since the capture of one last summer.

And yet some gentlemen of the committee have said in their report that these claims "originated mostly in the years 1798 and 1799."

THE WITHDRAWAL OF THE PINCKNEY EMBASSY.

But let us resume an examination of the negotiations between the two countries.

In April, 1798, negotiations for a new treaty, or a modification of the old ones, having failed, Pinckney and Marshall left France. Gerry remained until July or August following, having received from Mr. Pickering, Secretary of State, a positive recall.

But before his departure news of the vigorous action of Congress, authorizing French cruisers hovering upon our coasts to be attacked, and suspending commercial relations with France and its colonies, had reached Paris. In this state of affairs, Talleyrand writes to Gerry of the intentions of the French Directory, as follows:

In the present crisis, it confines itself to a measure of security and self-preservation, by laying a temporary embargo on American vessels, with a reserve of indemnities, if there be occasion for them. It is yet ready, it is as much disposed as ever, to terminate by a candid negotiation the differences which subsist between the two countries.

Let me call attention to the fact that Talleyrand, the great diplomatist of France, informed Gerry that France would reserve a right to indemnity against our Government in case our cruisers attacked French cruisers. How can this be reconciled with the position, assumed by those opposed to these claims, that indemnities could not be claimed against France, in face of the fact that France announced her intention to claim indemnity against the United States?

And a few days afterwards Talleyrand reiterates the pacific inclinations of the French Government:

By information which it has just received, it indeed learns that violences have been committed upon the commerce and citizens of the United States in the West Indies and on their coasts. * * * A remedy is preparing for it, and orders will soon arrive in the West Indies calculated to cause everything to return within its just limits, until an amicable arrangement between France and the United States shall re-establish them respectively in the enjoyment of their treaties. This period, sir, can not be too near at hand.

And again, in his final communication to Mr. Gerry, dated August 3, 1798, he says:

Presuming, sir, that you have not yet embarked, I address to you a decree of the Executive Directory, wherein you will find a part of the measures which I announced to you the 4th of this month (Thermidor). Its solicitude will not be confined to that. Neutrals, in general, will have reason soon to be convinced of its firm attachment to the principles to which it is desirous that all maritime nations might agree. It depends upon the United States in particular to cause every misunderstanding immediately to disappear between them and the French Republic.

CONSULAR RELATIONS CONTINUED.

After Gerry's departure, Talleyrand continued this correspondence with Mr. Skipwith, our consul-general at Paris, who writes to Mr. Pickering, Secretary of State, as follows:

With a copy of a letter I have just received from the minister of foreign affairs, I have the honor, under cover hereof, to transmit to you copies of two letters which have been officially communicated to me from the minister of marine to all principal civil and military officers at the different ports of this Republic, concerning the safety and protection of American citizens in general, and those seamen in particular who were detained or are in confinement at those ports. Agreeably to the intimations contained in the Minister's letter to me, I have this day made application to the minister of police in favor of the American seamen, who, by means of one of the public authorities at L'Orient, had been arrested as Englishmen, and are at present confined at Orleans as prisoners of war. In a few days I expect to obtain their liberation, and shall procure their passages home. I have likewise the pleasure of forwarding to you an official copy of an *arrêté* of the Directory for raising the embargo, imposed by Government on all vessels belonging to the United States in the ports of the Republic.

And on January 23, 1799, Mr. Skipwith writes to the Secretary of State that he has reason to think that—

the rights and property of neutral nations will be considerably more respected than they have hitherto been.

DIPLOMATIC RELATIONS RESUMED.

About the same time the Secretary of State wrote to our consul at Havana that it was a mistake to suppose that it was unlawful for American vessels to bring Frenchmen as passengers to the United States.

On March 6, 1799, Mr. Pickering inclosed, in a letter to Mr. Murray, United States minister at The Hague, a commission constituting Chief-Justice Ellsworth, Patrick Henry, and himself envoys to renew negotiations with France. Patrick Henry did not serve, and Mr. Davie was substituted. This was done in consequence of overtures made by Talleyrand through M. Pichon, French secretary of legation at The Hague, to Mr. Murray, as early as August, 1798.

In June, 1799, the President proclaimed renewal of commercial intercourse with St. Domingo.

On May 5, 1799, Mr. Murray announced the appointment of the American envoys in a letter to Talleyrand.

Our envoys were instructed explicitly by the Secretary of State to demand indemnity for the spoliations. Observe Mr. Pickering's language:

First. At the opening of the negotiation, you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color or authority from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal when contrary to the law of nations generally received and acknowledged in Europe, and to the stipulations of the treaty of amity and commerce of the 6th of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force. * * *

Second. If these preliminaries should be satisfactorily adjusted, then for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a board of commissioners. * * * The board should take cognizance of the claims which may be presented to them by American citizens. * * * The claims of the United States as distinguished from those of their citizens. * * * As the French Government have heretofore complained of infringements of the treaty of amity and commerce by the United States or their citizens, all claims for injuries thereby occasioned to France or its citizens are to be submitted to the same board. * * *

The American envoys left the United States early in November, 1799, but, owing to delays incident to voyages in those days, did not reach Paris till March, 1800. After being duly received, and the exchange of credentials, the American envoys, on April 7, 1800, presented the following general proposition:

To ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two nations which must essentially contribute to their mutual advancement.

To which the French ministers replied:

They think that the first object of the negotiation ought to be the determination of the regulation and the steps to be followed, for the estimation and indemnification of injuries, for which either nation may make claim for itself, or for any of its citizens. And that the second object is to assure the execution of treaties of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them.

Two main points of difference are brought to view by an analysis of these declarations. The American proposition did not embrace claims of nation against nation, but only claims of citizens of either nation against the other, while the French proposal embraced both national and individual claims. And the French minister suggested that the treaties were still of force, while the American envoys proposed a new treaty.

After further correspondence the American envoys presented their proposals in the form of the first six articles of a new treaty, in which provision is made for a commission to examine and decide upon claims of citizens of either nation against the other nation, according to the law of nations, and for claims arising prior to July 7, 1798, according to the treaties and consular convention.

Replying to this, the French ministers, after agreeing to the principle of mutual compensation and indemnity, still insist upon including claims of nation against nation, and "see no reason for the distinction between the time prior to July 7, 1798, and the time subsequent," and add:

When the undersigned hastened to acknowledge the principle of compensation, it was in order to give an unequivocal evidence of the fidelity of the French Government to its ancient engagements, every pecuniary stipulation appearing to it expedient, as a consequence of ancient treaties, and not as the preliminary of a new one.

The American envoys, adhering to their original positions, sent thirty additional articles of a general treaty to complete their proposals.

But correspondence and interviews failed to bring the parties together in their views, and finally, on August 11, 1800, the French ministers present to the American envoys two propositions:

Either the ancient treaties, with the privileges resulting from priority, and the stipulation of reciprocal indemnities; or a new treaty, assuring equality, without indemnity.

After this communication, the American envoys perceived (as they state in their journal and in a letter to the Secretary of State) that the negotiation must be abandoned, or their instructions deviated from. After much deliberation and discussion, they determined upon making a new proposal, "predicated on the adoption of the first alternative in the overture of the French ministers." This was presented August 20, 1800, in six propositions, substantially as follows:

1. The former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two powers had intervened, except so far as they are departed from in the present treaty.
2. Either party, within seven years, may pay the other 3,000,000 francs, and thereby reduce the rights of the other as to privateers and prizes to those of the most favored nation; and during the time allowed for this option such rights shall be so limited.
3. The mutual guaranty of the treaty of alliance limited on both sides to furnishing military stores or provisions in any defensive war to the amount of 1,000,000 francs; and either party may exonerate itself from this guaranty by paying within seven years a gross sum of 5,000,000 francs.
4. The articles of commerce and navigation, except seventeenth article of the treaty (as to prizes and privateers), may be modified on the basis of the most favored nation, and limited to twelve years.
5. A reciprocal stipulation for indemnities, limited to the claims of individuals; public ships taken on either side shall be restored or paid for.
6. All property seized by either party, and not yet definitively condemned, or property seized after the signing and before the ratification of present treaty, to be restored, or if condemned after treaty signed, but before notice of it, to be paid for without delay.

To this new overture, the French minister responded, proposing—

First. The ancient treaties shall be continued and confirmed to have their full force, as if no misunderstanding between the two nations had ever occurred.
Second. Commissioners shall be appointed to liquidate the respective losses.
Third. The seventeenth article of the treaty of commerce of 1778 shall be continued in full force, with a single addition, immediately after these words, to wit: "And on the contrary, no shelter or refuge shall be given in their ports or harbors to such as shall have made prize of the subjects of His Majesty (*i. e.*, France) or of the citizens of the United States," there shall be added: "If it be not in virtue of known treaties, on the day of the signature of the present, and subsequent to the treaty of 1778," and that for the space of seven years. The twenty-second article subject to the same reservation as the seventeenth article.
Fourth. If during the term of seven years the proposal to establish the ser-

enteenth and twenty-second articles be not made and accepted without reserve, the award for indemnities determined by the commissioners shall not be allowed.

Fifth. The guaranty stipulated by the treaty of alliance shall be converted into a grant of succor for two millions. But this grant shall not be redeemable unless by a capital of ten millions.

To this, the American envoys offered a slight modification of their former proposal, to which the French ministers, without comment, replied:

We shall have the right to take our prizes into the ports of America.

A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.

The indemnities which shall be due by France shall be paid for by the United States; and in return for which, France yields the exclusive privileges resulting from the seventeenth and twenty-second articles of the treaty of commerce, and from the right of guaranty of the eleventh article of the treaty of alliance.

The American envoys declined to accede to these propositions, and on September 6 presented the following substitute:

First. The former treaties shall be renewed and confirmed.

Second. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 20th of August.

Third. There shall be mutual indemnities and a mutual restoration of captured property not yet definitely condemned, according to their fifth and sixth propositions of that date.

Fourth. If, at the exchange of ratifications, the United States shall propose a mutual relinquishment of indemnities, the French Republic will agree to the same; and in such case the former treaties shall not be deemed obligatory, except that, under the seventeenth and twenty-seventh articles of that of commerce, the parties shall continue forever to have, for their public ships of war, privateers, and prizes, such privileges in the ports of each other as the most favored nations enjoy.

Two days after submitting the foregoing, the American envoys requested an interview with the French ministers to learn—

whether it can be made the basis of a treaty; or, if not, whether any further overtures are to be expected on the part of France.

The interview was held. There were present on the part of the United States our plenipotentiaries, Ellsworth, Davie, and Murray, and on the part of France Joseph Bonaparte, Fleurieu, and Roederer. The American propositions of September 6 were considered *seriatim*. The French ministers insisted on having the option of getting rid of the indemnity by offering to abandon the exclusive privilege, and openly avowed that their real object was to avoid by every means any engagement to pay indemnities, giving as one reason the utter inability of France to pay, in the situation in which she would be left by the pending European war.

The American envoys pressed the subject of modifying the guaranties. Joseph Bonaparte declared that they had no powers to accede to such a stipulation; but if the Government should instruct them to make a treaty on the basis of indemnities and a modification of the old treaties, he would resign sooner than sign such a treaty. It was in the heat of this discussion that he used the argument that the existing state of things was war on the part of America, and that no indemnities could be claimed. And yet this impatient utterance of an irritated minister is seized upon by the opponents of this measure as proof that war existed between the United States and France, although the whole course of the negotiations contradicts the position, and although, a day or two later, the French ministers addressed another note to the American envoys, in which they state:

They firmly adhere to these principles: First. That a stipulation of indemnities carries with it the full and entire admission of the treaties; and second, that the relinquishment of the advantages and privileges stipulated by the treaties, by means of the reciprocal relinquishment of indemnities, would prove to be the most advantageous arrangement, and also the most honorable to the two nations.

Agreement being impossible, the American envoys wrote to the French ministers as follows:

The discussion of former treaties and of indemnities being for the present closed, it must of course be postponed till it can be resumed with fewer embarrassments. It remains only to consider the expediency of a temporary arrangement.

From this suggestion was finally evolved the convention of September 30, 1800, which contained the following article:

ART. II. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1778, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.

THE RATIFICATIONS.

When the convention was submitted for the advice and consent of the Senate, they authorized its ratification, with the second article expunged, and a proviso limiting the convention to eight years. The President ratified it in that form, and commissioned Mr. Murray to act for the United States in the exchange of ratifications, while Joseph Bonaparte, Fleurieu, and Roederer represented France.

Mr. Murray, formally communicating to the French plenipotentiaries a copy of the ratification, and referring to the omission of the second article and the limitation of eight years, suggests that these changes—

show a disposition on the part of his Government to render it more adequate to those views of amity and permanent concord which at present are so happily felt by both nations.

In reply, the French ministers inquire what are the motives of reciprocal interest inducing the suppression of the second article.

Mr. Murray replied:

That article promised a negotiation upon treaties and mutual indemnities.

* * * * * * *

These are precisely the things which, had the *casus foederis* been claimed, must have tended to disturb the peace and to throw the friendship of the two nations out of its natural course. * * * To have retained it (*i.e.*, the second article) would have been, in the result, less to authenticate a claim to disputed rights than to lay up a future quarrel on points in which each party supposed itself just.

Fleurieu and Roederer, after twelve days' delay, responded, that if the private opinion expressed by the American minister was to bind his Government, it may be made to appear conducive to the interests of both parties; but otherwise they would not agree to the suppression of the second article.

Mr. Murray writes to Mr. Madison, our Secretary of State, as follows:

I found that the objection to the suppression of the second article would be in this idea: That they thereby would resign their claim to the treaties, and yet not exonerate themselves from the claim of indemnities. * * * I believe they would not hesitate if the indemnities were abandoned.

Again, on July 1, 1801, Mr. Murray writes to Mr. Madison:

I wish I had been authorized to subscribe to a joint abandonment of treaties and indemnities. As claims, they will always be set off against each other by them; and I consider the cessation of their claim to treaties to be valuable.

Finally, on July 23, 1801, after much fruitless negotiation, a conclusion was reached, and it was communicated by Mr. Murray to Mr. Madison, as follows:

At length they will ratify, but with a declaration in the body of their act, that the omission of the second article and the addition of the new one of limitation, to both of which they will formally assent, are to be considered as an abandonment respectively of the pretensions under that second article.

Convinced, sir, as I am, that nothing better can be gained, and confiding in a liberal judgment in Government upon the situation in which I am placed, I shall exchange upon these terms.

The form of the French ratification is as follows:

Bonaparte, First Consul, in the name of the French people * * * approves the above convention in all and each of the articles which are therein contained; declares that it is accepted, ratified, and confirmed, and promises that it shall be inviolably observed.

The Government of the United States having added to its ratification, that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two states renounce the respective pretensions which are the object of the said article.

With this form of ratification accepted by Mr. Murray, in behalf of the United States, the President received the same and submitted it to the Senate, who resolved:

That they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation.

It was then, on December 21, 1801, proclaimed by the President, Mr. Jefferson, with the ratifications and a statement of the final action of the Senate.

There is a circumstance to be noticed, in relation to the exact words used by Bonaparte, which are translated by the word "*provided.*" The ratification by Bonaparte was in the French language only, and Mr. Murray thus accepted it, although it was usual to have it expressed in both English and French. This was done to save several days' delay; and Mr. Murray so explained to the Secretary of State, in forwarding the instrument. The words used by Bonaparte were "*bien entendu*," literally meaning—"it being well understood." This is much more significant and emphatic than the word "*provided*," used in the English translation afterwards made.

Can there be any doubt that the action of the Senate, and the promulgation by the President of the declaration of Bonaparte as to the effect of retrenching the second article, amounted to an acquiescence in the French interpretation? But in addition, Mr. Livingston, our minister to France, officially communicated a copy of the President's proclamation to Talleyrand, and declared such acquiescence in the French proviso in the following words:

By this it will appear that the Government of the United States did not consider the explanation annexed by that of the French Republic as occasioning any change in the treaty, or as requiring a new ratification.

And a week later, Mr. Livingston reiterated this concurrence in these terms in another letter to Talleyrand:

The qualified ratification can certainly extend only to the objects of the article, and puts an end to a discussion that was only postponed.

This construction had been given to the ratification of the convention by Talleyrand, in an official letter written to Pichon, then French minister to the United States, when he informed Pichon that the ratification had taken place, and inclosed him a copy of its form. After referring to the American ratification as irregular, and as justifying a refusal on the part of France to ratify, he adds:

The Government has preferred to terminate this debate in the manner the most conformable to the interests and to the sentiments of the two nations.

However, as in ratifying without explanation the two Governments would have found themselves in an unequal position relative to the pretensions expressed in the suppressed article the suppression of this article releasing the

Americans from all pretensions on our part relative to ancient treaties, and our silence respecting the same article leaving us exposed to the whole weight of the eventual demands of this Government relative to indemnities, it has become necessary that a form be introduced into the act of ratification, in order to express the sense in which the Government of the Republic understood and accepted the abolition of the suppressed article.

It will be noticed that Bonaparte first ratifies the convention in full, in the same manner as if the second article had not been stricken out by the United States. This was a ratification of the convention with the second article in it. I will read this part of the ratification, for the information of the House:

Bonaparte, First Consul, etc., approves the above convention in all and each of the articles which are therein contained.

The words are "all and each of the articles." These words embrace the second article, as well as the rest of the convention, and constitute the first part of the French ratification.

It is manifest that, in order to make the American ratification conform to this, it would be necessary for the Senate to advise, and for the President to sign, an additional ratification (*i. e.*, of the second article), for otherwise the convention would be fully ratified by France, but not fully ratified by the United States.

But the French Government offered an assent to the ratification of the convention as amended by the omission of the second article and the addition of the eight years' limitation, provided that by such omission both parties renounced the claims of the treaties and indemnities. Bonaparte offers an alternative ratification, equivalent to saying: "I will take this convention as a whole, and will ratify it as a whole, with the second article in; or, I will ratify it with the second article out, provided this is interpreted as a mutual renunciation, instead of a postponement of our disputes."

In this shape, the ratification comes back to Jefferson as the President of the United States. And here I would call attention to the fact that the President ratifies, and the Senate simply advises and consents. Jefferson accordingly sends the convention to them for their advice and consent. When this was done the Senate could have advised the ratification of the second article of the convention, and the revocation of the eight years' limitation; and to do this would have required a further ratification on the part of the President. Or the Senate could have advised the President not to promulgate the convention unless the French Consul should withdraw the proviso attached to his ratification of the eight years' limitation, and of the convention with the second article stricken out; and this also would have required a further ratification on the part of France. Or the Senate could advise the President to acquiesce in the declaration of France, and promulgate the convention in the shape in which it then stood, without further ratification. The Senate adopted the last-named course, and the convention, with its ratification, was promulgated by the President.

Subsequently, in negotiations between the two Governments as to indemnities for spoliations committed after the signing of the convention of September 30, 1800, Talleyrand, the French minister, thus wrote to Mr. Livingston, the American minister at Paris:

You will recollect, sir, that the second article owed its birth to claims founded upon provisions contained in treaties previously existing between the two nations. That the Government of France was willing to admit those claims, provided the connection created by those treaties were re-established; but that the commissioners of the United States, conceiving they were not empowered to treat on this subject, it was mutually agreed to suspend the negotiations relative to both these objects. * * * The qualified ratification can certainly extend only to the objects of the article, and puts an end to a discussion which was only postponed.

To this Mr. Livingston, our minister, on April 17, 1802, replied:

It will, sir, be well recollected by the distinguished characters who had the management of the negotiation, that the payment for illegal captures, with damages and indemnities, was demanded on one side, and the renewal of the treaty of 1778 on the other; that they were considered of equivalent value, and that they only formed the subject of the second article. * * * I am ready, sir, on the other hand, to admit the justice of your remark, so far as relates to indemnities for captures and condemnations, which had been made previous to the signature of the treaty.

Again, Mr. Madison, Secretary of State, wrote to Mr. Rufus King, our plenipotentiary to Great Britain, on December 10, 1801, as follows:

The ratification of the convention by the French Government having a declaratory clause inserted in it, the President thought proper that the instrument should not be proclaimed as a law until the Senate should see and sanction it with that ingredient. There is no reason to believe that any further delay will be occasioned by this course than what belongs to the usual form of proceeding.

It will be borne in mind that this was written while the Senate was considering the French ratification; and that a few days after this letter was written, the Senate did sanction it, as was expected, and it was proclaimed by Jefferson accordingly.

It is therefore beyond further controversy that the United States undertook to obtain for her injured citizens the indemnification due to them from France, and being met with counter claims of France against the United States, agreed to exonerate France from the payment of these indemnities, in return for the release of equivalent demands of France against the United States.

It is only necessary, in conclusion, to say that these indemnities due by France to our citizens were their private property, which could not be lawfully taken for public use without just compensation.

Sullivan vs. Felton.

REMARKS

OF

HON. JOHN LYNCH,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889,

On the contested-election case of Sullivan vs. Felton, from the State of California.

Mr. LYNCH said:

Mr. SPEAKER: I desired to make a few remarks on the contested-election case of Sullivan *vs.* Felton. But as the case has not been taken up I wish to say that the report of the views of the majority meets my approval, and therefore I use it in place of any remarks or arguments which I would have made if opportunity offered:

The committee to whom was referred the papers and the question of contest in the above entitled cause, after having carefully examined the questions of law and fact involved therein, beg leave to submit the following report thereon:

Frank J. Sullivan, Democrat, and Charles N. Felton, Republican, were opposing candidates for Representative in the Fiftieth Congress at the election held November 2, 1886, in said Fifth Congressional district of California, composed of the counties of San Mateo, Santa Clara, Santa Cruz, and the southern half of the county and city of San Francisco.

At that election the vote, as certified by the various local and State election and returning boards, gave Felton 16,328 votes, and Frank J. Sullivan 16,209 votes; Felton's certified majority, 119.

The record in the case covers over nineteen hundred pages of evidence of closely printed matter, besides which the parties have furnished very elaborate briefs, covering fully seven hundred pages. To properly analyze the evidence, eliminating therefrom such testimony as, under the rules of law, has been deemed inadmissible and irrelevant, and to give proper weight and consideration to that which is admissible and relevant, has required a very great amount of labor. To make a full report of all the evidence bearing upon the controversy would extend this report beyond the limit that would likely secure much examination from the average member of the House. The committee therefore content themselves with pointing out what they regard as the salient and controlling points.

The notice of contest, as presented by the statement of contestant, consists of allegations of bribery; of forgery; of illegal votes; of false counts; false returns; of intimidations; of frauds, and other violations of the election laws of California and of the Federal Government, committed and perpetrated by contestee, his agents and party friends, all of which resulted in wrongfully securing to be issued, in favor of contestee, the certificate of election which has secured to him the privileges of a sitting member. Contestee makes no counter-charges, but contents himself with a general traverse of the allegations of contestant. No charges of fraud or other wrong or violation of law or of the rights of the elector being made by contestee against contestant, the committee might well have passed over the evidence without looking for anything upon which such averments might have been based. But, in view of the magnitude of the cause and of the importance of dealing out equal and exact justice, the committee have industriously and in a painstaking manner examined to ascertain whether any evidence existed upon which such allegations could have been made, and none is found. In fact, nothing is found to warrant a suspicion of fraud against Sullivan or the vote by him received:

FIRST.

Eighth precinct, forty-sixth assembly district.

First in order, because first in magnitude and importance in arriving at the merits of this controversy, is the result of the vote as certified to in the returns made from this precinct, as compared with the legitimate bona fide vote of the same, as found by this committee.

This precinct is composed of well and easily understood limits in the city of San Francisco. It is bounded by Sixth and Seventh streets and by Bryant and Brannan streets, forming a block through which three small streets run from Bryant to Brannan streets. The territorial limits at the election in 1886 were precisely the same as at former elections, and, judging from the evidence, neither increasing nor decreasing in population; the only changes taking place in the politics of the inhabitants being those that result from a change of opinions or a change of population by persons moving in or out. At former elections more than 65 per cent. of the electors in the precinct voted the Democratic ticket and less than 35 per cent. voted the Republican ticket.

At the election in 1884, when the same parties—Sullivan and Felton—were opposing candidates for Congress, and when the conditions and result in the whole State and in every Congressional district in the State were more favorable to the Republicans than at the election in 1886 by an aggregate of over 13,000 votes in the State at large and by 1,200 votes in the Fifth Congressional district, Sullivan's vote in this precinct was 183 and Felton's vote was 98; majority 85. In the election in 1886 Sullivan's returned vote was 130 and Felton's 128, making a majority of only 2, as against a majority of 85 votes in 1884, when the vote in the whole State and in every one of the six Congressional districts of the State, including this, the Fifth Congressional district, was much more favorable to the Republicans and to Felton than the vote of 1886.

This, to start with, was well calculated to create surprise, if, indeed, not to arouse suspicion—well calculated to lead to inquiry and investigation. Fraud, though studious to cover up its tracks, like the slimy serpent that drags its slow length through the dust, usually leaves its trail in the dirt to such an extent that an expert finds little difficulty in following it to its hiding-place.

O'Shea (see Rec., pages 67-72) testifies that the election board, in counting out the tickets—Democratic tickets—would call out and count the name of Felton, instead of that of Sullivan when Sullivan's name, and not Felton's, was on the ticket. (O'Shea was a Republican, and was hired as a Republican watcher.) O'Shea's evidence is corroborated by a recount of the tickets—actual tickets cast—made in pursuance of an order of court obtained by Sullivan upon and as result of a petition for a writ of mandate. Upon this recount it was found that instead of 130 votes Sullivan's vote was 167, and that instead of 128 votes Felton's vote was only 73. This result—167 to 73—evidenced by the recount, was more in accord with the result of votes thrown for others who were candidates with Sullivan and with Felton on the respective tickets at said 1886 election. At that election a long list of offices was to be filled. Those on the Democratic ticket with Sullivan received from 150 to 179 votes, while those on the ticket with Felton received from 63 to 100 votes. John P. Dunn, candidate on the Democratic ticket for comptroller, received 179 votes; J. F. Sullivan, for judge of the supreme court, received 171 votes; George A. Johnson, candidate for attorney-general, received 169 votes, etc., and by the recount Frank J. Sullivan received 167 votes

Why Frank J. Sullivan should run so far behind his party friends on the same ticket as to only receive 130 votes, and why Charles N. Felton should run so far ahead of his as to receive 128 votes, one will hunt through the record for evidence in vain, except upon the hypothesis that the Democratic tickets with Frank J. Sullivan's name thereon were called out and counted for Charles N. Felton. That such tickets were so called out and counted, O'Shea testifies; that O'Shea testifies correctly, is corroborated by D. M. Gavigan (see Record, page 196). Gavigan testifies that when he began to watch about 30 votes had been counted, of which Sullivan had 4, and Felton 26, a majority for Felton of 22, while the other Democrats on the ticket had about 20 votes to 10 votes for the Republican candidates, a majority of 10 the other way, making a difference of 32 when only 30 votes had been counted; that members of the board objected to his (Gavigan's) standing where he could see the tickets as they were called off, but finally agreed he might do so; that while he thus watched Sullivan received all the votes but 2, and gained on Felton's vote. This testimony is corroborated by the evidence of Finigan (Record, page 30) and McGowan (Record, page 16).

It is very evident from the testimony and the position of members of the board that, except at intervals, a close watch was not kept by Sullivan's bona fide friends. The testimony as a whole shows that the election board was illegally organized, and in the light of all the evidence it is very plain that the illegal organization was in the interest of Felton. The law of California requires, in the city of San Francisco, that the election board shall be composed of an inspector and of two judges, and an additional inspector and two additional judges, six in all; that these inspectors and judges should belong equally to the parties casting the most votes; that all should be electors in the precinct where appointed. A man by the name of James Hughes was Democratic committeeman of this precinct, or Democratic "captain," as he was called. He it was that selected the Democratic or reputed Democratic members of the election board, D. D. Sullivan and Thomas J. Barden.

His own evidence (see Record, page 962) shows that he received Felton's money. He screens himself, however, under the plea that the money was distributed to certain parties, of whom he was one, who had suffered loss from fire. Most singular, other sufferers from that fire received none of it and heard nothing of it until it dropped out in the evidence of Mr. Hughes in this contest. When asked under oath how he voted, whether for Sullivan or Felton, he refused to answer. Barden also under oath refused to testify how he voted (see Record, pages 404 and 405). Barden was not a resident of the precinct, not a legal elector therein, and for that reason was not eligible to act as judge. (See Barden's own testimony, Record, page 956; and see also evidence of John Hardiman and Thomas Donnelly, pages 90, 92, 376.) Another circumstance coupled with Barden's pretended right to vote and act as judge is that we find him for a few days—not the necessary thirty days under the laws of California—boarding and pretending to reside at the residence of this Democratic "captain," James Hughes, 21 Clinton street, while his (Barden's) wife was absent from his own home (which was in another precinct) over the bay, visiting in Alameda County. (See Barden's testimony, Record, page 957.)

Again, one D. D. Sullivan, the other Democratic judge, was not a resident of the precinct, but imported, brought into the precinct, and also domiciled with the aforesaid Hughes at 21 Clinton street for a few days only. Hughes resided in a little house of four rooms, and did not keep boarders except at this particular time, and only kept these Democratic judges just long enough to give coloring to the question of residence. The pretense that either Sullivan or Barden was a bona fide resident at 21 Clinton street is too gauzy to enlist the belief of the most credulous.

Thomas Donnelly and John Hardiman testify to the non-residence of Sullivan and Barden, the aforesaid judges. (See Record, pages 90, 92, and 376.) Sullivan is not called to rebut this testimony, and Barden, though called, shows that he was not a resident of the precinct.

In short, no one can read the testimony in relation to the election in this precinct without being convinced that Hughes was hired to import, and did import, these men—D. D. Sullivan and Thomas J. Barden—for the purpose of having them placed on the election board to deliberately assist in counting Frank J. Sullivan out and Charles N. Felton in, and that had no recount been called for and had, the purpose would have been accomplished to the extent of a change of at least 92 votes.

Testimony is not wanting to show still 6 more votes that were illegal. After the ballots were all in the box, and before the count was begun, the tickets were dumped on a table and counted, when it was found that there were three more tickets in the pile than the number of names on the poll-books. (See evidence of O'Shea, pages 67–72, and Ragen, page 242.) To properly adjust this difference some one deliberately adds three names, namely, Edward J. Hunt, Daniel McQuaid, and Patrick Smith, to one of the poll-books.

These men, though living in the precinct, and possessed of the qualifications of electors, being called to testify as witnesses in this contest, severally swore they did not vote. And upon examination it was found that their names were not upon the duplicate poll-list kept by the inspector. (In California, as in many of the States, the names of the electors as they vote are recorded by two clerks on separate poll-books, which, if correctly kept, are duplicates of each other. One of these the laws of California require shall be returned to and filed with the county clerk and the other kept by the inspector. In this case the one returned had the three extra names, while the one retained, when produced, did not contain them.)

Besides these three there were other names, to wit: Patrick Madden, Sheldon C. Griffith, and John H. Flood, who did not vote, but whose names are recorded by each of the clerks as having voted. Madden died October 24, nine days before the election. The other two parties, when called to testify, swore they did not vote at the election. Counsel for contestee, in his brief, concedes the illegality of these 6 votes, but contends that they should be deducted from contestant's vote, because, as he says, contestant had the majority in the precinct, and for that reason is presumed to have received these votes. All the fraud perpetrated in this precinct, so far as shown by any evidence, was perpetrated in the interest of Felton, and in the judgment of the committee the presumptions are the other way. Leaving these 6 votes alone, the recount gives Sullivan 94 instead of 2 majority over Felton. Under every rule of law we are compelled to give Sullivan at least 94 majority.

The organization of the election board and the manner of holding and certifying to the election in this precinct is so tainted with fraud as to warrant the throwing out of the precinct vote as returned *in toto*. The evidence in the case would fully justify such a course. That being done, under well-established rules of law (see McCrary on Elections, sec. 442) each party would have the right to prove his vote *aliunde*. Should this course be adopted Felton's entire majority of 119 would be more than overcome by this precinct alone. Sullivan called more than enough of the electors of this precinct and by them proved that they voted for him to overcome Felton's majority of 119, while Felton did not call a single voter of the precinct to prove a vote for himself. By accepting the result as shown by the recount we think, under all the circumstances, the ends of justice will be best subserved. Hence we here deduct 92 from Felton's 119 majority.

SECOND.

Before proceeding to the second important item in determining the result at which we arrive—unseating Felton and seating Sullivan—we will quote such of the statutory provisions of California as are thought necessary to a full understanding of the facts in relation to this second item, which have influenced us in our deliberations. The references are to the political code of the State, to wit:

"SEC. 1185. A ticket is a paper upon which is written or printed the names of the persons for whom the elector intends to vote, with a designation of the office to which each person so named is intended by him to be chosen.

"SEC. 1186. A ballot is a ticket folded in such a manner that nothing written or printed thereon can be seen.

"SEC. 1187. Every ticket must be of paper, uniform in size, color, weight, texture, and appearance.

"*Election tickets and ballots.*

"SEC. 1191. No ticket must be used at any election or circulated on the day of election, unless—

"1. It is written or printed on paper furnished by the secretary of State or upon paper in every respect precisely like such paper.

"2. If printed, the names of the persons voted for and the offices designated are printed in black ink and in long capitals, the names of the offices in small capitals and of the persons in large capitals, and both without spaces except between the different words or initials in each line, and between the numbers and initials.

"SEC. 1192. No ticket or ballot must, on the day of election, be given or delivered to or received by any person except the inspector or a judge acting as inspector, within 100 feet of the polling place.

"SEC. 1193. No person must, on the day of election, fold any ticket or unfold any ballot which he intends to use in voting within 100 feet of the polling place.

"SEC. 1194. No person must, on the day of election, within 100 feet of the polling place, exhibit to another in any manner by which the contents thereof may become known any ticket or ballot which he intends to use in voting.

"SEC. 1195. No person must, on the day of election, within 100 feet of the polling place, request another person to exhibit or disclose the contents of any ticket or ballot which such person intends to use in voting.

"SEC. 1196. No ballot must be used at any election, or circulated on the day of election, having any mark or thing on the back or outside thereof whereby it might be distinguished from any other ballot legally used on the same day.

"SEC. 1197. No ballot or ticket must be used or circulated on the day of any election having any mark or thing thereon by or from which it can be ascertained what person or class of persons used or voted it, or at what time of the day such ballot was voted or used.

"SEC. 1203. When, upon a ballot found in any ballot-box, a printed name, and a name written with ink or with pencil appears, and there are not so many persons to be chosen for the office the printed name must be rejected and the written one counted, and the fact must at the time be noted on the back of the ballot and such note must be signed by a majority of the election board.

"SEC. 1204. When, upon a ballot found in any ballot-box a name has been erased and another substituted therefor in any other manner than by the use of a lead pencil or common writing ink, the substituted name must be rejected, and the name erased, if it can be ascertained from an inspection of the ballot, must be counted; and the fact therefor must be noted upon the ballot, and such note must be signed by a majority of the election board.

"SEC. 1206. When a ballot found in any ballot-box bears upon the outside thereof any impression, device, color, or thing, or is folded in a manner designed to distinguish such ballot from other legal ballots deposited therein, it must, with all its contents, be rejected.

"SEC. 1207. When a ballot found in any ballot-box bears upon it any impression, device, color, or thing, or is folded in a manner intended to designate or impart knowledge of the person who voted such ballot, it must, with all its contents, be rejected.

"SEC. 1208. When a ballot found in any ballot-box does not conform to the requirements of section 1191, it must, with all its contents, be rejected."

Having quoted the above sections of the political code of California, we desire now to call attention to the vote of the Fourth ward in the city of San José, in Santa Clara County, Fifth Congressional district, when and where Sullivan received 397 votes and Felton 311 votes, majority 86. This is shown to be a very strong Democratic precinct at previous elections, and usually gave from 150 to 200 Democratic majority. In 1884 Sullivan and Felton, contestant and contestee herein, were opposing candidates for Congress and received 414 and 253 votes respectively, being a majority of 161 votes for Sullivan. From natural causes in the whole State as an aggregate the election was more favorable to the Democrats in 1886 than in 1884 by more than 12,000 votes, and in the Fifth Congressional district more favorable in 1886 than in 1884 by 1,200 votes. A like favorable result in the Fourth ward would have increased Sullivan's vote in 1886 over that of 1884 by from 25 to 40 votes, but instead of an increase there was a falling off of just 75 votes.

A close examination of the evidence in the record shows most conclusively that such result was brought about by the use of such questionable methods as to make it the duty of the committee and of the House to purge the precinct of fraud by eliminating 53, if not 66, of the votes received by Felton—53 votes at the very lowest. Fifty-three added to the 92 above completely overturns the 119 majority claimed by and certified to Felton without other matters hereinafter pointed out, and gives to Sullivan 26 majority.

In this precinct the evidence shows that one J. H. Barbour, Congressional Republican county committeeman for the county of Santa Clara, was furnished a large sum of money. Upon that subject Mr. Felton, contestee, testified as follows, to wit:

"Q. Do you know Mr. J. H. Barbour, of San José?

"A. Yes, sir.

"Q. Did you have any conversation with him in reference to the distribution of funds which you would contribute towards election purposes?

"A. No, sir; but I know he represented the committee down there.

"Q. Did you give him any money directly, outside of your check to the committee, to spend for political purposes?

"A. I think I sent Mr. Barbour some money direct; I told the committee what I had done; it was a part of the money that I gave to the committee.

"Q. How much did you give him?

"A. I would not have any great objection to tell the amount of money that I spent.

"Q. I do not want to know what you contributed for campaign purposes.

"A. The amount that I sent Mr. Barbour?

"Q. Yes.

"A. I do not recollect; but I do recollect this, having given some of those committees much less money than they thought was sufficient and necessary for the campaign." (See Rec., pages 1011, 1012.)

Mr. Felton evaded the question as to how much money he paid Mr. Barbour direct.

Mr. Barbour himself was examined, but with no better success. The following is a fair sample of his testimony on this point, to wit:

"Q. What sum, or moneys, or sums of money did you invest in this county in the Congressional fight?

"A. That is none of your business; the proceedings of the Congressional committee are privileged matters there—their expenses and disbursements—and no part, in my opinion, of the investigation here, and I shall not give you any information as to the disbursements of that committee in any shape, way, nor manner.

"Q. Why are those matters privileged, Mr. Barbour, in your judgment?

"A. Simply because they always are.

"Q. Under what law or statute are those matters privileged in this State?

"A. The law of ordinary common custom. Your own committee—the committee of both parties—never published the statement of any expenses, of no other political committee that I ever heard of did.

"Q. Mr. Barbour, the Congress of the United States will be a better judge as to that matter than interested parties. I will now ask you from whom you received any sum or sums of money for the purpose of spending it legitimately or otherwise in the conduct of the Congressional campaign at the last election?

"A. From the Congressional committee.

"Q. From what member of the committee?

"A. I do not remember who it was sent it to me. (See Rec., page 806.)

"Q. In what manner was it sent?

"A. I do not know that that is any part of the matter.

"Q. I will ask you again, was that sent by check or in coin to you?

"A. I do not know whether there was any of it came by check or in coin; my present impression is that not a dollar of it came to me in coin.

"Q. It came by check?

"A. I am not confident how it came.

"Q. On what bank or through what banking-house were any check or checks drawn in your favor as a member of the Congressional committee of the Fifth Congressional district for the last campaign expenses?

"A. I could not tell you, sir.

"Q. Do you swear that you do not know?

"A. I swear I do not know beyond this, that my impression is that a draft for $250 on behalf of the county committee here was passed through the Commercial and Savings Bank, but I am not perfectly confident that it went that way.

"Q. Was that the only money that came through the Commercial and Savings Bank on that behalf to you?

"A. I think it was.

* * * * * * *

"Q. Was $250 the only sum of money that you received on that behalf during the campaign?

"A. That is none of your business; that is a privileged matter that belongs to the Congressional committee, and no part of this investigation, in my estimation.

"Q. I ask you again to state whether or not you received more than $250 with reference to that matter as expenses to be expended here on behalf of Mr. Felton in the last campaign?

"A. I shall reply just as I did before.

"Q. Do you now state, on your oath, that the sum of $250 was the only sum you received on that behalf?

"A. I have replied to that already. (See Rec., page 807.)

"Q. I will ask you to reply again.

"A. I shall make no other reply to it.

"Q. You make your reply.

"A. I shall make no other reply whatever.

"Q. You decline to answer that question—is that it?

"A. I decline to make any further reply than I have; it is none of your business.

"Q. 'It is none of your business?'

"A. Yes, sir.

"Q. Now, do you state, Mr. Barbour, that every dollar that you expended in the last Congressional fight came from the members of the Congressional committee?

"A. I say that every dollar that I expended in the last Congressional fight came from the Congressional committee and was properly and legitimately spent and accounted for.

* * * * * * *

"Q. How much was given to the county committee?

"A. That is none of your business.

"Q. Was it not a fact that you and the county committee had some trouble over the money that was sent here with reference to the Congressional fight?

"A. No, sir; beyond this, that the county committee desired Mr. Felton to contribute to that organization, and I urged Mr. Felton to do so; and the county committee, as county committees usually do, got in pretty deep water, and felt that the Congressional nominee ought to stand the burden of it, and urged that the amount should be made larger than Mr. Felton thought the proper thing. That is the only criticism that I have heard.

"Q. From whom was that criticism made, and by whom?

"A. I think by members of the committee.

"Q. State any one of them that you remember who criticised in that manner.

"A. I can not do that. I was present at the meeting of the committee when the matter was canvassed. I think there was six or seven there, and the subject was discussed as to the contribution of Mr. Felton towards the expenses of the county committee; and I do not know whether the chairman was there. My impression—Judge Wallis, the chairman, was there, and I think Mr. Britton, the secretary, was.

"Q. I will now ask you again, Mr. Barbour, to state whether you will now swear that $250 was the only sum of money received by you and expended on the behalf of the Congressional candidate, Mr. Charles N. Felton, at the last election, or prior thereto, namely, the election of November 2, 1886?

"A. I will swear that I consider it is none of your business.

"Q. Have you ever accounted to the Congressional committee of this district with reference to these expenses during the last Congressional campaign?

"A. If I have not, the inference is I sank it.

"Q. Have you ever done so?

"A. That is none of your business.

"Q. Have you ever been called upon by the Congressional committee to account to it for sums of money you spent?

"A. That is none of your business.

"Q. Have you been to Honolulu recently?

"A. I have.

"Q. How long ago?

"A. I left the 6th of December and come back about the 20th of January. (See Rec., page 808.)

"Q. Were you accompanied by any member of your family?

"A. I was; by my daughter.

"Q. On what vessel did you sail or steamer?

"A. I went over on the steamer Australia.

"Q. One of the Spreckles steamers?

"A. One of the Oceanic Steam-ship Company's line.

"Q. One of the Spreckles Brothers?

"A. I do not know; I think it belongs to the Oceanic Steam-ship Company.

"Q. Spreckles Brothers are interested in that steamer?

"A. I suppose they are.

"Q. Were you not a passenger on their steamer, and did not you go over there and return as a guest of the Spreckles?

"A. I did not, sir; I never was a guest of the Spreckles. I never met but one or two of them in my life.

"Mr. MOORE. You are not compelled to answer any such question as that.

"Mr. BOWDEN. Didn't you go over on passes and return?

"A. That is none of your business. That is my private business.

"Q. Did you not ask a gentleman in this city whether or not he would not accompany you to Honolulu in that manner?

"A. On a pass?

"Q. In that manner?

"A. In what manner?

"Q. As a guest of the steam-ship company?

"A. No, sir; I asked three or four men to go with me over there.

"Q. Will you state, Mr. Barbour, now, on your oath, that you did not have the freedom of the steamer on which you sailed, without fear, without pay?

"A. I state that I consider that private business, and none of your business.

"Mr. BOWDEN. I now claim that Mr. Barbour is in contempt of this commission, for refusing to properly answer and show due courtesy to the commission, refusing to answer questions properly put and properly belonging to this investigation, and for that reason, and on that behalf, contestant asks that this proceeding be certified to the sheriff, and a warrant for the arrest of J. H. Barbour for contempt be prepared by the commissioner and handed to the sheriff of the county of Santa Clara.

"The WITNESS. Please note, Mr. Notary, that Mr. Barbour claims that the investigation transcends the limits that it is entitled to go into or extend; to that while he refuses to answer these questions, he does not consider that he is committing any contempt, or showing any contempt for the commission so far as it may be a legal body; he has the most profound contempt for the method of conducting it.

"The notary takes the matter of the application for the issuance of the warrant above referred to under advisement, and indicates that he will announce his decision upon the matter to-morrow at 12.30 p. m.

"J. H. BARBOUR."

(See Rec., page 809.)

From the above it will be seen that Barbour testifies he received $250 from the Congressional committee, but refused to say whether he received more than $250, or whether he received any money from Felton direct. Felton, however, testifies that he sent money to Barbour direct, but to some of the committee "less money than they thought was sufficient and necessary."

Now, let us inquire further into the methods practiced at this precinct. We find one Bailer and one McKenzie hired a room on election day, in the Cosmopolitan Hotel, in which to buy up such of the purchasable vote as could be inveigled therein. This room was in the same building in which the polling place was located, and was less than 100 feet from the polling place. Ingress to this room was by a stairway just two doors from the polling place; and the bulk of the witnesses describe the stairway as being from 20 to 40 feet from the polling place, and the room into which the voters were invited as being on the floor next above the polling place, and in less than 100 feet therefrom. No witness pretends to describe the room as being as far as 100 feet distant from the polling place. Mr. Bailer, whose evidence shows that he was a most unwilling witness, evades the question as to distance. In answer to a direct question, he said: "Oh, about 100 to 150 feet, more or less; I can not tell." Several other witnesses, and all who testify, say the room was not 100 feet from the polling place.

The evidence, as a whole, makes it clear to the committee that at least 53 votes polled at this precinct for Mr. Felton should be rejected, for three reasons, to wit: First, because they were corruptly bought; second, because in this room, within less than 100 feet from the polling place, these 53 electors received the tickets by them voted; and, third, because the tickets here in this room received by these electors, and by them voted, were "branded" by said Bailer and McKenzie and their "pals" with marks made by a red pencil.

To prove this, we will refer to some of the evidence. We first quote from Bailer's testimony, which begins on page 1848 of the record. We quote:

"Henry Bailer, a witness called on behalf of the contestant in rebuttal, after being sworn, deposes and says:

"Examination-in-chief by Mr. BOWDEN:

"Q. Where do you live, Mr. Bailer?

"A. Seventeen or 19—I forget the number exactly—West San Salvador, between Market and First.

"Q. In this city?

"A. Yes, sir.

"Q. How long have you lived here, Mr. Bailer?

"A. Well, ever since I was born—thirty years.

"Q. You are thirty years of age, are you?

"A. Yes, sir.

"Q. Were you at the Fourth ward at the last general election, November 2, 1886?

"A. Yes, sir.

"Q. Whereabouts was your headquarters, Mr. Bailer?

"A. Well, I did not have any headquarters. I was on the street, and then I had a little room all to myself.

"Q. Whereabouts?

"A. Cosmopolitan Hotel.

"Q. What number was the room; do you recollect the number, Mr. Bailer?

"A. I think that it was No. 9.

"Q. A furnished room, Mr. Bailer?

"A. Yes, sir.

"Q. The Cosmopolitan Hotel; that was close to the polling place, was it?

"A. Well, I do not know how close it was.

"Q. About how far do you think it is from the window from where the ballots were being cast and the stairway going upstairs into the Cosmopolitan room?

"A. Oh, about 100 or 150 feet, more or less; I can not tell.

"Q. Don't you know the exact distance?

"A. No, sir.

"Q. What was your plan, now, Mr. Bailer, up there? What were you principally engaged in?

"A. Well, I was engaged in influencing my friends for the Republican ticket.

"Q. Did you have any method in fixing your tickets, Mr. Bailer; any special method of marking them or picking them out?

"A. No special method at all. I was working for the whole ticket.

"Q. Well, I mean was there any method adopted by you?

"Mr. CROSS. We object to any evidence given by this witness, on the ground that there was no proper notice of the taking of his testimony served.

"Mr. BOWDEN. You will find a notice there, served yesterday morning.

"Mr. CROSS. Well, that is not sufficient notice.

"Mr. BOWDEN. Well, we will go on and take the testimony.

"Mr. CROSS. Well, we make our objection. We protest against this testimony being taken, on the ground that no sufficient notice of the taking of the testimony has been served.

"A. Well, if there is any protest, I quit right here, gentlemen. That is all there is about it.

"Q. (By Mr. BOWDEN.) Well, what it is goes in the record.

"Mr. CROSS. That is the protest.

"Q. (By Mr. BOWDEN.) You can go on answering the question.

"Mr. CROSS. We protest taking the testimony of this witness, as no proper notice was given of the taking of the testimony.

"Mr. BOWDEN. Note the protest.

"Q. Now, Mr. Bailer, state what special plan you adopted in order to designate or mark the tickets which you 'influenced' your friends to vote for the Republican party.

"A. Well, what mark do you mean?

"Q. Well, did you mark tickets in any manner at all?

"Mr. CROSS. Wait just a moment, Mr. Bailer. We further object to this evidence on the ground that it is not admissible in rebuttal, and that if it were com-

petent evidence at all it was competent evidence only in chief, so that if there is anything in it that was of any relevancy we might have had an opportunity in giving our evidence in reply. It is taken now at a time when there is no opportunity to meet it or reply to it, and that therefore it is not admissible at this stage of the proceedings, and we protest against taking any such evidence at this time concerning such matters.

"Mr. BOWDEN. You have your protest. Now, Mr. Bailer, please state what manner, if any, you adopted in marking your tickets that you influenced your friends to vote; was there any special way? Did you use a red pencil in marking them; how was that?

"A. Well, the red pencil—of course there was myself and a friend of mine we used the red pencil—of course, because there was certain kickers in the ward that thought they were polling all the votes, and we wanted to show what we could do. That is all there was about that.

"Q. Now, I understand you, Mr. Bailer, I think that there was certain Republican kickers—is that it—people who claimed to do lots of work in the wards?

"A. Well, I won't say who they were.

"Q. Well, I don't ask who they were, but there were certain Republican tickets and you wanted to show your Republican friends, the candidates, that you were a worker yourself and you and your friend did work; is that it?

"A. Of course.

"Q. And in order to do that, as I understand you, Mr. Bailer, you marked these tickets with red pencil; was that the way?

"A. Well, we marked some of them. Some of the workers would forget and mark them with a black pencil.

"Q. Some of the ones you influenced were marked with red pencil?

"A. Certainly.

"Q. Mr. Bailer, I will show you a ticket marked 'Contestant Exhibit No. 727 in Rebuttal, A. K. W.,' marked also in printing 'Regular Republican Ticket, San José, Fourth ward.' I ask you if that is one of those tickets which you and your friend marked in that manner?

"A. Well, of course myself or my friend did not mark all these tickets.

"Q. No, sir; but you did mark some of them?

"A. We marked some of them, of course.

"Q. I will state to you, Mr. Bailer, that this is one of the ballots which has been brought here by the county clerk, and was cast in the fourth precinct, San José, at the last election. That was the manner, was it Mr. Bailer, in which you fixed those matters up?

"A. Well, of course the friend of mine and myself we got a little bit missed; there were parties there wanted to claim the honors, and we got in about 11 o'clock and wanted to show what we could do—that is, by influencing men to vote our way, of course—so we marked the tickets.

"Q. And by that means, as I understand it, Mr. Bailer, you could tell, when the tickets came out of the box and were counted, how many you and your friend had influenced; was that the idea?

"A. Certainly.

"Q. So that you could state hereafter that you had done so much work on that election day; was that the plan?

"A. Wanted to show we did all we could.

"Q. And you did do all you could, did you?

"A. I should think so.

"Q. What are your politics, Mr. Bailer?

"A. I am a Republican.

"Q. And what are the politics of your friend whom you spoke of?

"A. A Republican.

"Q. You were working in the interests of the Republican party, were you, at that election?

"A. Certainly.

"Q. Were there any special candidates that you were interested in—county candidates or State candidates in that manner, you and your friends?

"A. I was working for the whole ticket.

"Q. Well, were there any special candidates; were you specially interested in Mr. Felton?

"A. Well, of course I wanted Felton, certainly.

"Q. Mr. Sweigert?

"A. I wanted him, certainly.

"Q. At that time you were in the sheriff's office, were you not, Mr. Bailer?

"A. I was.

"Q. As one of the deputies?

"A. Yes, sir; I got fired afterwards.

"Q. Got fired after your man was put in?

"[The witness laughs.]

"Q. Were you specially interested also in Mr. Rea?

"A. Yes, sir.

"Q. So that the people you were specially interested in, as I understand it, were Mr. Rea, Mr. Sweigert, and Mr. Felton—those that you specially favored?

"A. Well, of course I worked for the head of the ticket. I would get all I could for the whole ticket, and if I couldn't do anything else I would get it for the head of the ticket.

"Q. Now, Mr. Bailer, I will ask you how it is that occasionally, as you will see in this exhibit, there was a name erased, and a name from the opposite ticket put on there; as in this case, No. 23, coroner and public administrator, J. G. Saxe, regular nominee, was erased and the name Tomkins put in its stead, and No. 30, city justice, L. L. Cory, marked, and Buckner put in its stead; how did it happen that occasionally those tickets were voted?

"A. Well, I suppose some men that agreed to vote for those parties and wanted to vote for them wouldn't vote otherwise than to get the head of the ticket; leave them have them.

"Q. You took, then, as I understand it, important offices, and took the head of the ticket?

"A. Oh, I didn't do the whole thing.

"Q. Well, I know; but that that you did do; that was the plan, was it, Mr. Bailer?

"A. Oh, the plan was to get all you could.

"Q. If you couldn't get a whole loaf you took a half one?

"A. Take a half one, certainly.

"Q. Now, Mr. Bailer, how many votes did you understand you and your friends got out of that box when the count was made?

"A. I didn't get any out myself.

"Q. I mean how many were there of these red-marked ballots that you and he obtained in this manner?

"A. I don't know how many there were.

"Q. Did you and he talk about that? About how many were there, as near as you remember now, of these red fellows?

"A. Well, between 40 and 50, something like that; not any less than 40, anyhow.

"Q. Might have been 50 or a few more?

"A. Might have been, more or less; I don't know; of course I didn't keep any account of them; that is, I did keep an account of them; I had a little memorandum made, but then of course it is destroyed by this time; that is, I had them on cards.

"Q. You have not got that memorandum, have you?

"A. No, sir; I have not.

"Q. Can you state the names of the people you 'influenced,' Mr. Bailer?

"A. No, sir; I will not state that.

"Q. What politics were they mostly of, so far as you know, the people that you influenced?

"A. Well, some Republicans, other Democrats, but principally Democrats, of course; we got a Republican, he is all right; and if we could catch a Democrat, of course we would make a Republican out of him.

"Q. That would roll up two votes, wouldn't it, Mr. Bailer?

"A. Why, of course.

"Q. Well, now, did you and your friend, in following this plan, get any votes in that were not Republican votes, that were not marked, especially in this way; did you get any more besides the red votes?

"A. I don't understand you, Mr. Bowden.

"Q. I mean by that, did you 'influence'—I believe that is the word you used—any of the Democrats to vote the Republican ticket without having been marked with those red marks?

"A. Oh, I suppose there were some influenced; yes.

"Q. Without having the red marks on?

"A. There were certain parties around there that were rustling, as we call it, at the same time, and would get excited and forget the red pencil.

"Q. Along towards the latter part of the day would that be the case, Mr. Bailer; towards the time of closing the polls?

"A. A person absent-minded might have done that in the forenoon; I couldn't tell. They might have thought they had a red pencil, but it might happen to be a black, or they did happen to find a red one there.

"Q. These red marks made at the bottom of the ticket where it was 31 and No. 32 for amendment No. 1 and against the amendment No. 1, how was that?

"A. Well, we didn't care anything about the amendment. Put the mark on there as a kind of a brand, you know.

"Q. How long did you keep up the work, Mr. Bailer, up there in the room?

"A. Well, I staid there, I think, from about 8 o'clock until the polls closed.

"Q. You did?

"A. I generally did until the last.

"Q. You put in a pretty good day's work, Mr Bailer?

"A. Oh, I always do that wherever I work. Lots of fun getting people up here.

"Q. Were you subpœnaed to appear here as a witness?

"A. Yes, sir; but I believe I ought to have had a few days' notice.

"Q. I believe you have been told, since you came here to-night, that you were entitled to a longer time, have you not?

"A. No; I have not been told so, but I think so myself.

"Q. Well, you understand you could have refused to come unless you had five days' notice; did you understand that?

"A. Well, I wasn't certain about it; if I was certain about it I wouldn't have come, that is to tell the truth about it.

"Q. Then you are not willing to come here and be a witness, and are not here willingly?

"A. I am not here willingly, not by any means.

"Q. Mr. Bailer, how many people were employed with you about the Cosmopolitan Hotel there, about how many about the room No. 9?

"Mr. BURCKARD. I object to the question on the ground it is leading, and on the further ground that the witness has not stated he was employed or that any one was employed with him.

"Mr. BOWDEN. How many men were employed and worked with you in this matter, as you remember it at the present time, on that day at room 9, Cosmopolitan Hotel?

"A. I don't know how many were employed; I don't know whether any of them were employed or not.

"Q. How many of them were working with you in this matter?

"A. I suppose there was about three.

"Q. Three or four besides yourself?

"A. Yes, sir.

"Q. Republicans?

"A. Yes; they were working for the Republican ticket.

"Q. Mr. Bailer, how did you 'influence,' what means were used to 'influence' these red fellows?

"A. Oh, get around them like a Sheeny, you know, and tote it into them.

"Q. Give them soup?

"A. Why, cert.

"Q. Who did the most of this work? Who did the most of this red-pencil work, as you now understand it, yourself or your friend that you speak of?

"A. Well, I don't know who did the most of it.

"Q. You didn't work any Democratic votes in, did you, Mr. Bailer?

"A. That was what we were playing for.

"Q. I mean you didn't vote any Democratic tickets?

"A. Why, certainly not, no. [Laughing.]

"Q. But you were chiefly after Democrats, undertaking to 'influence' them?

"A. Why, of course; certainly, I wanted to get the Democrats.

"Q. What kind of people were these mostly, these men that you 'influenced'?

"A. Oh, well, they were different nationalities.

"Q. Well, mostly what kind were they, Mr. Bailer, the larger portion of them, the people whom you influenced in this way in room No. 9 of the Cosmopolitan Hotel?

"A. I don't know; I guess it would be a draw between the Irish and the Spanish.

"Q. You think it is about a stand-off between the Irish and the Spanish?

"A. Yes, sir.

"Q. The Irish mostly, Mr. Bailer, are Democrats when they are not 'influenced' specially?

"A. Yes; they are Democrats, certainly.

"Q. And are not a good many of the Spanish who vote in the Fourth ward Democrats, Mr. Bailer?

"A. Well, I guess they are Democrats.

"Q. But they can be 'influenced' if they are properly approached?

"A. Now, take it as a rule, they are Republicans.

"Q. The Irish are Democrats, and the Spaniards, you think, as a rule, are Republicans; is that so?

"A. Yes, sir.

"Q. How many do you suppose of that crowd—that gang of men—that were reached in that way, Mr. Bailer, were Irishmen?

"A. In what way do you mean?

"Q. Well, that were influenced in the way you speak of?

"A. By talking to them?

"Q. How many were there of the Irish, do you suppose, as near as you can guess?

"A. Well, I would say about fifteen—that is a rough guess, you know.

"Q. Yes; and how many were there of the Spanish, do you suppose?

"A. Well, twenty-five, thirty, or thirty-five; along there.

"Q. Well, of those 30 or 35, more or less, Mr. Bailer, from your acquaintance with them and the ward, how many of those, I mean the Spanish, had a Democratic leaning or tendency?

"A. Well, I will just tell you the truth about that; they don't know how they do lean—just as they take a notion.

"Q. How long have you lived in the Fourth ward, Mr. Bailer?

"A. Well, not very long—about thirty years.

"Q. You have always lived there, have you?
"A. I was born there.
"Q. Born in the ward and have always lived there?
"A. Can't drive me out.
"Q. Can you speak Spanish?
"A. Yes, sir.
"Q. You can make yourself understood with Spanish people, can you?
"A. Certainly.
"Q. You also speak German, don't you?
"A. Certainly.
"Q. Were there many people came up there on that occasion to No. 9, Mr. Bailer?
"A. Oh, yes; quite a number came up there; they thought there was something to drink in it, but they got left.
"Q. You did not have anything to drink there?
"A. Not a drop.
"Q. You did not have anything to drink there?
"A. Oh, no; a place to have a sociable chat.
"Q. Well, now, in your judgment, Mr. Bailer, how many Republican tickets were voted by you or obtained?
"A. Republican tickets?
"Q. I mean, how many Republican tickets were voted by you and your friend, and obtained in this matter, now, as you recollect, that were not marked with the red marks?
"A. Oh, well, I couldn't tell.
"Q. Well, as near as you could guess, Mr. Bailer; of course, a man couldn't keep these things upon his mind for months, but as near as you recollect?
"A. I might guess 20 off or 50 off.
"Q. How near would—say as near as you remember?
"A. Now let me understand you.
"Q. You stated, Mr. Bailer, that there were somewhere between 40 and 50 with the red marks on or marked in red pencil.
"A. Yes.
"Q. Then you also stated that there were other votes which you 'influenced' that were marked in black pencil, or other than in red; about how many of those do you think there were that you and your friend got in?
"A. Well, that would be a hard question to answer, because I couldn't tell; of course there were several workers there, and I couldn't tell what they did.
"Q. But I mean you specially.
"A. Myself individually?
"Q. Yes, sir; of those not marked in red, but in black, or the straight tickets without any marks on?
"A. Well, I couldn't answer that.
"Q. Well, just make an estimate as near as you remember, Mr. Bailer; of course you had means of ascertaining the number of these that you got in [referring to tickets with red marks], but now, as you remember, please state how many of the others.
"A. It is so long since a man can't remember, you know. A man might mark with a black pencil for a while there; you could not tell; and there might be 3 or 4 or 4 or 5 at a time and before you got your red pencil back to scratch on again.
"Q. Then, as I understand you, there were sometimes as many as 4 or 5 in a bunch that you fixed up in this way and they went down, is that it?
"A. Well, sometimes there would be; certainly.
"Q. Well, now state as near as you can remember, Mr. Bailer, about the number of these Republican votes that you got that you 'influenced' in this way that were not marked in red pencil. Just make an estimate.
"A. Republican votes?
"Q. Yes, sir; that were not marked in red that you influenced; I mean that voted the Republican ticket; that is what I mean; how many were there of these people whom you 'influenced' to vote the Republican ticket, that the tickets were not marked in red pencil, but may have been marked in black, or without any marks?
"A. Well, I tell you, probably I might miss it five or might miss it ten; I couldn't say.
"Q. Well, as near as you can state, Mr. Bailer.
"A. Well, we will say 15; of course, it is kind of a rough guess; of course, you can't tell, but I will say that, you know, for a kind of a rough guess.
"Q. So that, altogether, Mr. Bailer, assuming that there were 40 or 50 votes with the red-pencil marks which you have stated, you think there were——
"A. I think there was 40 or 50.
"Q. And 15——
"A. Ofcourse, I wouldn't say 15 for certain, nor 40 or 50 for certain, for that matter.
"Q. And 15, say, estimating, of the others, would you now state as your best recollection and judgment that there were 65 or 75 of these votes, including the red and black marked ballots that you influenced on that occasion altogether?
"A. How much?
"Q. Seventy or 75.
"A. Well, not less than 70 anyhow, altogether.
"Q. You speak Spanish very fluently?
"A. I do; yes, sir.
"Q. And are well acquainted with all the laboring people in that ward, are you not?
"A. Yes, sir.
"Q. This gentleman, your friend you speak of, has also lived there for years, has he not?
"A. Yes, sir,

* * * * * * *

"Cross-examined by Mr. BURCHARD:

"Q. Now, did not the Democrats over there have a room also where they entertained their friends?
"A. Well, that I don't know; I didn't see it and I wasn't into it.
"Q. Well, didn't you understand that?
"A. I heard there was, and I don't know.
"Q. Isn't it customary every year there for both parties, and in fact in all the wards, for both parties to have workers at the polls?
"A. It is in the Fourth ward; I don't know about the rest of them; I don't bother myself about the rest.
"Q. Well, you live in that ward and work for your party in that ward?
"A. Yes, sir.
"Q. Don't you know that at other wards that is done?
"A. I know that both parties have workers.
"Q. And peddle tickets; and this was simply peddling tickets and speaking to your friends, was it not?
"A. That is what was done.
"Q. You found the numbers for your friends?
"A. Certainly.
"Q. And they went and voted the ticket?
"A. Yes, sir.
"Q. They could have voted any ticket they wanted to, could they not?
"A. They could, if they did not want to vote the way I wanted them to.
"Q. They could have gone and voted as they pleased, couldn't they?
"A. Certainly,
"Q. And whomever you could get to vote for a man on the Republican ticket you got them?
"A. Certainly.
"Q. If a man wanted to vote for every man on the Democratic but Swift for governor, you would get him, would you?
"A. Yes, sir.
"Q. And get him in the same way?
"A. Yes, sir.
"Q. You can't determine who voted each of these tickets, can you?
"A. No, sir; I can't.
"Q. And you don't know whether down at the table where they had also tickets, whether these amendments were likewise scratched?
"A. I don't know.
"Q. You weren't down there, were you?
"A. No, sir.
"Q. And wasn't it true that these amendments were overwhelmingly defeated?
"A. Yes, sir.
"Q. Both Democrats and Republicans voted alike against them?
"A. Yes, sir.
"Q. And the Democratic tickets had printed against the amendment, were they not?
"A. Yes, sir.
"Q. And the Republican tickets were printed so that a man could vote as he pleased, but most every one voted against them, didn't he?
"A. Yes, sir.
"Q. And the amendments only received a few votes?
"A. That is all.
"Q. And you had a personal pride, as I understand you, to rustle in there and show what work you could do, you and your friends?
"A. Well, of course we liked to make a good showing.
"Q. Now, Mr. Brittan was over there, was he not, working?
"A. Yes, sir.
"Q. He was a member of the central committee?
"A. I believe he was at that time; I am not sure; I could not state whether or not he was; I am not sure.
"Q. He has stated already he was; he was likewise working for the Republican ticket, was he not?
"A. Yes, sir.
"Q. Do you know whether Democrats were working there in the interests of their tickets?
"A. Certainly.
"Q. And you did the same work that they did?
"A. Why, of course.

"Redirect examination by Mr. BOWDEN:

"Q. Mr. Bailer, I will ask you to just cast your eye along here and look on No. 10 of these ballots as I bring them out—Representative for Congress; and I will ask you to state whether the name of C. N. Felton is on that ticket with a red pencil mark at the bottom [exhibiting ballots to the witness, referring to Exhibit 674]. And I will ask you now, as I run over those, and see whether you find on any of these tickets with the red mark at the bottom the name of C. N. Felton erased and that of Frank J. Sullivan instead [exhibiting ballot to witness] just watch them carefully, Mr. Bailer.
"Mr. CROSS. We object to the question on the ground that the ballots are themselves the best evidence whether Mr. Felton's name is scratched.
"A. I guess there won't be any of them scratched.
"Q. (By Mr. BOWDEN.) You won't find any of them, Mr. Bailer. I will ask you to state when I run them through. You can state in advance, Mr. Bailer, that there will none be found with Felton's name erased, will there?
"A. I don't think there will be; there [showing] is a Democratic ticket.
"Q. With Felton's name on it?
"A. Yes, sir.
"Q. That is a Felton ticket, isn't it?
"A. That [showing] is the Democratic ticket; that [showing] is the Sullivan ticket.
"Q. Well, Sullivan's name is erased?
"A. Yes, sir.
"Q. And Felton's name is on?
"A. Yes, sir.
"Q. You find none of those with the name of Felton erased and Sullivan put on?
"A. No, sir.
"Q. You find two Democratic tickets there with the name of Sullivan erased and Felton put on?
"A. Yes, sir.
"Q. Will you please count those, Mr. Bailer, those tickets, and state how many there are with the red-pencil mark at the bottom?
"A. You want me to count the red-pencil marks?
"Q. Count the number of ballots there.
"A. The whole ticket?
"Q. No; the number of ballots.
[The witness counts.]
"Q. Fifty-four; is that right, Mr. Bailer?
"A. Well, it is 53 or 54, I don't know; I might have made a mistake; somebody else can count them over.
"(The ballots here counted by the witness are the ones exhibited to him in his examination and concerning which he testified, and are marked as 'Contestant's Exhibits in Rebuttal, No. 674 to 727, inclusive.')
"Q. Mr. Bailer, do you know of any person besides you and your friend whose name I have not mentioned who marked with red pencil or with red marks; anybody else besides you and your friend who marked your work, your election work, with red pencil or red marks?
"A. I know; yes, sir.
"Q. Who else was there; were there more than two of you; I will put it in that way, then?
"A. Yes, sir.
"Q. Who used the red pencil?
"A. Yes, sir.
"Q. How many were there of you who used the red pencils or the red mark?
"A. Two of us.
"Q. Two besides you?
"A. No, sir; one besides me.
"Q. Then you know of no person excepting yourself and your friend who used the red pencil on their work?
"A. No, sir.
"Q. Did you ascertain how these people, these other people who were working, marked their work, or did you know?
"A. I did not.
"Q. Do you know whether or not they marked their work at all so as to designate it when it came out of the ballot-box?
"A. No, I do not.
"Q. How many people, in your judgment, came up into No. 9 on election day?
"A. Well, I couldn't tell; there might have been three or four hundred come up there.

"Recross-examination by Mr. BURCHARD:

"Q. You know these people, these Spanish people, very well, do you not, and their characteristics, do you not, Mr. Bailer?
"A. Yes, sir; I am acquainted with most all of them.
"Q. Well, do they not, as a class, when they know a man who speaks the Spanish language, when they have any business or especially at elections or other times, do they not go to them generally for favors of any kind?
"A. Yes, sir.
"Q. Do they not go, for instance, to them to look over the numbers on the register?
"A. Yes, sir.
"Q. Isn't that frequently true in the primaries?
"A. Yes, sir.
"Q. And come up to you to get the number on the register and ask you in Spanish to hunt it for them?
"A. Yes, sir
"Q. That is true with a large population, is it?
"A. Yes, sir.
"Q. A great many Spanish people over there?
"A. Yes, sir; there are a good many over there; I guess more than any other ward in the city.
"Q. About 120, isn't there, Mr. Bailer?
"A. Yes; well, about 125 or 130 altogether, I guess.
"Q. And the Spanish people organized last fall a Republican club, did they not?
"A. Yes, sir.
"Q. And they are Republicans, are they not?
"A. Most of them are Republicans.
"Q. And they came to you, most of them, knowing that you spoke the language?
"A. Yes, sir.
"Q. And you are the only Republican over there that takes an active interest in politics that does speak Spanish, are you not?
"A. I believe I am; yes, sir.

"Redirect examination by Mr. BOWDEN:

"Q. Mr. Juan Edson, you know him, do you not?
"A. Yes, sir.
"Q. Does he not speak the Spanish language?
"A. Yes; but he is not living in the ward at the present time.
"Q. Didn't he work in the ward at the last election, Mr. Bailer?
"A. I believe he did work in the ward some; I guess he was in all of the wards.
"Q. But he was in the Fourth ward principally, wasn't he, working?
"A. Oh, I saw him around there occasionally.
"Q. Wasn't Mr. Agaton Castro working in the Fourth ward quite considerably?
"A. Well, he is generally around.
"Q. He speaks the Spanish language, does he not?
"A. Well, he ought to; he is Spanish.
"Q. So is Mr. Edson?
"A. He is half Spanish.
"Q. And half English?
"A. Yes, sir.
"Q. His father was an Englishman?
"A. I believe so.
"Q. Now, Mr. Bailer, didn't those two gentlemen mix up with the Spanish voters in the Fourth ward, and did they not consult with them or talk with them there in No. 9 of the Cosmopolitan Hotel?
"A. No; they never were around there much.
"Q. Were they there at all, Mr. Bailer?
"A. I don't believe they were.
"Q. Neither of them?
"A. No; I don't think they were.
"Q. Do you know whether they were on the streets; on Market street?
"A. They were on the street; I see them on the street, but I did not see them up there.
"Q. Were they working in No. 9, Cosmopolitan Hotel, that you know of?
"A. No, sir.
"Q. Whose plan was it, Mr. Bailer, to have that room opened on that election day; whose plan was that, whose suggestion?
"A. Well, I adopted that plan two or three or four years ago, six years ago; because if you get on the street and you want to influence a man somebody else comes up and wants to take him away from you and then, consequently, there will be a row; so I have a little room up there, and then you can take them there and not be molested, and if an objectionable character comes in there you can fire him out.
"Q. You can say to him, 'Please excuse me, sir, this is my room; I would like you to leave, for I am busy at the present time?'
"A. Yes, sir.
"Q. Was that the plan?
"A. That was the idea exactly.
"Q. And your arrangements were perfect, were they, in that direction at the last election?
"A. Yes, sir.
"Q. So that you could work quietly and influence your friends quietly in No. 9 of the Cosmopolitan?
"A. Yes, sir.
"Q. Without being interfered with or interrupted?
"A. That is it.
"Q. Were there a number of people at the same time in the room coming up there to see you and be influenced?
"A. Oh, there were a good many coming up there to see me.
"Mr. BOWDEN. Contestant now offers in evidence as a part of the deposition of the witness, Henry Bailer, all the tickets exhibited here from the Fourth ward of the city of San José, and marked, respectively, Contestant's Exhibits in Rebuttal, Nos. 674 to 727, both inclusive, and asks that they and each of them be made a part of the deposition of the witness and attached thereto.

"Recross-examination by Mr. BURCHARD:

"Q. Now, this room you speak of, that was an open room, was it not, Mr. Bailer?
"A. Yes, sir.
"Q. A room that any one could go in and come out of at pleasure, could they not?
"A. Anybody.
"Q. Was there any secrecy about the room?
"A. No, sir.
"Q. That was open that any one could go in there?
"A. Anybody could come in.
"Q. Democrat or Republican?
"A. Democrat or Republican.
"Q. A Democratic candidate could come in if he wanted to?
"A. Certainly.
"Q. There was no one requested not to come in or to stay out?
"A. No, sir.
"Q. As open as any hall?
"A. Certainly; unless there would be some roughs or somebody come up there who wanted to make a disturbance.
"Mr. BOWDEN. Did you see any Democratic candidates in No. 9 when you were there on that occasion?
"A. I don't remember of any of them.
"Q. Don't remember seeing any of them?
"A. No, sir.
"Q. Did you see any Republican candidates up there?
"A. There was one or two of them stole up there occasionally.
"HENRY BAILER."

A careful reading of Bailer's testimony, coupled with other testimony hereinafter referred to, shows that he (Bailer) and one McKenzie had a room rented in the Cosmopolitan Hotel and within less than 100 feet of the polling place. To this room electors willing to make merchandise of their right to vote were invited and taken; that the price paid started at $2.5 per vote in the forenoon and increased to $4 later in the afternoon. The tickets given to the voters in this room were, for the purpose of "branding" them, "marked" with a red pencil across the items:

"31. For the Amendment No. 1; and
"32. Against the Amendment No. 1."

Of this class of tickets, 53 were found in the ballot-box, and were all Republican tickets, with the name of Charles N. Felton thereon. To say nothing of the fact that they were bought and paid for in a most shameful and unblushing way by Mr. Bailer and his friend McKenzie, who would get around the voter "like a Sheeny," and "tote" "influence" and "soup" into him. The tickets are in contravention of section 1197 of the political code, which reads:

"No ballot or ticket must be used or circulated on the day of election having any mark or thing thereon by which it can be ascertained what persons, or what class of persons, used or voted it, or at what time in the day such ballot was voted or used."

Contestee insisted that to come within the purview of this statute the mark or thing must be placed on the back of the ticket, and that the object and purpose of the statute was to secure to the voter the right of a secret ballot, and to prevent intimidation by rendering it impossible for the looker-on to determine how the elector, when depositing his ballot, was voting. If we could persuade ourselves that such was the only object and purpose of the statute we might so conclude. To hold that only on the back or outside of the ticket was contemplated would make it "permissible" to place a mark "on the inside of a ticket to indicate the person or class of persons who voted it," and thus encourage "combinations of voters engaged in the greatest of all outrages against the elective franchise and free government—selling their votes—and to make proof of their perfidy." (Note of the code commissioner to section 1197, Political Code, California.)

If the Legislature had intended these "marks or things" to invalidate only when on the back or outside, the language "no ballot or ticket must be used, etc.," would not have been used. The word "ticket" would have been left out, and the word "ballot" only used. Section 1185 defines a ticket to be "a paper upon which is written or printed the names, etc." "Upon which is written or printed" does not mean "written or printed" on the back or outside. No more can it be said that the mark or thing shall be placed on the back or outside to invalidate the ticket. "Irregularities beyond the voter's control do not vitiate his ballot." (Kirk *vs.* Rhoads, 46 Cal., 404.) A statute in relation to such irregularities as want of uniformity in size, color, texture, or appearance of ticket, or something of that character, under the control of those clothed with the power and duty of providing tickets, would and should be construed as directory. But an irregularity in contravention of a statute intended to protect the purity of the ballot-box against frauds, which irregularity is within the control of the voter himself, must not be tolerated. A statute applied to such irregularities is by the courts, and of right should be, construed as mandatory.

Mr. Bailer says these "marks" placed upon the tickets were placed there as a "brand," and that memoranda was kept of them, but that the memoranda had been lost six months later, when he was testifying. The statute (sec. 1192, Political Code) which provides that "No ticket or ballot must, on the day of election, be delivered to, or received by, any person except the inspector, or a judge acting as inspector, within 100 feet of the polling place," was intended to enable the elector to cast a free ballot and to prevent fraud, and hence must be construed as mandatory.

In violation of this statute in this room tickets were given to electors who were then marched to the polling place by Mr. McKenzie, one of the "Bailer-McKenzie pair," and watched to see that the tickets were put into the ballot-box. Was a statute ever more systematically and shamefully violated?

In support of the above, we refer to the testimony of Mr. J. Moser, Rec., page 777; Mr. Richard Healey, Rec., page 772; Mr. T. Heft, Rec., page 767; Julius Kraig, Rec., page 779, and others.

Much of the testimony of these witnesses is hearsay. Aside from the hearsay the facts testified about and of which the witnesses had knowledge, and properly constituting a part of the *res gesta*, sufficiently and abundantly establish, first, that a room within 100 feet of the polling place was being used to deal in "merchantable" votes, and that such voters were marched up and down and watched when depositing their ballots; and, secondly, that 53 marked Republican tickets are found in the box and that they were "fixed" in that room, and that when these tickets were being counted out they were so well understood that they were denominated the "McKenzie tickets;" and when so denominated, McKenzie, who was standing by, "smiled." (See Record, page 780, testimony of Julius Kraig, a member of the election board.) As to these electors who voted these 53 tickets, the testimony shows that most of them were Democrats.

In addition to these 53 tickets there were, in this Fourth ward of San José, 13 other tickets—Democratic tickets—with Sullivan's name erased with blue or red pencils, and with the same kind of pencil Felton's name written in place of Sullivan's. The testimony sufficiently shows that these tickets were likewise "fixed" in the Bailer-McKenzie room. Bailer testifies that when they (himself and McKenzie) could not induce an elector "to go the whole hog" by "toting influence" and "soup" into him, they would get him to vote for Felton and as much of the ticket as possible.

To say nothing of the testimony showing the corrupt influence used to secure these votes, let us examine them in the light of the California statutes. Section 1191, specification 3, provides: "That the names of the persons voted for, and the offices designated, are printed in black ink." Section 1204 provides: "When upon a ballot found in any ballot-box, a name has been erased and another substituted therefor in any other manner than by the use of a lead pencil or common writing ink, the substituted name must be rejected, and the name erased, if it can be ascertained by an inspection of the ballot, must be counted." These requirements are that it must be printed in black ink, and when so printed all erasures must be made with lead pencil or common writing ink. Common ink is black ink. A ticket printed in red ink would not conform to the requirements of the statute, but as to a ticket so printed and furnished the voter by the authorities, the statute might be construed as directory. But when the voter himself undertakes to change the uniformity of the ticket, then that is under his control, and the statute must be construed as mandatory. The letter and spirit of the statutes were intended to secure uniformity in the appearance of the

tickets, and we think the tickets should be written and printed in common black ink or common lead pencil, and that all the erasures and substitutions should be made with like black ink or pencil.

Placing this construction upon the intention of the law we might deduct 13 votes from Felton and give them to Sullivan, thus adding 26 more to the majority already found for Sullivan.

This accords with the justice of the case, because if 13 Democrats were bought to vote these tickets 13 were taken from Sullivan and given to Felton, making a difference of 26. We insist for that reason and for the reason that Sullivan's name was erased with red or blue pencil, and Felton's name substituted with such pencil, that they should at least be deducted from Felton's vote.

First precinct, forty-seventh assembly district, San Francisco.

What we have said as to the "branded" tickets in the Fourth ward of San José, Santa Clara County, to wit, the 53 tickets and the 13 tickets, applies with equal force to the 35 red-marked Republican tickets called the "sugar-house" tickets in the first precinct of the forty-seventh assembly district in San Francisco. The evidence shows that the red marks were made by the same person, and were scratched and written in a similar manner. It further appears that they were voted by the employés of the Spreckels sugar-house exclusively, and were counted for contestee. In some cases, if not in all, the red lines showed through the backs of the tickets. For these reasons these 35 red-marked tickets should be deducted from contestee's vote.

ALMSHOUSE VOTE.

The next question to which we desire to call the attention of the House is the almshouse vote in the fifth precinct of the forty-eighth assembly district, in the city and county of San Francisco, and in the San Mateo precinct in San Mateo County.

The evidence shows that from 25 to 30 paupers voted for Felton in these two counties in the respective precincts wherein the almshouses were located, and the most of these paupers are shown to have been Democrats. Contestant insists that these should be excluded on the grounds: First, because paupers; and second, because they were bought for contestee. The evidence establishes the fact of bribery; but from the view we take of the matter, they should be excluded for the reason they are shown to have resided elsewhere than at the almshouse. Contestee does not deny having received these votes, but insists that they had a right to vote. To show the view taken by contestee, we quote from the brief of his counsel, to wit: "In Judge Tucker's Brief, page 71, it is stated that paupers have no residence, and hence their vote must be rejected."

This is not the law in California. It is not sustained by either the constitution or the code. Article 2, section 4, of the constitution, and section 1239, subdivision 2, of the political code, both provide that persons do not gain or lose a residence while residing in an almshouse at the public expense. There is provision of law that persons lose their citizenship by being in an almshouse at the public expense. If they have a residence in the county in which the almshouse is situated, the provisions of the constitution and code expressly state that they do not lose such residence. There is not a word of testimony that the inmates of the almshouse in San Francisco (Platt's Brief, page 34) or of the almshouse in San Mateo (Platt's Brief, pages 86, 87, 88) were not residents of the said counties, respectively. Per contra, it must be presumed from the fact of their being registered in said counties (or else they could not vote) that they were legally registered. It is, moreover, hardly fair for contestant to attack the registry of those in San Francisco, as he has proven that they were registered as Democrats, and at the expense of the Democratic committee (Platt's Brief, page 34).

From the above it will be seen that contestee wants to plead an estoppel against contestant as to the paupers in the San Francisco almshouse, "because," he says, "it is hardly fair for the contestant to attack the registry of those in San Francisco, as he has proven that they were registered as Democrats and at the expense of the Democratic committee." This is certainly begging the question very badly. There is no evidence to show how they were registered, whether as Democrats or Republicans, beyond the fact that the Democrats looked after having them registered. Electors do not register as Democrats or Republicans. The law requires that the registration of an elector shall show the correct residence of the elector.

These paupers were registered as residing at the almshouse. We judicially know that they did not reside there, because the constitution and laws of the State expressly provide that persons do not gain or lose a residence while residing in the almshouse at public expense. At whose expense does the evidence show these paupers were residing at the almshouse? At the public expense, of course. Then they do not gain any residence there, nor do they lose the residence from which they came, while residents presumably, of the county, still under the laws of the State, electors can not vote anywhere in the county wherein they reside, but must vote only in the precinct of the county wherein they reside. It would seem from the evidence in this case, and from the briefs of contestant and contestee as well, that these paupers are treated as residing at the almshouse.

Without any proof whatever on the point, we judicially know otherwise. Thus, by judicial knowledge, we know these paupers did not reside at and could not be registered and vote from the almshouse on account of any residence therein. Then, can it be presumed that these men were legal residents of the precinct in which the almshouse is located? We think not. From the evidence in the case, and by reference to the statutes of the State, it appears that there is but one almshouse in a county. That part of the county of San Francisco in this Fifth Congressional district, described in the record and the evidence as the southern half of the city and county of San Francisco, contains some eighty precincts. If the northern half contains as many, that would make one hundred and sixty in all.

In view of these facts, can we presume that these paupers, prior to being domiciled at the almshouse, all resided in the fifth precinct of the forty-eighth assembly district? We think not; and if not, when shown to have registered and voted from a place where they did not reside, does not that of itself shift the burden upon the other side to show that, notwithstanding they did not live at the almshouse, still that they lived in the precinct where the almshouse was located. We think the burden is thus shifted. There being no evidence offered on that point, it is our duty to throw out these votes, to the number at least of 25.

GENERAL CONSPIRACY.

Before going further in the presentation and discussion of the various irregularities and fraudulent and corrupt methods of the party friends of the contestee, as connected with and bearing upon this contest, we desire to call attention to the evidence tending to show an organized conspiracy, and purpose upon the part of a majority and controlling number of the board of election commissioners to seize and control the election machinery in the city and county of San Francisco. The board consisted of five officials—two Democrats and three Republicans, namely, the mayor, a Democrat; the auditor, a Democrat; the city and county surveyor, a Republican; the tax collector, a Republican, and the city and county attorney, a Republican.

Upon this board was conferred the power and given the jurisdiction to appoint all inspectors and judges of the various election boards. How the three Republicans undertook to appoint all the officers from the rank and file of the Republican party we will let Fleet F. Strother, the auditor, and *virtute officii* a member of said board, explain. We quote from his evidence (see Record, pages 365, 366, 367, and 368), which is as follows:

"Fleet F. Strother, called as a witness on behalf of contestant, after being duly sworn, deposes and testifies as follows:

"Direct examination by Mr. SULLIVAN:

"Q. Where do you reside, Mr. Strother, in this city and county?

"A. Seven hundred and twenty-eight Post street, the corner of Post and Leavenworth.

"Q. You are now auditor of the city and county of San Francisco?

"A. Yes, sir; I am.

"Q. What position, if any, did you hold on the board of election commissioners of the city and county of San Francisco, on or prior to the 2d day of November, 1886?

"A. I was one of the election commissioners, *virtute officii*.

"Q. By virtue of your office?

"A. Yes, sir.

"Q. Will you please state if any attempt was made by the Republican majority of the board of election commissioners to appoint all the members of the boards of election in this city and county?

"A. Yes, sir.

"Q. How was that scheme frustrated?

"A. Do you want me to state the actual truth about that? It was frustrated by my efforts.

"Q. It was frustrated by your efforts?

"A. Yes, sir; I was the main one that opposed it, and after I succeeded in getting the mayor to see what they were about, he joined me.

"Q. Who were the Republican members of that board of election commissioners?

"A. John Love, city and county attorney; Luman Waldham, tax-collector; Charles S. Tilton, surveyor; these were the majority.

"Q. And the Democratic members were yourself and the mayor, Mr. Bartlett?

"A. Washington Bartlett and Fleet B. Strother.

"Q. What, in your opinion, was the object aimed at by these three Republicans in trying to appoint Republican members on the election boards of the city and county of San Francisco?

"A. To wield the election machinery.

"Q. To wield the election machinery?

"A. That is what I thought then; that is what I think now.

"Q. Didn't the press of San Francisco openly denounce this bold attempt—the Republican press as well as the Democratic press—to steal the election machinery?

"A. I think they did, without regard to party.

"Q. Didn't the Evening Bulletin, in three or four issues, fulminate some of its thunderbolts against this attempt?

"A. I think it did; that is the best of my recollection.

"Q. How were the members of the election boards chosen by the election commissioners, after the scheme was defeated?

"A. They were chosen, the Republicans taking a majority and we taking a minority of the board.

"Q. Who presented the names of the Democratic members of the election boards to the commissioners?

"A. The ones we did appoint?

"Q. Yes.

"A. As I understood it, the Democratic State central committee and the county committee both. Both the State central committee and the county committee, as I understood it.

"Q. Do you recollect, during the canvassing of the board of election of the city and county, a question arising as to the returns from the second precinct of the forty-eighth assembly district, and if so, state what it was?

"A. I recollect, when we were canvassing the vote, there was a question as to the irregularity of the returns from the outlying district; I think it was the forty-eighth.

"Q. The second of the forty-eighth?

"A. But I don't recollect the exact number of the district, but it was the outlying district. I objected to the returns myself.

"Q. What did these returns show on their face?

"A. They showed that they were irregular, and, to my mind, fraudulent.

"Q. Didn't the majority of the election board come up and testify before the election commissioners that they didn't sign their names to these returns?

"A. They did, sir; that is my recollection. I discovered it from the fact of the handwriting—the similarity of the handwriting. It appeared to be as if the signatures had been made by one person.

"Q. As if the signatures had been made by one person?

"A. Yes, sir.

"Q. Didn't it appear before the board that the Republican inspector, one Lincoln, had retained the ballots longer than the time allowed by law?

"A. Yes, sir; it did. That is my recollection. I know that the whole conduct and manner of the election out there, to my mind, was fraudulent, and I made a motion that we reject the ballots on that ground.

"Q. Reject the returns?

"A. Reject the returns.

"Q. That was the only precinct in the city of San Francisco where the returns seemed to be attended by fraud, was it not?

"A. I don't recollect about that. I know there was a good deal of irregularity out there. How many precincts were objected to I don't know; it seems to me there was more, but I don't recollect or charge my mind at all. I know I made a very strenuous effort to throw out the returns, because I thought they were fraudulent and had been tampered with. I believed so then, and I believe so now.

"Q. The majority of the board of election did admit these returns, did they not?

"A. They did, sir; in fact, I believe they all admitted them. I think I stood alone in that proposition, but I succeeded in having testimony taken in shorthand; and before this question of the admission of the returns was arrived at I succeeded, on my motion, in having the testimony taken in shorthand and made part of the records of the registrar for future reference. I succeeded in that, but in the second attempt I failed, because I believe I stood alone. I was simply interested as a partisan in having a fair election, and, if possible, fairly to have a Democratic Congressman.

"Q. I believe you stated then, Mr. Strother, that if Charles N. Felton had a vote in the board on that occasion that he would have united in throwing out the returns?

"A. I stated that from my knowledge of Mr. Felton and because I have served with him on a board of directors for a year, and believe him to be an honorable, upright gentleman, and I believe if he was there and was cognizant of the facts that I was, he would have aided me in my attempts to reject the returns. I believed so then, and I believe so now.

"Cross-examination by Mr. PLATT:

"Q. The organization of the different boards of election were made by the board of election commissioners, as is the custom—the majority of the board of election commissioners taking the majority of the boards?

"A. Yes, sir; that is the custom.

"Q. And this year the Republican majority gave the Democratic party the same representation that the Democratic party gave the Republican party previously when the majority was reversed?

"A. They didn't give us anything until we made them through the intervention of the court. They didn't want to give us a point at all.

"Q. I am not talking of what you prevented, but what did happen?

"A. Oh, subsequent to this, after the intervention of the courts, they then consented to give us the minority of the board, as had been the custom heretofore, we having the minority in the commission.

"Q. So that the election was not held under an attempt that you prevented, but was held under a board organized as has been the custom in this city?

"A. Yes, sir; I believe it was—that is, after we had succeeded in frustrating their designs to steal the election commissioners. Then, being in the minority, we could not ask only for a minority representation. That is all we asked for.

"Q. Of course you know that the election was held under the board as organized, and not under something you prevented?

"A. Yes, sir.

"Redirect examination by Mr. SULLIVAN:

"Q. In each of the election boards of the precinct the Republicans were in the majority, were they not?

"A. Yes, sir.

"Q. That is, they had the majority of the board of election commissioners, and they appointed their own people?

"A. Yes, sir.

"Q. And any irregularities that necessarily occurred were, of course, not in the interest of the Democratic party, but in the interest of the Republican party?

"A. That would be a fair interpretation, they having control of the majority of the boards, of course.

"Q. How do you account for the fact, as appears from the evidence in this contested-election case, that in the outlying districts the Republican inspectors took the ballots with them to their homes and retained them for a longer period than allowed by law, in spite of the protest of the Democratic United States marshal?

"A. How I can account for it?

"Q. Yes.

"A. There is only one way to account for it—the desire to commit a fraud, that is all in plain English—the desire to make fraudulent returns. Men always have a reason for their actions, and that is a fair interpretation of the action.

"Q. Didn't this exposé, in connection with the action of Lincoln, the Republican inspector in the second precinct of the forty-eighth assembly district, show clearly what was intended by holding these election returns for a longer period or as long as the time allowed by law?

"A. It was; and that was the reason and the cause of my action, as one of the commissioners, taking the ground I did, that the returns should be rejected. That was the reason; that was the argument I made.

"Q. Do you recall the circumstances, in connection with the evidence in connection with the second precinct of the forty-eighth assembly district, that the envelopes were changed and that the Republican inspector, Lincoln, brought an envelope to the registrar's office without any signatures upon it; that that envelope was rejected; that he came to a grocery store and took out the contents of the envelope and put them in another and asked the grocery man and the shoemaker to forge the names of the election officers?

"A. I do recollect that.

"Q. And that thereupon the returns were left at the baker shop and some of the election officers signed them and others didn't?

"A. Yes, sir.

"Q. But some other person, unknown, signed all the names of the majority of them to the envelope, which was presented to the board of election commissioners?

"A. I recollect all that, and that the shoemaker said that they wanted him to sign somebody's name and he said no; he didn't want to go to the penitentiary; he didn't want to sign anybody else's name. He said he wouldn't sign anybody else's name, and they told him it was a matter of form, but he told them he didn't want to risk his liberty in any such proceeding as that. My convictions are that it was a worse fraud than was perpetrated in Louisiana. I think men ought to be sent to the penitentiary that would do such a thing. I said so then; I say so now.

"Q. Had you ever known from your political experience where so many irregularities occurred?

"A. Never where I was an actual participant in the election. I was reading the other elections and I say I think they exceeded in infamy those that were perpetrated in Louisiana. I say so then; I say so now. From the beginning to the end of election it was characterized by just that kind of business. I frustrated the first attempt and I tried to frustrate the second and I failed. I congratulate myself on one thing, and I feel proud of it; I have got the acknowledgment of the State central committee and the county committee that had I not been one of the election commissioners we would not have a United States Senator and would not have a senate or a Democratic governor.

"Q. That is, if you had not been on the board the Democrats would not have succeeded in electing George Hearst?

"A. No, sir.

"Q. They would not have elected Bartlett or anybody?

"A. No, sir; they would not have elected them, but they might have elected the mayor and auditor.

"By Mr. PLATT:

"Q. You were a candidate for auditor?

"A. Yes, sir; and had an immense majority.

"By Mr. SULLIVAN:

"Q. The failure to elect would have been from the manipulation of the election boards?

"A. Yes, sir.

"Q. And what is known as the counting-out system?

"A. Yes, sir; the first man they appointed for election officer served five years in the penitentiary.

"Q. The first man they appointed served five years in the penitentiary?

"A. Yes, sir; they brought in an entire list of the Republicans for every solitary precinct, and they made a motion to declare those the Democratic judges, and I protested again against it, and the mayor then joined with me, and the mayor refused to put the motion. Love put the motion himself, and they voted on it and declared it carried. And I protested against the registrar making such an entry, and told him if he did he would be in contempt of court, he would be aiding this fraud, too, and he did not make the entry.

"Q. You say that the very first man that was appointed by these Republicans to serve upon the election board was a villain who had been convicted of a felony?

"A. Yes, sir; he was so charged, and it was afterwards published in the papers.

"Q. Were the men selected by the Republicans to act as Democratic and Republican judges of election of a similar kind and character?

"A. I don't remember anything about them; I only know of the list they tried to cram down our throats—I only know the result of the examination by the county committee, what they told me, and was not controverted, that the first man that was presented, I believe his name was Fitzgerald, I forget it now, that he had served five years in the penitentiary; and that was one of the Democratic judges they proposed. And I didn't propose to submit to that kind of business if I could help it, and by my persistent efforts I claim and am very happy to say it, and it did me more good than the election anyway, although that is $4,000 a year, the other did me more good in feeling that I prevented that fraud.

"Recross-examination by Mr. PLATT:

"Q. I suppose you are aware of the statements in the papers that so good a man as Grover Cleveland appointed to office a man who it was found had only been a few months or a few weeks out of the State's prison; the newspapers reported some such appointment in Utah or Colorado?

"A. Yes, but the President might be imposed on. In a great country like this it is not fair to presume that he would be acquainted with every man's character. He came from Buffalo and this man from Utah, and he being from Utah Cleveland might be imposed on.

"Q. Do you know the record of every Democrat who was on that list that was handed in by the Democratic county committeemen for appointment on this election board?

"A. I know them in this way: That I would not vote for any persons that were presented, unless the Democratic committee would vouch for them; but I presume that they selected the men they would know. I could not know the men.

"Q. You were like President Cleveland, you had to trust the vouchers of others?

"A. No; it was not; simply because Cleveland lived in Buffalo and this man in Utah, a long ways apart.

"Q. (By Mr. SULLIVAN.) The cases are not analogous at all?

"A. No, sir.

"By stipulation of counsel on both sides the signature of the witness in the above deposition is waived."

The testimony of Mr. Strother—and this is not denied—shows that the Republican members were bent on securing to the Republican party all the inspectors and judges, and this notwithstanding section 1143 of the political code of California provides: "The judges appointed must not be of the same political party." To prevent this attempt, and to secure participation in the appointment of and a representation on the precinct boards, the Democrats were compelled to sue out a writ of mandate and appeal to the courts. When this was done the Republican officials acquiesced in a division.

To what extent the Democrats failed to secure honest representation upon these precinct boards has already been shown in part by the evidence in the first precinct taken up in this report—the eighth precinct of the forty-sixth assembly district—where the Democrats left the selection of the Democratic members of the election board to James Hughes, Democratic committeeman, who, as shown, imported and boarded for a few days, and at his own house, two men, D. D. Sullivan and Thomas J. Barden, of whom we have already spoken.

SECOND PRECINCT OF THE FORTY-EIGHTH ASSEMBLY DISTRICT.

In this precinct the returns, or, more appropriately, the pretended returns, showed that Felton received 172 votes and Sullivan 117 votes; Felton's majority, 55.

In the judgment of the committee the vote and returns from this precinct were so tarnished with fraud and uncertainty as to require the same to be rejected. We deem it fair to say that when the board of election commissioners of San Francisco were called upon to compile the vote of this precinct quite a spirited contest arose over what was claimed on the one side as an apparent fraud such as to justify its rejection, and on the other side only as an irregularity that should not prevent its being counted. As heretofore stated, the board of election commissioners was composed of two Democrats and three Republicans; the Republicans and one of the Democrats holding what appeared before them as an irregularity only, and they therefore favored counting the vote; while the other commissioner, a Democrat, insisted that it was not a mere irregularity, but was a fraud of such a character as to require its rejection. From the evidence before the board we are not prepared to say that the vote by them was improperly counted. Additional evidence taken in this contest, however, which evidence did not appear before the board, would not only have warranted but called for its rejection.

The evidence before the board was taken down in short-hand, and was transcribed into long hand, spread upon the records of the board, and is brought before us by duly authenticated transcript, and may be found in the record of this case, beginning on page 1621 and ending on page 1665. We are unable to find any statute in the State of California, and we know of none to be found elsewhere, requiring or authorizing that board to make any such record. It comes here, therefore, only as hearsay. It seems to have been made a part of the record in this contest, if not by express at least by tacit consent of both parties. Contestee, in his brief, especially refers to this part of the record approvingly, and cites us to it in support of his deductions.

To understand the merits of the controversy had before the board it will be necessary to refer to the statutes of California, which provide that in each precinct there shall be an inspector and two judges, an additional inspector and two additional judges, two clerks, and two additional clerks. The inspector, additional inspector, judges, and additional judges—six in all—constitute the precinct board. At least four of these, a majority, must sign certain papers and returns hereinafter stated. As the election progresses the clerks make and keep a list of the voters as they vote and these lists are duplicates. At the close of the polls two tally-sheets are made out. These are duplicates of each other. When the count is completed the tickets are placed in an envelope, provided for that purpose, sealed, and the board, or a majority—which requires at least four members—sign their names across this envelope, which has printed thereon "Envelope No. 1." One of the duplicate copies of the poll-lists and tally-sheets, and certain registration papers, are placed in a second envelope, which is sealed, and the names of the members of the board signed thereon, as on the first envelope. This envelope bears upon it the printed words "Envelope No. 2." The other tally-sheet and poll-list are placed in a third envelope, "Envelope No. 3," which is not required to be signed or sealed.

Envelopes numbered 1 and 2 the law requires the inspector to file with the county clerk within eighteen hours after the close of the count. The other envelope, No. "3," the inspector is required to retain.

The evidence before the board showed that so far as the signatures were concerned the names of all six members of the election board were placed on one of the poll-books, one of the tally-sheets and lists attached. Dr. Humphrey and E. J. Morrison, not being present, their names were signed by one of the clerks. Not a single one of the judges testify to having examined the poll-books, tally-sheets, and lists attached before or at the time of signing. They all, the four members who were there, testify that they signed envelopes Nos. "1" and "2." The clerks likewise testify that the envelopes "1" and "2" were signed; Lincoln himself testifies to this. These envelopes and returns were then turned over to Lincoln, the inspector, who took them home with him.

It was then 9.30 o'clock p. m. of Thursday, November 4, 1886. The next day, about 10 o'clock, Lincoln appeared at the office of the registrar to place on file that portion of the returns which it was incumbent upon him to so file. The clerk refused to receive envelope No. "2," because not signed. In fact, Lincoln,

or some one else, had made away with envelope No. "2," and had substituted an unsigned No. "3" therefor. Of this fact the evidence is overwhelming. Lincoln himself, to be sure, testified before the board that he took the returns home with him, placed them on a bureau in the room in which he slept, and that the identical papers untampered with were carried to the clerk's office. As against the overwhelming evidence before that board on this point, and in the light of other evidence not before the board, but in the record in this contest, it requires a stretch of credulity more than we possess to believe Mr. Lincoln.

Lincoln himself testified that the envelope he offered to deliver to the clerk was signed, or he thought it was, and that the only objection made by the clerk against it was, not because it was not signed, but because it was the wrong envelope—a "No. 3" instead of a "No. 2." The clerk testified positively that his chief reason for not receiving it was not because in a "No. 3" envelope, but because not signed; and that he expressly and emphatically called Lincoln's attention to this fact. Lincoln went back to the polling place, got a "No. 2" envelope, broke the seal of the "No. 3," took out the contents and placed them in the "No. 2," calling the attention of Strozynski, a shoemaker, and Jurgens, a groceryman, to witness the performance. He then sealed the "No. 2," wrote his own name thereon, and coolly requested both Jurgens and Strozynski to sign the names of certain other members of the board under his own (Lincoln's) name. Jurgens, thinking he wanted his name as a witness merely, took the pen and innocently inquired, "Where do you want my name?" "Well," says Lincoln, "sign Sweeney's name first." (Sweeney was a member of the board.) "What," says Jurgens, "you don't want me to sign some other man's name?" "Oh, yes," rejoined Lincoln, "it is nothing but a form." Jurgens thought otherwise.

A like request was made of Strozynski with a like result, both of these men, telling him that it would be forgery, and for him to sign them himself. "No, it won't do for me to sign more than one name," said Lincoln. Le'er, Morrison, one of the members of the board, and one who up to this time h d signed nothing, was hunted up and procured to sign it. The names of the other members of the board were thereafter signed by some one, by whom the evidence does not disclose. The members themselves testify that they were not signed by them, or by any one by them authorized. The envelope "No. 2," purporting to be signed by the members, was returned to the clerk's office, by him received and placed on record. In canvassing the returns, it was claimed before the board of election commissioners that their functions were simply ministerial and not judicial. This view seems to have been held by a majority of the board, for they failed to call attention to anything connected with the returns, or to go into any investigation further than to examine the signatures of the members of the precinct board. From the evidence, these names had been affixed in a most careless manner.

Envelope No. 3, removed by Lincoln, was hunted up, and most indubitably identified, and made profert of before this committee. That it was not signed, as by Lincoln claimed, is patent upon its face. The only possible explanation is that during Lincoln's custody, after the polls were closed, some one removed the envelope signed by the board and substituted another. What more was done does not appear.

When the additional evidence is examined, of which the election board of California heard nothing, we think every fair-minded man will concede that there is so much fraud and uncertainty involved about the vote of this precinct that in all fairness it should be thrown out, and the parties contestant and contestee left to prove the vote *aliunde*.

To that additional evidence we desire now to call the attention of the House.

LINCOLN'S CROOKEDNESS.

In addition to the evidence adduced before the board of election commissioners, showing irregularities and crookedness in the second precinct of the forty-eighth, we refer to the testimony of the following witnesses, namely: James Kavanaugh, Record, pages 110, 111; Morrison, Record, page 1535; J. J. McAuliffe, Record, pages 245, 250; O'Connor, Record, page 123; John Lycett, Record, pages 901, 905; O'Day, Record, pages 272, 273.

Kavanaugh testifies that some days before the election this man Lincoln was hunting for an opportunity to make merchandise of himself. In a conversation with Kavanaugh he said that he would like to get on the precinct election board. Kavanaugh told him the way the Democratic party was doing, and that he understood the Republicans were doing the same way, namely, that the committeemen selected the members of the precinct boards. "Well, by George," says Lincoln, "I have got no one from my precinct on the county committee. I must get on, because there is going to be plenty of money this year." Kavanaugh asked him "who was going to use the money this year." Lincoln answered, "Felton is going to throw out a big 'sack,' and I guess, Sullivan, too." Kavanaugh then told him that the only way to get on that he knew of would be through Mr. Charles Tilton, city and county surveyor, and *ex officio* a member of the board of election commissioners. "You know him," says Kavanaugh; "he is your friend." "Yes; he is my friend," says Lincoln, "and I will see him."

Lincoln afterward told Kavanaugh that he had seen Tilton, and that he (Tilton) had promised to put him on. Lincoln was a Republican in politics, and he was put on as inspector. What part of the "sack" Lincoln was given, if any, does not appear from the evidence. That he received his reward a person not extremely incredulous would readily presume upon a close analysis of all the evidence. After the election was over, and when there was some talk about the "crookedness," and it "had come out in the papers," Kavanaugh said to him, "What the deuce were you doing with the ballots home all night?" Lincoln laughed and said, "Oh, that is all right; I have 'fixed' them all right."

In another conversation with Kavanaugh, he told him (Kavanaugh) that the Republican "bosses" were after him—watching him—afraid that he would go to Frank Sullivan and give the "business away." He says, "I don't propose to starve, and wait for them to come up with the money. They promised me money, and they did not do as they agreed, and I don't care a damn for them anyhow. They promised to 'fix' me all right, and they have fooled me and kept me fooled too long. I am out of money, and am not going to starve to death waiting for them." This statement was made in reference to Spreckels and William Center, a member of the firm of Spreckels Brothers. (See Rec., page 3.)

Strozinski testified that Lincoln said to him, "I have a notion to sue Felton." (See Rec., pages 66, 67.) Other evidence shows that for three hours after the polls opened at this precinct the clerks had no poll-books, but were keeping the names of voters on a piece of brown paper; that the ballot-box was not locked; that Lincoln, when he received a ticket of an elector, would raise the lid of the ballot-box and throw the ticket in, and that at 1 o'clock he was drunk. The evidence clearly shows these facts, and is wholly uncontradicted.

Morrison, a Democratic judge on this election board, was paid money the night before the election by Lycett and Spreckles, who knew that he (Morrison) was one of the judges. (See Rec., pages 247-249; again, page 381; again, page 1535; again, page 272, 273, and again, 901.) In fact, the conduct of the officers and others connected with this precinct was so steeped in fraud, and surrounded with so much uncertainty as to honest and fair methods as to make it impossible to tell anything about the vote there cast. Hence we feel called upon to throw it out.

FORTY-SIXTH ASSEMBLY DISTRICT.

In this district, composed of some eight election precincts, fraud and bribery seem to have run riot—a perfect carnival of corruption. Richard Schumacher, Mitchell Phillips, and other active agents and Republican partisan workers, in the local slang of that "coin" country, were loaded down with "sacks" full, and ready to give a "piece" to every man willing to sell. Schumacher was very active in the use of money for Felton, and, according to his own evidence, induced 36 Democrats to vote for Felton. That he used money, and used it corruptly and effectively, his own evidence, when carefully and critically read, abundantly shows. (See his own evidence, Rec., page 323; evidence John Twigg, page 32; James Lowney, page 381; John T. Crummey, page 354.)

Dan Dougherty was a "first lieutenant" under Schumacher, and rendered most "valuable aid." The whole "gang," however, was under Mitchell Phillips, who seems to have been middle-man between Spreckels, Felton, and Center. (Spreckels Brothers and Center were furnishing a large part of the "sack.") After a thorough examination of the evidence it is hard to believe that at least two or three hundred voters were corruptly influenced to vote for Felton in this assembly district alone. Without attempting to go further into details we may say that the evidence as a whole presents an amount of fraud all over the whole Congressional district, and especially in the cities of San Francisco and San José, that could not have existed without a well-organized scheme to perpetrate the same.

SPRECKELS BROTHERS.

Why the Spreckels Brothers should feel such concern about the result of the election as to contribute so largely to the campaign fund it may be some satisfaction to state. The Spreckels family are largely interested in the sugar industry on the Hawaiian Islands, and in the importation of sugar to the United States, free of duty, under what is known as the Hawaiian treaty. Out of the money made therefrom their colossal fortune is being greatly augmented from year to year.

After a couple of vain attempts to have a clandestine interview with Mr. Sullivan on the subject of that interest, it is easy to see that they had no further doubts as to his feelings and intentions on that matter. Hence John D. Spreckels became chairman of the Congressional committee, and besides exercising a general supervision of the district, he assigned to himself the "special charge" of two of the assembly districts of San Francisco, containing some six or eight precincts each. And one William Center, a member of the Spreckels firm, "spread" himself around in a very active sort of way. A number of witnesses testify to the fact of having received money from these men, Spreckels and Center.

INTIMIDATION.

Before concluding this report we feel that we should be derelict in duty if we failed to refer to the question of intimidation and bulldozing in a number of the precincts where these methods were most potent in results—at several precincts, but more particularly at the Almaden precinct. At this precinct Felton received some 209 votes, and Sullivan 45; majority for Felton, 164. See sections 5506, 5507, 5508, and 5520 of the United States Revised Statutes, and sections 1192, 1193, 1194, 1195, 1196, 1197 of the political code of California, which latter read as follows, to wit:

"SEC. 1192. No ticket or ballot must on the day of election be given or delivered to or received by any person, except the inspector, or a judge acting as inspector, within 100 feet of the polling place.

"SEC. 1193. No person must on the day of election fold any ticket or unfold any ballot which he intends to use in voting within 100 feet of the polls.

"SEC. 1194. No person must on the day of election within 100 feet of the polling place exhibit to another in any manner by which the contents thereof may be known any ticket or ballot which he intends to use in voting.

"SEC. 1195. No person must, on the day of election, within 100 feet of the polling place, request another person to exhibit or disclose the contents of any ticket or ballot which such other person intended to use in voting.

"SEC. 1196. No ticket must be used at any election or circulated on the day of election having any mark or thing thereon by or from which it can be ascertained what persons or what class of persons used or voted it, or at what time in the day such ballot was voted or used."

If any virtue whatever be attached to these provisions of the Federal law, and of the political code of California, they were most wantonly disregarded. The greater portion of the voters voting at Almaden precinct were employés of a company engaged in mining quicksilver. The evidence shows that the employés of this company are under the complete domination of the managers and operators of this mine. The whole thing is one close corporation. The only privilege an employé has is "to quit." For fifteen years not a political speech has been allowed or made, and not a single candidate has dared to invade the "sacred territory" to electioneer for an office with the employés.

The candidate who wants the vote of these employés must see the managers or some of the "bosses." "Here is a ticket; go vote it, and get back to your work," is the command given by the "bosses." While the manager and bosses are intensely Republican, woe be unto the candidate on that ticket whom these men oppose. With a nonchalance that is amazing in a free country, the bosses the night before the election will take a lot of Republican tickets, scratch out the names of one or more of the candidates, and insert others in place thereof, and without consulting one employé, will, the next day, hand it to him, folded up, and say, "Here is a ticket; go and vote it, and get back to your work."

The provision of the California statutes which provides "that no ticket must, on the day of election, be given to or received by any person, except the inspector or judge acting as inspector, within 100 feet of the polling place," is a "dead letter" at the Almaden voting precinct.

At this place the managers and the bosses are the "lords of all they survey." Though quite a village, every house therein belongs to the owners of the mine. No business is allowed therein except by permission of these men. Employés are given to understand that all supplies, clothing, and provisions must be bought at the "company's store" under pain of being discharged for violation. Meat must be bought from the "company's butcher." Single men must board at the "company's boarding-house." Married men occupy the company's houses and pay rent therefor. Things are sold and furnished at higher rates than such things can be had for elsewhere; liberty of purchase is not tolerated. These employés are compelled to receive their pay in what are known as "boletos," or store orders. Out of the two hundred and fifty or sixty voters voting in this precinct about two hundred are employés of this company.

On the day of election employés were driven to the polls in wagons, which were stopped within 100 feet of the polling place. On getting out of the wagons these employés were handed folded tickets by the bosses within 100 feet of the polling place, and by them carried to the inspector and handed to him and by him placed in the ballot-box.

Except as to the mere privilege of "quitting," no slave-driver in *ante-bellum* days ever exercised a more complete domination over his slaves than these bosses exercise over their employés. Just to what extent these methods influenced the result of the election at this precinct it is impossible to tell, but we are convinced that it did change from 50 to 100 votes; at least 50 votes, if not more.

In other precincts similar methods of boss influence prevailed, notably in the Spring Valley Water Company in the county, and in the town of San Mateo, and the Sutter Street Railroad Company in San Francisco.

In conclusion we beg to say that the evidence discloses a number, 20 to 30, of very clear cases of single votes counted for Felton, which, by reason of bribery, illegality, and other reasons, should not have been so counted, and a few votes, 8 or 10, which should have been counted for Sullivan, but were not. These are

so insignificant in comparison with the other great offenses against the elective franchise, that we deem it unimportant to refer to them in detail. If there ever existed a case where the right to "a free election and a fair count" should be vindicated this case of Sullivan *vs.* Felton is one.

"*Recapitulation.*

"1. In the eighth precinct, forty-sixth assembly district, San Francisco, votes out of which Sullivan was counted, 92.

"2. In the fourth ward, San José, we find votes bought for Felton in a room within 100 feet of the polling place, and the tickets 'branded' with a red pencil to the number of 53.

"3. In the same ward, and in the same room, 13 other votes bought and Sullivan's name erased and Felton's substituted, with red or blue pencil. These we think might not only be deducted from Felton, but counted for Sullivan, but we simply deduct them from Felton, 13.

"4. In the second precinct, forty-eighth assembly district, San Francisco, because of frauds and uncertainty, we throw out the precinct with its majority for Felton of 55.

"5. Illegal pauper votes bought for Felton, at least 25."

This makes 238, twice Felton's certified majority, without going into the Sugar-House votes and tickets, the Almaden, Spring Valley Water Company, Sutter Street Railroad Company, or the single votes and other facts, all of which tend strongly to add to the merits of the contest in favor of Sullivan.

Finally, in the language of contestant's learned counsel, Judge J. Randolph Tucker:

"If the votes actually cast for Sullivan be counted, and illegal votes counted for contestee be excluded, Sullivan is elected.

"If the ballots which are marked, and which were handed electors within 100 feet of the polls, are excluded, Sullivan will be elected.

"If the precincts tainted by coercion and intimidation of workingmen be purged of fraud and illegality, he will have a good majority.

"Open and flagrant bribery on the part of contestee's friends permeates the whole case. To allow him to occupy the seat would give countenance to these election methods in the future."

The committee, therefore, recommend the adoption of the following resolutions:

1. *Resolved*, That Charles N. Felton, the contestee, was not elected a Representative in the Fiftieth Congress from the Fifth Congressional district of the State of California, and is not entitled to a seat on this floor.

2. *Resolved*, That Frank J. Sullivan was duly elected to represent the Fifth Congressional district of California in the Fiftieth Congress, and is entitled to a seat therein.

Forfeiture of Wagon-Road Grants in Oregon.

SPEECH

OF

HON. BINGER HERMANN,

OF OREGON,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889,

On the bill (S. 15) providing in certain cases for the forfeiture of wagon-road grants in the State of Oregon.

Mr. HERMANN said:

Mr. SPEAKER: I can not adequately express my grateful appreciation for the kindness of the gentleman from Iowa, who permits a suspension of the special order of this House provided for the consideration of a measure of great interest to the people of his own State, in order that I may have the action of this House on the bill reported from the Public Lands Committee in relation to the forfeiture of the three leading wagon-road grants in my own State. I gave him an assurance that there would be little if any discussion on this question in order not to consume the precious moments of this now expiring Congress. Debate under the rules has progressed further than it was my province to prevent. Substitute bills have been proposed, and various motions entertained, but still I ask the continued indulgence of my friend that we may conclude the consideration now begun. I know his kindness of heart and his amiable courtesy, and I feel assured that he will interpose no objection, and I pledge him the grateful thanks of thousands and thousands of settlers and home-seekers in my State who are so vitally interested in the present or near adjustment of the questions involved in these wagon-road grants.

I can not better emphasize the universal desire of the people along these grants than to hold up to the gaze of gentlemen of this House these petitions which I hold in my hand and which they send me, begging, pleading—yes, and demanding, too, the immediate attention of Congress. I know these people; I have traveled among them, conversed with them, and I believe I know their sentiments and desires. Nearly one thousand of them unite in these petitions. They are an intelligent, patriotic, law-abiding, energetic, and yet a patient people. They tell us that the country represented in these grants is retarded in its settlement and development by reason of the uncertainty of the grant title; roadways are not improved, schools are not established as they should be, and all over that vast region a spirit of discouragement prevails, instead of that ambitious and progressive development which should pervade every community within the exterior limits of the grants. The soil is fertile, the climate excellent, the water pure and plentiful.

Remove the land-grant clouds and settle the controversy one way, if not another way, but let it be fairly and justly settled and finally determined. I have united with those favoring a radical policy in committee and out of committee, and have advocated a direct action by Congress and an outright forfeiture of each and every one of those grants so far as the unearned and unpatented lands are concerned, and which amount to 1,457,090 acres, reserving, excepting, and confirming the rights of settlers, users, and occupiers of these lands to the extent of 640 acres, and as to the patented lands, amounting to 911,227 acres, an absolute forfeiture of every part not earned or owned by a bona fide and innocent purchaser. Such a policy would in my opinion end the controversy so far as Congress can end it, and it would protect the innocent and punish the guilty. It would confirm titles to those entitled to confirmation to the extent of our power to do so.

This is not a new question to the people of my State. It has been discussed in the public press, in conventions, and through mass-meetings.

The settlers of the country finding the most beautiful and valuable lands of the State patented to rich syndicates and monopolies, the most of them non-residents, represented that no roadways were constructed and no bridges built as contemplated and expressly provided, and they uttered their dissatisfaction in loud complaints, in petitions for investigations, and through their representatives in State and National Legislatures. An investigation was ordered by the State Legislature as to the construction of these roads, testimony was taken, and so conclusively was it shown that gross frauds existed and the granting acts scandalously evaded and violated that a memorial was addressed to Congress by the Legislature in special session in 1885, as follows:

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

We, your memorialists, the Legislative Assembly of the State of Oregon, respectfully show that, whereas, by an act of Congress approved July 2, 1864, certain lands were granted to the State of Oregon to aid in the construction of a military wagon-road from Eugene City to the eastern boundary of the State; and by an act of Congress approved July 5, 1866, other certain lands were granted to the State of Oregon to aid in the construction of a military wagon-road from Albany, by the way of Canyon City, to the eastern boundary of the State; and by an act of Congress approved February 27, 1867, other certain lands were granted to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, by way of Camp Watson, Canyon City, and Mormon, or Humbolt Basin, to a point on Snake River opposite Fort Boisé; and

Whereas by several acts of the Legislative Assembly of the State of Oregon provision was made for the transfer of said grants respectively to certain private corporations organized within said State upon certain conditions of benefit to said State of Oregon and its inhabitants to be performed by said corporations respectively; and

Whereas by an act of Congress approved June 18, 1874, provision was made for the issuing of patents for said lands by the United States directly to said corporations upon proof of their compliance with the conditions imposed upon them by the acts of the Legislative Assembly of the State of Oregon as aforesaid; and

Whereas it appears to us, your memorialists, from the report of the commissioners heretofore appointed to investigate said wagon-road and affidavits herewith presented, that said corporations have in no manner complied with said condition, but on the contrary thereof have failed, neglected, and refused to build or repair any roads along the routes over which they should have constructed them, in accordance with the intent and meaning of the acts of Congress and of the Legislative Assembly of the State of Oregon aforesaid; and

Whereas by means of false and fraudulent representations, and evidence of such compliance, said corporations have already obtained and are obtaining patents and lists for large portions of said land, and by means of similar false and fraudulent evidence are about to obtain patents and lists for other large amounts of said lands, and under a claim of privilege and right of selection of lien lands within 6-mile limits on either side of the route of said patented roads, are withholding other large amounts of land in fraud of the Government and to the great detriment and injury of the State of Oregon and its inhabitants;

Your memorialists therefore pray that the grants of lands heretofore granted by the acts of Congress aforesaid be, so far as the same is not heretofore patented or listed, by the act of Congress abolished, vacated, and annulled, and considered lapsed, and also all grants, rights, and privileges of selecting lien lands within 6-mile limits on each side of such granted lands be abolished, vacated, and annulled, and considered lapsed by an act of Congress; and in case patents have already issued by the United States for all or any part of said lands to said corporations, that your honorable body authorize suits to be instituted in the courts of the United States to vacate said grants and annul said lists and patents so issued, except where lands have been acquired in good faith, for that through the fraud of said corporations in not building said roads there is no consideration for said grants, and the lists and patents have been obtained under representations which are not true.

And your memorialists will ever pray, etc.

This was followed by still another memorial from a still later session of the Legislature, which memorial was passed January 19, 1887, and is as follows:

Resolved by the senate (the house concurring), That the following memorial be directed to the Senators and Representatives from the State of Oregon, in Congress assembled, and that they be instructed to urge upon Congress an early action thereon:

To the honorable Congress of the United States of America:

Your memorialists, the Legislative Assembly of the State of Oregon, represent—

That within the grants of land made by Congress to the various railroad and wagon-road companies, to aid in the construction of their roads, there are vast arrears of excellent agricultural land lying within the States and Territories through which said roads were intended to pass, which by reason of said grants have been for years and now are withheld from settlement, to the great detriment of the public interest of the whole country and especially the State and Territories in which said lands are situated.

That said companies have, in a great many instances, failed to construct their roads through many portions of said lands in accordance with the conditions upon which said grants were made to them.

That, in the judgment of your memorialists, because of the non-compliance of said companies with the conditions of their respective grants, they have justly incurred a forfeiture of such portions of their respective grants through which such roads still remain unconstructed.

Therefore your memorialists, on the part of the people of Oregon, urge upon your honorable body, as a matter which the people of this State and all the States and Territories may justly demand as right, to adopt some speedy legislation

declaring such lands as have not been earned by said companies in accordance with the conditions imposed by Congress withdrawn from such grants, and that the same be speedily thrown open for settlement by the people.

Adopted by the senate January 19, 1887.

J. C. CARSON, *President of the Senate.*

Concurred in by the house January 19, 1887.

J. T. GREGG, *Speaker of the House.*

Numerous petitions from the people and resolutions of inquiry were submitted to Congress and referred to committees, together with these several legislative memorials, and at different sessions bills were reported looking to a forfeiture of the grants with various saving clauses and provisos. The Interior Department at last ordered an examination in the field, and at great expense detailed two of the most trusted and experienced officers of the Department to proceed to Oregon, and there to make a personal examination by following along the supposed lines of the alleged roads, examining witnesses on both sides as to the construction of the same. A fair and open examination was had, the road companies being represented by their attorneys and the United States by the officers of the Department. The testimony, when transcribed, fills an entire volume. We find there the evidence of old settlers who had been residing along and in the vicinity of these grants ever since the acts of Congress creating the grants were passed.

We recognize among them men of integrity, men of close observation, and men whose truth and veracity none can impeach.

After this painstaking examination the commission reports that these roads are not built according to law.

The Secretary of the Interior, after examining the sworn statements of witnesses on both sides, reports to the President of the United States March 13, 1888, that—

This testimony appears to conclusively establish that none of these wagon-roads were constructed according to law, and that by a rightful administration of the grants and the trust no lands should ever have become the property of the companies on whom they were attempted to be bestowed by the State.

So deeply impressed was the President as to the apparent outrage perpetrated on the people by these gigantic schemes to secure over 2,000,000 acres of the public domain, much of it by high-handed and undisguised evasions and violations of the law, that he transmitted on March 20, 1888, a special message to Congress, as follows:

To the Senate and House of Representatives:

I transmit herewith a communication of the 13th instant from the Secretary of the Interior, with accompanying papers, and submitting the draught of a proposed bill to forfeit lands granted to the State of Oregon for the construction of certain wagon-roads, and for other purposes.

The presentation of facts by the Secretary of the Interior, herewith transmitted, is the result of an examination made under his direction, which has developed, as it seems to me, the most unblushing frauds upon the Government, which, if remaining unchallenged, will divert several hundred thousand acres of land from the public domain and from the reach of honest settlers to those who have attempted to pervert and prostitute the beneficent designs of the Government. The Government sought, by the promise of generous donations of land, to promote the building of wagon-roads for public convenience and for the purpose of encouraging settlement upon the public lands. The roads have not been built, and yet an attempt is made to claim the lands under a title which depends for its validity entirely upon the construction of these roads.

The evidence which has been collected by the Secretary of the Interior, plainly establishing this attempt to defraud the Government and exclude the settlers who are willing to avail themselves of the liberal policy adopted for the settlement of the public lands, is herewith submitted to the Congress, with the recommendation that the bill which has been prepared, and which is herewith transmitted, may become a law, and with the earnest hope that the opportunity thus presented to demonstrate a sincere desire to preserve the public domain for settlers, and to frustrate unlawful attempts to appropriate the same, may not be neglected.

GROVER CLEVELAND.

EXECUTIVE MANSION, *March* 20, 1888.

This message was accompanied by the following draught of a bill:

A bill to forfeit certain lands granted to the State of Oregon in the construction of certain wagon-roads, and for other purposes.

Be it enacted, etc., That the several acts of Congress entitled—

"An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," approved July 2, 1864;

"An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State," approved July 5, 1866;

"An act granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia River, to Fort Boisé, on the Snake River," approved February 25, 1867;

"An act to amend 'An act granting lands to the State of Oregon to aid in the construction of a military wagon-road from Albany, Oregon, to the eastern boundary of said State,' approved July 15, 1870;"

"An act to amend an act entitled 'An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State,' approved December 26, 1866;"

"An act to authorize the issuance of patents for lands granted to the State of Oregon in certain cases," approved June 18, 1874,

be, and the same are hereby, repealed, and that all rights, titles, and privileges as to any of the public lands granted or conferred by, through, or under the said several acts and provisions of law be, and they are hereby, declared forfeited and determined, and all lands within the terms and scope of said several acts of Congress be, and they hereby are, restored to the public domain: *Provided, however*, That all such sales of any of said lands as in the next section are declared to have been made to innocent purchasers by any grantee of the United States, or subsequent grantee, are hereby excepted, and as to such lands the patents heretofore given by the United States are herewith confirmed.

SEC. 2. *And be it further enacted*, That within six months from the passage of this act the Attorney-General of the United States is directed to cause to be brought in the circuit court of the United States for the district of Oregon such suit or suits as may be necessary to cancel all patents, certifications, or other evidences of title heretofore issued for any of the lands mentioned in any of the granting acts hereinbefore set forth, and to restore the title thereto to the United States, saving and excepting only such specific lands as shall have been conveyed to settlers or persons occupying the land for the purpose of using or improving it, upon payment of compensation in good faith therefor, by either of the several corporations upon which said grants were respectively conferred by the State of Oregon, or by some subsequent grantee of the said land grants from said companies, not exceeding in any case one section in quantity.

The Senate passed a bill which is the one now before us, and is as follows:

A bill providing in certain cases for the forfeiture of wagon-road grants in the State of Oregon.

Whereas the United States have heretofore made various grants of public lands to aid in the construction of different wagon-roads in the State of Oregon, and upon the condition that such roads should be completed within prescribed times; and

Whereas said grants were transferred by said State to sundry corporations, who were authorized by the State to construct such wagon-roads and to receive therefor the grants of lands thus made; and

Whereas the Department of the Interior certified portions of said lands to the State of Oregon upon the theory that said roads had been completed as required by the granting acts of Congress, and upon the certificate of the governor of the State of Oregon as to such completion; and

Whereas the Legislature of the State of Oregon has memorialized Congress and therein alleged that certain of said wagon-roads, in whole or in part, were not so completed, and that to the extent of the lands coterminous with unconstructed portions the certifications thereof by the Department of the Interior were unauthorized and illegal: Therefore,

Be it enacted, etc., That it is hereby made the duty of the Attorney-General, within six months after the passage of this act, to cause suit or suits to be brought, in the name of the United States, in the United States circuit court for the district of Oregon, against all persons, firms, and corporations claiming to own or to have an interest in the lands granted to the State of Oregon by the following-enumerated acts of Congress, to wit:

"An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," approved July 2, 1864;

"An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State," approved July 5, 1866;

"An act granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia River, to Fort Boisé, on the Snake River," approved February 25, 1867,

to determine the questions of the seasonable and proper completion of said roads in accordance with the terms of the granting acts, either in whole or in part, the legal effect of the several certificates of the governors of the State of Oregon of the completion of said roads, and the right of resumption of such granted lands by the United States, and to obtain judgments, which the court is hereby authorized to render, declaring forfeited to the United States all of such lands as are coterminous with the part or parts of either of said wagon-roads which were not constructed in accordance with requirements of the granting acts, and setting aside patents which have issued for any such lands, saving and preserving the rights of all bona fide purchasers of any portion of said grants for a valuable consideration, if any such there be. Said suit or suits shall be tried in like manner and by the same principles and rules of jurisprudence as other suits in equity are therein tried, with right to writ of error or appeal by either party as in other cases; and if any person, firm, or corporation having or claiming an interest in any of said lands shall be made defendant in such suit or suits, and in the judgment of the said court be a necessary or proper party defendant, and shall not be an inhabitant of or found within the said district, and shall not voluntarily appear thereto, it shall be lawful for the court to make an order directing said absent defendant or defendants to appear, plead, answer, or demur by a day certain to be designated, which order shall be served upon such absent defendant or defendants in the manner provided by section 5 of an act entitled "An act to determine the jurisdiction of circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875: *Provided*, That both in the said circuit court and upon appeal in the Supreme Court said suit or suits shall be advanced to hearing in preference to all other civil cases on the dockets of either of said courts: *And provided further*, That no right of appeal shall exist after six months from the entering of a final decree in said circuit court.

SEC. 2. That the State of Oregon, and any person or corporation claiming any interest in the lands to be affected by said suit or suits, and whether made a party thereto or not, may intervene therein by sworn petition to defend his interest therein, and may, upon such petition for intervention, also put in issue and have adjudicated and determined any other question, whether of law or of fact, which may be in dispute between said intervener and the United States, and affecting the right or title to any part of the lands claimed to have been embraced within the grants of lands by the United States to or for either of said wagon-roads: *Provided further*, That the lands actually settled upon or occupied and used as a homestead or for agricultural or grazing purposes, in cases in which such settler or occupant has acquired the title of the State of Oregon under the grants recited in the first section of this act to the same, not exceeding one section to any one settler or occupant, shall not be included in such suit, and such settler or occupant shall not be made a party thereto, anything in this act to the contrary notwithstanding.

This bill is recommended without amendment by a majority of the Committee on the Public Lands of this House, and is now before us. Its passage by the Senate indicates the sentiment of that branch of Congress, and from this it is safe to assume, as well as from the opinion so far ascertained of this House, that no measure more radical than the pending bill can obtain the approval of a majority of this Congress. The magnitude of the interests at stake, the vast extent of country affected by these grants, as well as the rights of the Government on the one hand and individual and corporate bodies in interest on the other, all these remind us that much is lost and nothing gained by the continual postponement of some method of final adjudication and settlement.

The extent of the interests embraced in the measure before us can be seen from the following statement:

OREGON CENTRAL MILITARY WAGON-ROAD GRANT.

[Grant made July 2, 1864, to State of Oregon. Legislative transfer to road corporation October 24, 1864.]

Line of road location	miles...	420
Grant aggregates	acres...	800,400
Patented by United States to road company	do.....	235,568
Not patented	do.....	570,831

WILLAMETTE VALLEY AND CASCADE MOUNTAIN WAGON-ROAD GRANT.

[Grant made to State July 5, 1866. State transfer to road corporation October 24, 1866.]

Line of road location	miles...	456½
Grant aggregates	acres...	876,480
Patented to road company	do.....	548,749
Not patented	do.....	327,730

DALLES MILITARY WAGON-ROAD GRANT.

[Grant made to State February 25, 1867. State transfer to road company October 20, 1868.]

Length of road location	miles...	357
Grant aggregates	acres...	685,440
Patented to road corporation	do.....	126,910
Not patented	do.....	558,529

RECAPITULATION.

Total road location	miles...	1,233½
Total of land grants	acres...	2,368,320
Total amount patented	do.....	911,227
Total amount unpatented	do.....	1,457,090

I can not, in conclusion, better express my position than to quote the views of the minority of our committee on this question, which I insert as a part of these remarks. In the minority report the gentleman from Indiana [Mr. HOLMAN] and myself unite. It sets forth the facts as well as the law which control our action thus far. It is as follows:

The minority of the Committee on the Public Lands, to whom was referred the bill (S. 1939) forfeiting wagon-road grants in the State of Oregon, dissent from the majority and submit the following as their report:

There are now two bills before this Congress in reference to these lands; the one a bill coming from the Senate and now favorably reported back to this House by a majority of this committee, and which proposes to remit all questions of law and fact to the district court of the United States for the district of Oregon, and which involve the compliance or non-compliance with the granting act, and the legal effect of the certificates made by the governors of Oregon, in acknowledgment and certification of the construction of the said roads, the fact of which is denied by the great body of people residing coterminous with these alleged roads, which are found to have no existence by the investigation of the commission appointed by the Secretary of the Interior, the findings and report of which are before this Congress, accompanying the message of the President of the United States as per Executive Document No. 124, and dated March 20, 1888, on the same subject.

The President says of said investigation that it has developed, it seems to him:

"The most unblushing frauds upon the Government which, if remaining unchallenged, will divert several hundred thousand acres of land from the public domain and from the reach of honest settlers to those who have attempted to pervert and prostitute the beneficent designs of the Government. * * * The roads have not been built, and yet an attempt is made to claim the lands under a title which depends for its validity entirely upon the construction of these roads."

The other bill, and that which your minority recommend, and which has the earnest approval of the entire Interior Department, provides as to the said three granting acts that—

"The same are hereby repealed, and that all rights, titles, and privileges as to any of the public lands granted or conferred by, through, or under said several acts and provisions of law be, and they are hereby, declared forfeited and determined; and that all lands within the terms and scope of said several acts of Congress be, and they are hereby, restored to the public domain."

The Attorney-General is directed to bring suits to cancel all "patents, certification, or other evidences of title" issued for any of said lands, excepting such lands as shall have been conveyed to settlers or persons occupying the land for the purpose of using or improving it, not exceeding one section in quantity.

We think that this saving as to lands which were patented at time of purchase or since might be extended to all purchasers in good faith and for valuable consideration and their titles confirmed by amendment to the substitute; but as to lands not so patented at time of purchase, that a saving should be made of only such lands as were purchased by settlers who occupied the land and used or improved the same, not exceeding 640 acres, and that in like manner their titles should be confirmed, and to this extent the substitute should be amended.

It appearing from the report of the commission appointed to visit the alleged roads and make examination as to the actual condition of affairs, and to take testimony and "investigate all questions of fraud touching the construction of said roads" that the same were not constructed according to law, it rests with us to consider what rights of third parties claiming to be innocent purchasers may be affected by the substitute proposed by the minority.

There are two classes of purchasers, the one embracing the settlers, the bona fide seekers of small homes, they who do not buy for speculation but for actual grazing or agricultural use and occupation; the other class, who constitute great syndicates, corporations, and monopolies, who purchase for purely speculative purposes and take either the entire grant or immense blocks of the same.

The first class are protected and excepted from the provisions of the substitute and are confirmed in their holdings, while the second class are included in the forfeiture.

In the language of the Department:

"Where the conveyances are made in bulk there are such terms of description and notice of the grant as carried to the grantee not only knowledge of the nature of the title and the conditions upon which alone the lands could be rightfully obtained, but even by the terms of the grant a notice as to the right to its possession only upon compliance with such terms."

We conclude as a necessary result that the present claimants of these grants stand in no better relation to the title, legal or equitable, than the companies upon whom the conditions of the grant originally rested for compliance. Gross deception was practiced by the companies pretending to construct these roads, and only a semblance at occasional points of a roadway was made along the entire route, so that in most places without a guide no line could be seen. The whole object seemed to be to acquire title to the largest bodies of land in the shortest space of time and with the least outlay of expense, and in total disregard of the intention, the conditions, and purpose of the act of Congress.

The most scandalous evasion of the law in this respect is shown in the case of The Dalles Military Wagon-Road grant. This involves 685,000 acres. The line of the alleged road is 357 miles approximately. The State conferred the grant upon the road corporation October 20, 1868; yet this roadway over mountain, gulch, desert, and plain, and through timbered regions, was certified as fully constructed and completed by June 23 following—only about eight months—the most of the time being winter and in snow, and with but a limited number of hands to do the work. The finding of no road there now is commentary enough. Already 127,000 acres have been patented to the company, and the entire 685,000 acres would likewise have been parted with had it not been for the determined attitude of the people on the one hand and the Department on the other to investigate the suspicious surroundings, and then, with the facts before Congress, hope for an unconditional forfeiture.

To this effect the Legislature of Oregon has earnestly memorialized Congress and recapitulated the frauds underlying the certificates of construction, as found by investigations instituted by State authority. The various conveyances from the State to these companies contain this clause:

"That said road shall be constructed with such width, gradation, and bridges as to permit of its regular use as a wagon-road, and in such other special manner as the State of Oregon may prescribe."

The evidence shows that neither of said roads were constructed as to width, gradation, or bridges as required, and in most of the distances there can be found neither road, width, gradation, bridges, or anything else to designate a road.

In providing authority to the State to dispose of the granted lands, the act of Congress conferring the grant prescribed the following notice and limitation:

"And if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States."

And in the grant of the State to the companies we find in the legislative acts the following language:

"SEC. 2. There is also hereby granted and pledged to said company all moneys, lands, rights, privileges, and immunities, which may be hereafter granted to this State to aid in the construction of such road for the purpose and upon the conditions and limitations mentioned in said act of Congress, or which may be mentioned in any further grants of moneys or bonds to aid in constructing such road."

"For the purpose and upon the conditions and limitations mentioned in said act of Congress" are the words of the grant itself, and these were a continual and significant notice to all grantees or subsequent purchasers of what Congress required as an imperative condition, and when they purchased they were put on their notice, and can not now claim to be protected as innocent purchasers as to any portion of the grant, which an imperfect observation would have disclosed was in no instance earned in view of the conditions required. Therefore, as to these parties, they stand in no better relation than the original grantees from the State, by whom the express conditions of the grant have been so flagrantly violated and ignored.

These conveyances do not profess to confer any greater title than such as is warranted by the original grant of Congress. We believe, in view of all the facts before us, that the main body of these lands should be restored to the public domain, and be open to the American home-seeker, under the provisions of the homestead act; that that rich empire, in which these grants overshadow the most fertile spots, should be made to prosper with a happy and prosperous and industrious population, and these not be discouraged and driven off by the avarice and grasping conditions of wealthy corporations and syndicates; and we think, as Congress has the power, that an immediate forfeiture, subject to the limitations herein suggested, should be had by this body, it being in our opinion the quickest and most satisfactory relief to the great body of people interested.

With these views of the facts, the law, and the equities, and in the interest of a speedy adjustment, and for the purpose of producing a unity and harmony of sentiment between the pending measures now before us, we submit the foregoing views and recommend the passage of the substitute as modified thereby.

W. S. HOLMAN.
BINGER HERMANN.

But, as has been shown, these views can not to their full extent obtain the concurrence of the two Houses of Congress, and hence it behooves us to adopt that policy and that measure as will reach some harmonious conclusion, and in the end prove, if not the best and most expeditious, yet a just and deliberate and final adjudication of the long-pending disputes. This ultimatum is now before us, and with a firm conviction that this alternative will meet the approval of my constituents and terminate all further delays and painful doubts, I advocate the passage of the pending bill and earnestly solicit the co-operation of gentlemen to this end.

Copyright Law.

SPEECH
OF
HON. THOMAS R. HUDD,
OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889,

On the copyright law of the United States as amended by the Chace bill, passed by the Senate May 9, 1888.

Mr. HUDD said:

Mr. SPEAKER: Glad indeed would I be, happy, in fact, would be the hundreds of thousands of intelligent reading and thinking citizens of the United States, as well as other thousands in the lands and nations beyond seas, were the measure under consideration a real international copyright law; but it is not, although often so termed when it is referred to. It is at its best a more liberal American copyright law, that in the absence of international action or treaty is to compensate and protect foreign authors who will print their works first in this country, as we protect native authors. A still greater regret now arises, that at this late day in the legislative history of the Fiftieth Congress no such measure will arrive at the dignity of a law.

Here I desire that the full text of the proposed law appear, which compilation of the existing and proposed amendments to the copyright law of the United States is prepared by a person competent to deal with the matter under consideration and to whom due credit is given, namely:

THE COPYRIGHT LAW OF THE UNITED STATES CONTAINED IN THE REVISED STATUTES, SECTIONS 4948 TO 4971, INCLUSIVE, AS AMENDED BY THE CHACE BILL (PASSED BY THE SENATE MAY 9, 1888).*

[Prepared by Thorvald Solberg, corresponding secretary of the International Copyright Association of the District of Columbia.]

SEC. 4948. All records and other things relating to copyrights and required by law to be preserved shall be under the control of the Librarian of Congress and kept and preserved in the Library of Congress; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the super-

* The new text is inclosed in brackets.

vision of the Joint Committee of Congress on the Library shall perform all acts and duties required by law touching copyrights.

SEC. 4949. The seal provided for the office of the Librarian of Congress shall be the seal thereof, and by it all records and papers issued from the office and to be used in evidence shall be authenticated.

SEC. 4950. The Librarian of Congress shall give a bond, with sureties, to the Treasurer of the United States, in the sum of $5,000, with the condition that he will render to the proper officers of the Treasury a true account of all moneys received by virtue of his office.

SEC. 4951. The Librarian of Congress shall make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year.

SEC. 4952. Any * * * [1]author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person, shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. [Authors or their assigns shall have the exclusive right to dramatize and translate any of their works for which copyright shall have been obtained under the laws of the United States.[2]]

SEC. 4953. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

SEC. 4954. The author, inventor, or designer, if he be still living, * * *[3] or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks.

SEC. 4955. Copyrights shall be assignable in law by any instrument of writing, and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution; in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

[SEC. 4956. No person shall be entitled to a copyright unless he shall, before publication in this or any foreign country, deliver at the office of the Librarian of Congress, or deposit in the mail within the United States, addressed to the Librarian of Congress at Washington, D. C., a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or a model or design for a work of the fine arts, for which he desires a copyright; nor unless he shall also, not later than the day of the publication thereof in this or any foreign country, deliver at the office of the Librarian of Congress at Washington, D. C., or deposit in the mail within the United States, addressed to the Librarian of Congress at Washington, D. C., two copies of such copyright book or dramatic composition, printed from type set within the limits of the United States, or in case of engraved works, photographs, or other similiar articles, two copies of the same, or in case of a painting, drawing, statue, statuary, model or design for a work of the fine arts, a photograph of the same. During the existence of such copyright the importation into the United States of any book or other article so copyrighted shall be, and it hereby is, prohibited, except in the cases specified in section 2505 of the Revised Statutes of the United States,[4] and except in the case of persons purchasing for use and not for sale, who import not more than two copies at any one time, in each of which cases the written consent of the proprietor of the copyright, signed in the presence of two witnesses, shall be furnished with each importation: *And provided*, That any publisher of a newspaper or magazine may, without such consent, import for his own use, but not for sale, not more than two copies of any newspaper or magazine published in a foreign country. All officers of customs and postmasters are hereby required to seize and destroy all copies of such prohibited articles as shall be entered at the custom house or otherwise brought into the United States, or transmitted to the mails of the United States. In the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translation of the same, and the importation of the books in the original language shall be permitted.[5]]

SEC. 4957. The Librarian of Congress shall record the name of such copyright book or other article, forthwith, in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered that on the —— day of ——, A. B., of ——, hath deposited in this office the title of a book (map, chart, or otherwise, as the case may be, or description of the article), the title or description of which is in the following words, to wit (here insert the title or description): The right whereof he claims as author (originator, or proprietor, as the case may be), in conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he shall give a copy of the title or description, under the seal of the Librarian of Congress, to the proprietor whenever he shall require it.

SEC. 4958. The Librarian of Congress shall receive, from the persons to whom the services designated are rendered, the following fees: 1. For recording the title or description of any copyright book or other article, 50 cents. 2. For every copy under seal of such record actually given to the person claiming the copyright, or his assigns, 50 cents. [3. For recording and certifying any instrument of writing for the assignment of a copyright, $1. 4. For every copy of an assignment, $1.][1] All fees so received shall be paid into the Treasury of the United States. [*Provided*, That the charge for recording the title or description of any article entered for copyright, the production of a person not a citizen or resident of the United States, shall be $1, to be paid as above into the Treasury of the United States, to defray the expenses of lists of copyrighted articles to be printed by the Secretary of the Treasury, at intervals of not more than a week, for distribution to the collectors of customs of the United States and to the postmasters of all post-offices receiving foreign mails; and it is hereby made the duty of the Librarian of Congress to furnish to the Secretary of the Treasury the material for the publication of such weekly lists, for which service he shall be authorized to employ an additional clerk, at a salary of $1,200 per annum; and such weekly lists, as they are issued, shall be furnished to all parties desiring them, at a sum of not exceeding $5 per annum; and the Secretary and the Postmaster-General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles copyrighted under this act during the term of the copyright.]

SEC. 4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail addressed to the Librarian of Congress at Washington, D. C., within ten days after its publication, two complete printed copies thereof, of the best edition issued, or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any substantial changes shall be made.

SEC. 4960. For every failure on the part of the proprietor of any copyright to deliver or deposit in the mail either of the published copies, or description or photograph, required by sections 4956 and 4959, the proprietor of the copyright shall be liable to a penalty of $25, to be recovered by the Librarian of Congress, in the name of the United States, in an action in the nature of an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

SEC. 4961. The postmaster to whom such copyright book, title, or other article is delivered, shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination.

SEC. 4962. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof, or of the substance on which the same shall be mounted, the following words, namely: "Entered according to act of Congress in the year ——, by A. B., in the office of the Librarian of Congress at Washington;" or, at his option, the word "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out; thus: "Copyright, 18—, by A. B."[2]

SEC. 4963. Every person who shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other article, for which he has not obtained a copyright, shall be liable to a penalty of $100, recoverable one-half for the person who shall sue for such penalty and one-half to the use of the United States.

SEC. 4964. Every person who, after the recording of the title of any book as provided by this chapter, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish [dramatize, translate], or import, or knowing the same to be so printed, published [dramatized, translated], or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

SEC. 4965. If any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this chapter, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish [dramatize, translate], or import, either in whole or in part, or by varying the main design with intent to evade the law, or, knowing the same to be so printed, published [dramatized, translated], or imported, shall sell or expose to sale any copy of such map or other article, as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit $1 for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit $10 for every copy of the same in his possession or by him sold or exposed for sale; one half thereof to the proprietor and the other half to the use of the United States.

SEC. 4966. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, such damages in all cases to be assessed at such sum, not less than $100 for the first and $50 for every subsequent performance, as to the court shall appear to be just.

SEC. 4967 Every person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, * * *[3] shall be liable to the author or proprietor for all damages occasioned by such injury.

SEC. 4968. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

SEC. 4969. In all actions arising under the laws respecting copyrights, the defendant may plead the general issue, and give the special matter in evidence.

SEC. 4970. The circuit courts, and district courts having the jurisdiction of cir-

[1] The words of the original law omitted are: "citizen of the United States or resident therein, who shall be the."

[2] The words in brackets are substituted for "and author may reserve the right to dramatize or to translate their own works."

[3] The words struck out are: "and a citizen of the United States or resident therein."

[4] Section 2505 of the Revised Statutes is the free-list, and the paragraphs relating to books (the only portions of the list to which this act can refer) are as follows:

"Books which shall have been printed and manufactured more than twenty years at the date of importation.

"Books, maps, and charts, imported by authority for the use of the United States or for the use of the Library of Congress. But the duty shall not have been included in the contract or price paid.

"Books, maps, and charts, specially imported, not more than two copies in any one invoice, in good faith for the use of any society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use, or by the order, of any college, academy, school, or seminary of learning in the United States.

"Books, professional, of persons arriving in the United States."

"Books, household effects, or libraries, or parts of libraries, in use of persons or families from foreign countries, if used abroad by them not less than one year, and not intended for any other person or persons, nor for sale."

[5] This section, previous to amendment, reads as follows:

"SEC. 4956. No person shall be entitled to a copyright unless he shall, before publication, deliver at the office of the Librarian of Congress, or deposit in the mail addressed to the Librarian of Congress at Washington, D. C., a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statute, statuary, or a model or design for a work of the fine arts, for which he desires a copyright, nor unless he shall also, within ten days from the publication thereof, deliver at the office of the Librarian of Congress or deposit in the mail addressed to the Librarian of Congress at Washington, D. C., two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same."

[1] The clauses in section 4958 inclosed within brackets are made to accord with section 2 of the amendatory act of June 18, 1874; the full text of which is printed on page 873.

[2] The text of section 4962 given here is that of section 1 of the amendatory act of June 18, 1874. This section was further amended by the act approved August 1, 1882 (22 Statutes at Large, chapter 366, page 181), to the following effect: "Manufacturers of designs for molded decorative articles, tiles, plaques, or articles of pottery or metal subject to copyright may put the copyright mark prescribed by section 4962 of the Revised Statutes, and acts additional thereto, upon the back or bottom of such articles, or in such other place upon them as it has heretofore been usual for manufacturers of such articles to employ for the placing of manufacturers, merchants, and trade-marks thereon."

[3] The parenthetical clause, "if such author or proprietor is a citizen of the United States, or resident therein," is stricken out.

cuit courts, shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by the laws respecting copyrights, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

SEC. 4971. [Repealed,][1]

The fourth section of the "Chace" amendatory act reads as follows:

["That for the purposes of this act each volume of a book in two or more volumes, when such volumes are published separately and the first one shall not have been issued before this act shall take effect, and each number of a periodical, shall be considered an independent publication, subject to the form of copyrighting as above; and the alterations, revisions, and additions made to books by foreign authors, heretofore published, of which new editions shall appear subsequently to the taking effect of this act, shall be held and deemed capable of being copyrighted as above, unless they form part of a series in course of publication at the time this act shall take effect."]

Section 5 provides that the act shall go into effect on July 1, 1888.

The amendatory act of June 18, 1874 (18 Statutes at Large, chapter 301, pages 78-79), which, through error, was not incorporated into the Revised Statutes, second edition, prepared in accordance with the act of March 2, 1877, is to the following effect:

"SEC. 1. [This section is given above as section 4962 of the Revised Statutes, which it amends.]

"SEC. 2. That for recording and certifying any instrument of writing for the assignment of a copyright, the Librarian of Congress shall receive from the persons to whom the service is rendered, $1; and for every copy of an assignment, $1; said fee to cover, in either case, a certificate of the record, under seal of the Librarian of Congress; and all fees so received shall be paid into the Treasury of the United States.

"SEC. 3. That in the construction of this act, the words 'engraving,' 'cut,' and 'print' shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label not a trade mark, $6, which shall cover the expense of furnishing a copy of the record under the seal of the Commissioner of Patents, to the party entering the same.

"SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be, and the same are hereby, repealed.

"SEC. 5. That this act shall take effect on and after the 1st day of August, 1874."

It thus appears that this measure will, if enacted into a law, protect the foreign author to a like extent as the American one—a citizen of the United States—provided the foreign writer will first put his work in type in the United States. Our country is to this date the only nation having a literature that is recognized and of value to mankind that has neglected to make some provision looking to the honest and fair compensation of authors whose works are worth preserving or perusing who are not citizens of the United States. Near thirty years ago Charles Reade, an illustrious author of England, now of the world, wrote a powerful book in the interest of an international copyright law, and he well named it The Eighth Commandment—"Thou shalt not steal." It had a wonderful effect in Europe. In that work he speaks of the United States in this connection as follows:

A single great nation has spared me feeble illustrations. The United States of America, a country young enough to make fanciful experiments in law, and elastic enough to survive them, has drawn an arbitrary distinction, in the teeth of her own excellent jurists, and all great lawyers, alive or dead, between the mechanical inventor and the literary inventor. They are brothers throughout the creation; but she chooses to take a nap, and dream that they are no relations at all. Strange to say, she will not allow any foreigner copyright, and she concedes to any foreigner patent right. And as she is not one of those who do things by halves, she is generous as well as just, to the foreign mechanical inventor, with respect to fees; she regulates them by the price charged her people in the foreign nation. And when a foreigner's patent shall happen to be declared invalid, she returns two-thirds of the money. (*Coryton*, page 353.)

A British holder of an American patent has surer and easier remedies against piracy in the United States than he has in his own island. Now, here is a double phenomenon of legislation, which, being opposed to reason, to equity, to all theory of law, to common sense, and also to almighty cant, never occurred before, and probably never will happen again while man shall be upon the earth. While it lasts, then, let us put it to profit.

What is the effect on the American author and on the American mechanical inventor respectively?

American genius is at this moment at the head of all the nations for mechanical invention. I learn from Coryton, the last English writer on patents, that she took out her first patent in 1790. In 1800 took out 39 patents; in 1810, 222; in 1830, 551; in 1840, 452; in 1849, 1,076. At this last date she headed Great Britain and has maintained the lead ever since.

Europe teems with the products of her mechanical genius. Her inventors draw large percentages from England, and no Englishman grudges them, for they leave us still their debtor. The pre-eminence this nation has attained in mechanical invention rests on the rock of statistics, and my little paltry experience can neither contradict nor confirm statistics; still I can not help remarking that I am sitting in London at this moment in a shirt which I happen to know was sewed by Mr. Singer's patent, and that there are three English newspapers on the table, two of which, the Times and Lloyd's, were printed by Mr. Hoe's patent, the other was probably worked off either by Mr. Adams's press, invented, I think, at Boston, United States, or else by the Columbian press, which is still in vogue here, though long ago exploded in the leading nation.

The constructive genius of this people, stimulated by sound legislation, teaches us lessons at every turn. Look at their hotels—the wonder of the world; ours are only the terror. Look at their cities, reticulated with telegraphic wires, so that at the first alarm of fire an engine is rung for; here it is run for, and that is why it often finds the house on the ground floor, and drenches the smoking ruins, which hiss it for not managing better. I go through the docks at Liverpool and point out the biggest and smartest ships, and ask a sailor from what ports they come. It is always, "Yankee, sir; Yankee, Yankee." We had been sailing yachts many years more than they had when they sent over the "America" and beat our fleet; and observe, the victory was achieved by mechanical construction, not by an extra cloud of canvas. * * *

Now, what is the position of the American literary inventor in the world? Does it correspond with the American patentee's position? On the contrary, it is a complete contrast—a contrast the more striking that the American mechanical inventor has only the same materials as our inventor, yet leads him and eclipses him; whereas the American literary inventor, three times out of four, is content to imitate us, though his own materials are so much larger, more varied, and more abundant than ours.

There are invention and construction in all immortal books; but take the novelist and dramatist, who correspond more obviously with the mechanical inventor than some other writers do; what materials has an English novelist compared with that gold mine of nature, incident, and character, real life in the great American Republic?

At the Himalaya Mountains you can have all the climates of the world. Scorched at the foot by a vertical sun, you can go up a little and pitch your tent in Spain. Another mile, you can build your hut and live in France. Above, you are braced by the air of Savoy; and you may mount to Greenland. Here you command all the climates of the earth.

The United States offer to the writer a phenomenon as rare. On one rail you may run from the highest civilization to the very lowest, and inspect all the intermediate phases. You may gather in a week, amidst the noblest scenes of nature, the history of the human mind, and watch its progress. Here are red man, black man, and white man. Contrasts more piquant than occur at all in England spring up like weeds in the United States. Larger and more natural topics are discussed with larger and freer eloquence, and every moment the passions of well-dressed men burst the bonds of convention, and nature and genuine character speak out in places where with us etiquette has long ago subdued them to a whisper. Yet with all this their novelists produce no rich American fruit, and the country does not possess a single famous dramatist.

Read the American papers. You revel in a world of new truths, new fancies, and glorious romance. Read their fiction. How little, how stale by comparison, how unworthy of the swelling themes life supplied in this nation that is thinking, working, speaking, living on a scale of grandeur, and at a rate of march without a present rival or a past parallel beneath the sun!

The reason is this: Nine-tenths of their heaven-born writers are forced to be ephemeral writers, driven into the newspapers by uneven legislation, the newspaper being the only form in which intellectual labor can not be undersold by stolen labor. In Great Britain there are five hundred and five newspapers. In America there are four thousand, and there lies buried for the present many an immortal genius—buried, but to me not hidden. I can see their fitful gleams in reading those papers.

Mr. Emerson, in course of a public speech last year, made use of these words:

"There are men in this country who can put their thoughts in brass, in iron, in stone, and in wood, who can build the best ships for freight and the swiftest for ocean race. Another makes revolvers [many a British officer's life saved in the Crimea by this patent], another a power-press," etc.

But in another part he said: "A New York novelist should regard the world in a different point of view from his London cotemporary. But the truth is, scarcely one of our authors has yet thrown off his swaddling clothes. The great secret of the world-wide success of Uncle Tom's Cabin was the fact that it was a novelty; that it had something peculiarly American in it.

"The works of American authors have been smothered under the works of English authors in the American market. Not only has the wholesale system of mal-appropriation most injuriously affected the interests of living American authors, but it has had a tendency to dwarf down the original literature of the United States to a servile copyism, and to check the development of the natural mind."

America would at this moment be just as low in mechanical invention if the statesmen of the United States had encouraged the theft of foreign patents. And in one generation under even rights they are as sure to beat our heads off at fiction as the sun is to rise to-morrow.

This arraignment—mingled praise and censure—is just and no more than we deserve; more than liberal to foreign inventors through our patent laws, we turn not only the cold shoulder to the foreign author but we enact the role of the footpad and highwayman and take his genius, which is life, and his writings, property, without compunction or compensation. I will now present and make part of my remarks the utterance of a most distinguished American jurist, George Ticknor Curtis, who has written so well and exhaustively on this question. Says Mr. Curtis, under date of April 10, 1888—and this extract from that distinguished lawyer's letter to the American Copyright Association is the entire argument in favor of this measure—all who speak on this subject can only follow its line and illustrations:

Nothing can be more fallacious than the idea that intellectual property is in any degree less to be regarded as capable of ownership than land or merchandise, because it requires a peculiar system of legislation to secure for it the rights and advantages of property. It is just as true of literary property, which I should define as the exclusive right to multiply and sell copies of an intellectual production, as it is of all other forms of property, that it is founded in natural law. There are many kinds of property which are founded in natural law, but which require to be protected by the positive law of society. In the cases of inventors and authors, the natural right extends to an indefinite period of time; but there has been a compromise between the claims of the inventor and author and the interests or supposed interests of the public. In consideration of the advantage afforded by a positive law, in the better security given to this kind of property, the natural right of the author or inventor to the indefinite enjoyment of what he has created has been curtailed to a fixed term of years, after the expiration of which his property ceases to be *privati juris* and becomes *publici juris*. Power to give this security to authors and inventors was conferred on Congress by the Constitution of the United States, like many other powers which belonged to the State sovereignties before that Constitution existed, in order that the laws might be uniform throughout the country.

Patents for useful inventions and copyrights of books were granted by the States before the Federal Constitution; and they were granted upon a recognition of the natural right in intellectual productions, and upon the expediency, for the public benefit and the benefit of authors and inventors, of substituting a fixed term of years for, and a definite remedy in the place of, the indefinite duration of that right and the uncertain remedy that existed at common law. Twelve of the original thirteen States passed copyright laws before the Federal Constitution was adopted. But of course these State patents and copyrights had no territorial operation outside of the States which granted them. Hence the surrender of this power to Congress by Article I, section 8, of the Federal Constitution, which is so framed as to impose upon Congress a duty as well as to confer upon it a power. The object for which the power is conferred is "to promote the progress of science and useful arts." The means by which this is to be done is "by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

The provision is so broad and the purpose is so comprehensive that it can not be claimed to embrace only native authors and inventors. It has not been so construed in regard to inventors. We have long had legislation which has permitted foreign inventors to take patents in this country. The reason why we

[1] Section 4971, which is repealed, reads as follows:

"Nothing in this chapter shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein."

have treated foreign authors differently has been partly from neglect, partly from the fact that at an early period a popular habit grew up of considering a foreign book as public property, and partly from the necessity of legislation, about which no agreement could be made as to the principles on which it ought to be framed. But if our legislators will consent to treat the foreign author as they treat the native author there need be no difficulty in bringing about a satisfactory state of things. There are a great many reasons for this, among which the following are the most important:

1. The foreign author has the same natural right to control the multiplication of copies of his book as the native author; but he must submit to the same surrender of his indefinite right that the native author has to make of his indefinite right, in order that their rights, as recognized by our local law, may be equal; and if he is required to manufacture here the copies of his book that are to be sold here, he must be, and in all probability will be, willing to accept this condition, because he will gain something by it which he could not otherwise have.

2. With regard to the natural right of the foreign author, which is only another mode of expressing the obligations of justice, there can not, it seems to me, be two opinions. If an alien friend sends a bale of merchandise to this country, we do not seize upon it as public property or allow any one to interfere with his control of it, provided it in no way injures the public health or endangers the public safety, and provided the owner pays the taxes which we impose upon it. Why is this? It is not because we have specially legislated for the protection of his property, but it is because in all civilzed states the natural right in movable property, introduced into their dominions by an alien friend, is universally recognized. The only difference between the bale of merchandise and the right to multiply copies of a book is that the former is a specific and substantive chattel, while the latter is an incorporal chattel. But we recognize the latter, by our municipal law, as a right of property, in the case of the native author, just as we recognize the former.

It is not true that this extended copyright will enhance the price of books to the reader and purchaser in the United States. True the publisher here will have to pay the foreign writer an agreed royalty, but that royalty, while considerable to the author, is not added to the cost of the book to the general purchaser, for in opening the field to foreign authors the field is so broad that so many copies will be printed that the percentage or royalty, if added, will be so small that no purchaser will feel it. This is most forcibly illustrated in our midst today. I clip from the current news of the day the following facts to sustain the point that liberal copyright will not enhance the price of books:

The late E. P. Roe was probably the most popular writer of romances that this country has produced, unless Fenimore Cooper may be excepted. As an illustration of the great facility with which this author's books sell, Messrs. Dodd, Mead & Co., his publishers, state that his last novel, "Miss Lou," published in September, has already had a sale of 35,000 copies at $1.50 a copy. In addition to this they have just issued a cheap edition of 100,000 copies, which the American News Company has purchased entire. So that in the short period of four months 135,000 copies of this book have been sold by the publishers. It is claimed that 150,000 copies of Robert Elsmere have been sold in this country. But this was a cheap reprint, which paid no royalty and sold at from 15 to 20 cents a copy. Mr. Roe's book, selling at a much higher price and paying full royalties, has sold nearly the same number and in a shorter space of time. The attention of those people who fear that an international copyright law will make books dear is called to the fact that the publishers of this popular novelist's books find it to their advantage to issue cheap editions of them, notwithstanding that they are protected by copyright.

This measure will not only benefit foreign authors and do justice where justice should be done, but it will be of great benefit to that worthy class of our fellow-citizens, the printers of the United States, the men and the women—and there are many type-setters and intelligent compositors now of the female sex in our nation—and the speaker on this occasion is proud to remember that he in the long ago in that wonderful city by the lake, the interocean metropolis of the United States, Chicago, stood at the same case with perhaps the first woman printer of this continent, as she, stick in hand, aided to put in type a reprint for a weekly newspaper of the then being published chapters of Uncle Tom's Cabin, as taken from the National Era, a weekly of that period issued here at this capital city of these United States.

In these days when labor demands and should be allowed a fair and equal voice in the industrial legislation that is to remunerate or ennoble their handiwork the American printer should not be forgotten or neglected. These men and women are the very artists of fame and architects of reputation. Their nervous fingers that catch at the alphabet in leaden images to form the sentence or point the paragraph of your speech, sir statesman, likely have better spelled and more correctly punctuated, and your nonsense made sense by the intelligent compositor. All honor to the noble craft, from Ben Franklin down to the last little Ben or Jack that is the office devil to-day.

It has occurred to me more than once that in that wonderful creation of Shakespeare, Prince Hamlet, wherein the prince commends to the lord chamberlain, Polonius, the care and attention of the players he intended so soon to use in his fearful impeachment of the murderer of his father, that Hamlet's author had in his mind's eye the printer, the type-setter, the author, and was in his (Shakespeare's) mind a forecast of the future:

POLONIUS. Look whether he has not turn'd his color, and has tears in's eyes.—Pr'ythee, no more.

HAMLET. 'Tis well; I'll have thee speak out the rest of this soon. Good my lord, will you see the players well bestowed? Do you hear, let them be well used; for they are the abstract, and brief chronicles, of the time: After your death you were better have a bad epitaph, than their ill report while you live.

That some foreign publisher and a few newspaper and book concerns in this country are opposing the so-called Chace copyright bill from an interested and seemingly monopolistic view is made most evident by the acts and resolves of some of our foreign relations. As part of the history of this opposition I will here insert in full the text of the statement presented by the printing and kindred trades representatives in Edinburgh (one of the great book-making marts of Europe) to Lord Salisbury, a short time since:

To the most noble the Marquis of Salisbury, K. G.,
Her Majesty's secretary of state for foreign affairs:

The Chace copyright bill, now before the American House of Representatives, proposes to give a copyright in America to foreign (*i. e.*, British) authors. The result of this undoubted boon will be the opening to British authors of an additional market—the American. But this concession is given to them on the condition that the books shall be printed from type set within the limits of the United States. What will be the result of this? Most authors will naturally desire to avail themselves of the double market thus opened, and will send their books to America to be there set up in type, in order to secure the copyright offered them in America. Consequently, for editions required for Great Britain, either the books will be printed in America and sent to the British market, duty free, or stereotype plates will be sent over to print the British edition.

This will vitally affect the interests of the British compositor, type-founder, and stereotyper, and to a lesser but still serious extent the other trades connected with printing. But the evil by no means ends here, and it is very important to notice the full extent of it. Authors will naturally desire to get the full benefit of the new copyright open to them, and will quickly see the advantage of arranging with American houses to print and publish their works. Editions will consequently be printed in America, but copyrighted in both countries. In this way the supremacy of the British publishing trade as the center and seat of English book production will be destroyed, and the headquarters of English literature will be transferred to New York. The magnitude of such a disaster to this country will be obvious.

The bearing on the trade in Edinburgh and its neighborhood is briefly this: The production of books is the staple trade of the city and district. There are engaged in type-founding, printing, book-binding, paper-making, and cognate trades upwards of eleven thousand persons. A very large portion of the book printing done in Edinburgh comes from London publishers. The paper mills of Edinburgh and neighborhood also, to a great extent, supply the English metropolitan and provincial markets. It has been calculated that, should the Chace bill pass, one Edinburgh printing house alone, employing upwards of four hundred persons, will require to reduce by at least one-fourth its whole staff of employés; and this proportion may be taken as the average rate of the reduction in the printing trade. It would probably be higher in the type-founding trade and lower among book-binders.

REMEDIES.

In order to settle the question of preserving the book-manufacture for the British market and the British Empire, all that is necessary is to add to the copyright act a provision that the book must be printed from type set in the British Empire, and published within its limits; or that Her Majesty may, by order in council, direct copyright to be given to authors whose books have been printed in a foreign country, provided that such foreign country gives copyright to books printed from type set up here. It would be futile in the present state of American feeling to reason with the Americans on the bill. Senator CHACE has desired to settle a question, which is really international, entirely with an eye to American national interests. But the British nation can and must act with a view to its own national interests.

The present copyright acts make it a necessity that, to obtain a British copyright irrespective of nationality, a book must be first published in Great Britain. This law was made when there was no prospect of British books being printed in America, and the idea of publishing included printing. A settlement of the question on the lines of either of the foregoing remedies would, under existing circumstances, be the most satisfactory solution of the question. The British author would retain the same rights he has at present in the British Empire, and such a provision as is now proposed would open to him the great American market from which he is at present excluded. The American author would enjoy in this country equal privileges with the British author—subject only to the safeguarding of British labor interests in the manner now submitted. Negotiations might thereafter be initiated, under more favorable conditions, for concluding with the American Government a thoroughly satisfactory international copyright treaty.

So out of their own mouths (foreign publishers) we find comes the strong argument for honest copyright in the interest of American labor.

Mr. Speaker, there is a fable that never yet has appeared in print or speech that I can find, but is so apropos to the matter in hand, namely, honest copyright, that its production now will add point if not pith to the argument for honesty in literature as well as in any other business.

An oyster lay ripening and fattening on the Norfolk sands; it was a sagacious bivalve if not brainy. Oysters, it is said, have no brains, but some considerable value, according to size and flavor. This one was a third-termer, and could open or close its shells at pleasure.

Sailing over those waters near the famous Monitor and Merrimac ironclad dueling grounds was the splendid yacht of a first-rate amateur sailor, convoying the fair Clara Belle just engaged to the make-believe "gallant tar" aforesaid. This fair maid, after the manner of other maids in like cases circumstanced, was contemplating a diamond ring that then and there adorned the regulation engagement finger. Leaning over the side of her lover's ship she essayed to catch the water as it kissed the vessel's side, when—"Oh, listen to her tale of woe!"—the brilliant slipped its moorings and fell into those laughing waters and landed most marvelously in the just-then-opened roof of that oyster's habitation, and was quickly made a member of that colonial cabinet, in the interior department.

Now, here was a valuable work, improved by the lapidary's art—a gem, a jewel on which hands and brains had wrought to make it a perfect gift for the pleasure and profit of the world. It might have been a book, a picture, or a statue of foreign or domestic creation—but was likely one of Tiffany's best—imported—but it is taken in and absorbed by this silent gatherer of sea-gases and other unknown qualities that go into the make-up of a close corporation like this and some other Norfolks of trade and commerce that cater to taste in the useful, ornamental, and instructive dining-room or library. Opened at Harvey's the other day, on a statesman's sudden call for more of the "raw material," the astonished artist of the knife, crackers, and horse-radish cup found the sparkler virgin in its purity, as when it fell from

beauty's finger. "Mine," cried the dusky opener of this treasure-trove. "Nay," said the hungry statesman who had ordered the opening—"mine," for I have purchased it or have agreed to pay for it. "It should belong to the one who finds it," said the knife holder. "It must go to the one who ordered it opened," says the statesman.

Here the poor oyster, dumb, it is said, by nature, burst into voice and said, "Gentlemen, oyster-men, hear me: The ring is the property of the maid; she dropped it into the ocean; I gathered it as it fell and held it for safety, not ransom. I only gave harborage to the gem; you give nothing, but propose to appropriate this valuable work without compensation to the owner. Pirates do the same on sea and land; 'they take because they have the power and keep because they can.' You shall deal justly with the maid by restoring to her the custody of her own or pay to her an equivalent for the right to use or display her property. The original copyright that came the eighth in the table of the law via Sinai was, 'Thou shalt not steal,' we may add, brain-work nor hand-work." At the point of the knife that oyster spake no more. Its departure was peaceful; it went the usual way.

MORAL.

Honesty is not only policy but justice. The product of mind as well as of hands, the book writers as well as the book makers and binders, should have a fair and just remuneration for the labor expended, the art, genius, and invention exercised in any particular production. Our patent and home copyright laws are admitted to be proper and just to our own citizens and in furtherance of the idea that that government is best which conserves the equal rights of all and that tends to aid in material and intellectual development of both mind and matter; hence our liberal home patent, trade-mark, and copyright laws.

We consider it a right thing to do, as it is, that Washington Irving's prose and Edgar A. Poe's verse should receive a protection against literary piracy; that they, like the weavers at Lowell, Mass., or the paper makers at Appleton, Wis.—they who weave the beautiful in cotton, or resolve the fibers of wood into the white surfaces for printer's ink—and the morning news that is educating the world simultaneously with the morning's coffee, shall also, for the fancy they weave into poesy, history, and emotions that resolve from their imagination into the solid food of books that we class histories, biographies, and fiction, not be infringed upon, but shall bear a fruit of profit to such author as well as to the more realistic inventor of a new web in muslin or a new gift in paper materials. Let this bill become a law, and then let us hymn its praise, altering a little the original verse—

Ah! the few shall not forever sway,
While the many toil in sorrow.
Monopoly may reign to-day,
But right [copyright] to-morrow.

Commercial and Political Union with Canada.

SPEECH

OF

HON. BENJAMIN BUTTERWORTH,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889.

The House having under consideration the joint resolution (H. Res. 129) to promote commercial union with Canada—

Mr. BUTTERWORTH said:

Mr. SPEAKER: I regret that the limited time we may devote to the consideration of the pending resolution will prevent that full discussion of the points involved which the importance of the subject obviously demands. The resolution reported from the Committee on Foreign Affairs by my honorable friend [Mr. HITT] is a move in the right direction. It looks to extending the area of the trade and commerce of our country and extending it in a direction which promises the best possible results.

I cordially indorse what my friend has said touching the great advantage which would result to the people of the United States and to the people of Canada from removing the barriers which now intercept the sweep of our commerce towards the north. The resolution suggests commercial union. I believe that business relation would be of advantage to both countries. I have advocated full and unrestricted reciprocal trade. That relation being promptly rejected by Sir John McDonald's government, political union is proposed as an alternative for imperial federation and as presenting advantages which are greater and more permanent than would result from any other possible arrangement.

I have never doubted, and do not doubt now, that unrestricted reciprocal trade is desirable; that commercial union is desirable; and that political union is still more desirable. I wish, in discussing the resolution, to consider the relation of these two countries to each other. The question is one of transcendent importance to the Canadians and to ourselves. It involves something beyond a mere exchange of commodities. It has direct relation to the permanency of free institutions upon this continent. It has immediate relation to the destiny of the English-speaking race, and the part that race will take in shaping the course and destiny of both Canada and the United States. In considering the various aspects of this question, the geography of the situation becomes an important factor.

The character of our institutions, the relation of the territory of the United States to that of Canada, the location of our lakes and rivers, the direction of the natural highways of traffic, the language and traditions of the people, the various interests that conflict, the possibilities and probabilities of maintaining peaceful relations between the two nations, are all potent factors in the problem to be solved.

In proceeding with the discussion we must not for a moment forget that we are not dealing with matters which endure merely for a day, a year, or a decade. We are not dealing with the interest of a few individuals, whether they control a government or are engaged in some speculative enterprise. We are treating of the life, the duties, and the responsibilities of governments, which are, we hope, to endure for centuries. We are dealing with the opportunities, the duties, and responsibilities of an entire race, and hence the view we take of the situation must be broader and more comprehensive than if the problem to be solved involved factors less potential and results of smaller significance.

I wish first to call attention to the Dominion of Canada—its territory, its resources, its people, and its government. I deem this important because there is no nation in Europe of which our people know less than they do of the Dominion of Canada, and there is no country upon the map concerning which more erroneous impressions obtain.

In presenting a view of Canada I will utilize some extracts from an article which recently appeared in the North American Review from the pen of my honored friend Erastus Wiman, of New York. It is such an admirable presentation of the subject with which it deals that I regret the necessity which compels me to abridge it. Mr. Wiman, in the article from which I quote, says:

THE GREATER HALF OF THE CONTINENT.

The United States, prior to the purchase of Alaska, was included within 3,026,000 square miles, while Canada stretches out to fill 3,470,392 square miles. It would perhaps help to convey some conception of the magnitude of Canada when the statement is made that, in area, it comprises very nearly 40 per cent. of the entire British Empire, the extent of which is recalled by the boast that the sun never sets on British possessions. A still further rather startling statement in relation to Canada is that, including the great lakes which encircle it, and which penetrate it, and the rivers of enormous size and length which permeate it, in it is found more than one-half of the fresh water of the entire globe.

The impression of magnitude, so far as Canada is concerned, is, however, always accompanied by a conviction, born of ignorance, that the Dominion is a region of frost and snow; that it is a sterile and inhospitable waste—s mply a section of the north pole. So far as the climate of Canada is concerned, it should never be forgotten that, within the parallels of latitude which include the greater portions of the Dominion, the development in the United States has been the most marked. Indeed, no development in the history of the world is more rapid than the growth of the commerce of the Great Lakes, which to-day act as a barrier, dividing the two countries, but which, under happier conditions, should be the bond that united them. Reference to the extent of this lake commerce brings out another startling comparison, which, creating surprise, shows after all how little the average man knows even of his own country, much less of the regions alongside of his own land. This statement is that the tonnage and value of products which passed through the Sault Ste. Marie Canal, compressed within seven months of the season of navigation of 1888, equaled that which passed through the Suez Canal in the entire year.

Here, in the northern part of North America, between two inland lakes, with only one shore of these developed, a commerce has been created which equals that between two oceans, whose traffic is almost as old as the universe, and contributions to which are made from every clime and country of the globe. Recall, also, the fact that the water communication of the lakes is competed with by the most perfectly equipped railway systems of the age, while the commerce of Suez is practically without a competitor. This development of the States and cities bordering upon the Great Lakes, and the growth and productive forces which have been set in motion, not only on the shores of these inland seas, but on the wide stretches of country tributary to them, is a testimony to the advantages of a northern climate that it is impossible to ignore.

Perhaps the best test of climatic advantage is found in the ability to produce, in the largest quantities, and of the best quality, the most valuable and the most universally used article of commerce. Certainly, in this respect, there is nothing surpassing the article of wheat, which may be said to be the basis of civilized existence. The steady movement toward the north of the wheat-producing regions of this continent is remarkable. Wheat is a plant so delicate, and so easily affected by frost and adverse conditions, that it might be supposed to be cultured safely only in the most temperate zones. Yet the movement of the wheat-producing areas towards the north pole has been as steady as the movement of the needle in the compass in that direction. The milling activities of Minnesota, the marvelous railroad development in the Northwest, both toward the west and north, and more recently toward the east, for the special accommodation of this flour and wheat trade, tell the story that so far as climatic advantage is concerned wheat has found its greatest success in States to the extreme north.

Is it to be supposed that there is something magical in the forty-ninth parallel that bounds Minnesota towards the north? Its steady trend in this direction for so many hundreds of miles makes it highly probable that beyond it wheat should be produced largely and profitably. Indeed, this is certainly so; for it so happens that north of the Minnesota line and within the Canadian territories are wheat areas possessing all the advantages of the regions to the south, but in richness, fertility, and extent infinitely greater. It would be a startling statement to make, as showing the advantages of the much-derided Canadian climate, that even in its extreme northern latitudes the Dominion possesses a greater wheat-producing area than does the entire United States; that the soil of this wheat area is richer, will last longer, and will produce a higher average of better wheat than can be produced anywhere else on the continent if not in the world. Wheat is known to have been grown in the vicinity of numerous Hudson's Bay Com-

pany's stations for twenty consecutive years without rotation, without fertilization, and annually producing crops averaging 30 bushels to the acre!

Climate is much more the result of altitude than it is of latitude. According to Humboldt Europe has a mean elevation of 671 feet and North America a mean elevation of 748 feet. It is a significant circumstance that the Canadian portion of North America has an altitude of only 300 feet. In the extreme northwest of Canada the falling off from the height of land toward the vast body of water known as Hudson's Bay is shown in the fact that from even within the Minnesota line the rivers all begin to run towards the north. This low altitude, in its influence upon the climate, is second only to the effect of the marine currents, which are singularly favorable to Canada. These influences are shown in the startling fact that the mean temperature of Hudson's Bay is 3° warmer during the winter than that of Lake Superior, and that it is on the southern and western shores of Lake Superior where the most important development of American enterprises has taken place—developments that have yielded in lumber, in iron and copper, riches of greater magnitude than produced elsewhere in the country, and within parallels of latitude included in this lake an agricultural development more remarkable than that elsewhere in the world.

The moderating influences of vast bodies of fresh water that never freeze over are well known. In the great chain of lakes that surround Canada, and the vast number of lakes and rivers that diversify her surface, there is a fresh-water area of 130,000 square miles, and as above stated, comprising nearly one-half of the fresh water of the globe. The effect upon the climate of this vast aggregation is most beneficial, so that in altitude, and in other influences that mitigate the extreme northern location of the land, there are found considerations of the greatest weight. These influences are shown in the warmer climate of the great territory of Alberta, which lies directly north of Wyoming, from the latter of which and into the former stock is being regularly driven at the beginning of each winter, because of the presence within the Canadian border, the year round, of an abundance of grass. The experience of last winter showed conclusively that while throughout Manitoba and the Canadian northwest territories the winter of 1888 was not excessively severe, so far south as Iowa and Nebraska the severest cold was felt, and as far east as even New York in the famous blizzard, which never found its equal even in Winnipeg, the most northern of Canadian cities. It is true that in the northwestern portions of Canada the winters are long; that the frost is severe and continuous; but it is equally true that the climate is dry and invigorating.

But aside from this continued severity of the climate in the winter, there are compensations and advantages in the summer months in the extreme northern region of Canada which must not be ignored. For instance, what would be thought of a device that should provide, underneath the whole surface of a vast and fertile wheat-producing area, of a well-spring of moisture that should continuously exude and feed the delicate tendrils of roots that the wheat plant sends down into the earth for sustenance? Yet this is precisely what nature has provided in the thousands of square miles of wheat areas of the Canadian northwest. Ages of long winters, continuous and often severe cold, have produced a frost line in the earth far down below the surface, which being thawed out during the summer months is full of force. What seems, at first glance, a barrier to the productive powers of nature is, in this case, found to be contributory in the highest degree to man's advantage. For this vast area of ice, far enough below the surface to permit the growth of plants, holds in suspense and readiness for the land above the needed element of moisture, constant and assured, which in other regions comes only in the rains and dews that fall from the sky—a supply uncertain and uncontrollable.

But there is still another advantage in these northern wheat-fields of Canada incident to the climate; and that is, that while these latitudes imply long winter days, they equally imply the longest days in summer. Thus there is an average of two hours per day more of sunshine during the period of the growth of wheat in the Canadian northwest than is vouchsafed in any other locality where wheat can be produced. Not only is two hours of sunshine in each day an inestimable advantage, but the sun is stronger and more forceful at this period and in this region, not only helping rapidly forward the ripening process, but the heat is continuously sufficient to cause an exudation of the moisture from the ice in the ground beneath. It so happens, also, that the soil which enjoys these advantages of moisture beneath and long, forceful rays from above, is particularly rich and inexhaustible. Lord Dufferin, an observant and reliable authority, said that throughout his whole journey of weeks through the Canadian northwest he was constantly reminded of the English kitchen gardens in the vicinity of London. Cauliflowers grow large enough to serve for three meals for an ordinary family, while potatoes 4 and 5 pounds in weight are nothing extraordinary.

The average crop of wheat in 1887, in Manitoba, was 30 bushels to the acre, while nowhere else on the continent did it exceed 20 bushels to the acre, and in Minnesota and Dakota did not average more than 15 bushels. A mere handful of settlers in Manitoba produced in that year a surplus of twelve millions of bushels of wheat, seven millions of barley, and two millions of bushels of potatoes—the latter crop being a failure so great in the States as to command throughout the greater portions of the year a rate as high as $1 per bushel, while at points of production within Manitoba they could be had for one-eighth of that price. It is true that early frosts in August of the present year have partially injured the crop of 1888, and that there is this contingency always present in the northern regions; but early frosts are equally dangerous in Minnesota and Dakota, while this year, as far east as Massachusetts, there was serious damage done.

The accomplished head of the statistical department of the Dominion Government at Ottawa makes some comparisons regarding the size of the Dominion that are very instructive. He says:

"It is difficult to afford an adequate conception of the vastness of this country. England, Wales, and Scotland form together an area of 88,000 square miles; you could cut forty such areas out of Canada. New South Wales contains 309,175 square miles, and is larger by 162 square miles than France, continental Italy, and Sicily; Canada would make eleven countries the size of New South Wales. There are (in extent) three British Indias in Canada, and still enough left over to make a Queensland and a Victoria. The German Empire could be carved out of Canada and fifteen more countries of the same size."

In the light of such comparisons, the statement made in a previous page, that Canada comprises 40 per cent. of the area of the entire British Empire, is not so incredible as at first sight appears. Judged by standards of American areas the comparison was quite as interesting. Thus the province of Ontario, the fairest land of all the North American continent, is larger than the six New England States, with New York, New Jersey, Pennsylvania, and Maryland, by 25,000 square miles. Ontario, extending over 10 degrees of latitude and 20 degrees of longitude, the single province covers an area larger by 10,000 square miles than Ohio, Indiana, Illinois, and Michigan combined; larger than Iowa, Minnesota, and Wisconsin by 11,000 square miles. The basin of the Hudson's Bay comprises 2,000,000 square miles, in which are the fertile plains of the Saskatchewan Valley, measuring 500,000 square miles, and which, according to Lord Selkirk, are capable alone of supporting thirty millions of people.

That he was right in this contention is proved by the indications of the enormous productive forces of this region since developed; and that a European area, similarly situated east of the tenth degree of longitude, comprehends very nearly the whole of England and Ireland, the northeast corner of France, the whole of Belgium and Holland, and the greater part of the valley of the Rhine.

The vast expanse of Canada may be judged by the extent of her rivers and bays. The St. John, in New Brunswick, the largest river on the Atlantic coast south of the St. Lawrence, is 500 miles in length, and is navigable for 230 miles. The St. Lawrence, one of the noblest of the great rivers in the world, has a length of 750 miles, entirely navigable. The Ottawa, which is a mere affluent of the St. Lawrence, joining it 600 miles from its mouth, is in itself 550 miles long. The chain of Great Lakes is familiar to all who look at the map, but not so, to the north, in an almost unknown land, are the lakes Shebandowam, and Rainy Lake and River, a magnificent body of water 300 miles broad and 200 miles long.

The Lake of the Woods, too, is almost unknown outside of Canada, yet it is a vast stretch of water of almost marvelous beauty, especially its westernmost portion, of 80 miles, consisting of land-locked channels—a lacustrine paradise. Then comes the Winnipeg River, of which Lord Dufferin said: "Whose existence in the heart and center of the continent is itself one of nature's most delightful miracles, so beautiful and varied are its rocky banks, its tufted islands; so broad, so deep, so fervid is the volume of its waters, the extent of their lake-like expansion, and the tremendous power of its rapids." Here empties the great Red River of the North, starting from the northern portions of Minnesota, and the equally great Assiniboine, one 500 miles and the other 480 miles in length. Far beyond these is the Lake Winnipeg, a fresh water sea 300 miles long, from the northwest angle of which starts the Saskatchewan. The entrance of this noble river has been called "the Gateway of the Northwest," for here is a navigable stream, 1,500 miles in length, flowing nearly due west and east, between alluvial banks of the richest soil. Reaching the Rocky Mountains by this stream, beyond this range are the Athabasca and the Mackenzie Rivers, the navigation of the latter alone exceeding 2,500 miles, while the Frazer River and the Thompson River to Vancouver are streams of great magnitude.

This enumeration of principal streams will give some faint idea of the vast areas of land through which they flow. But no better idea of magnitude can be formed of the extent of Canada than by the contemplation of the Hudson's Bay. This bay would seem like a projection of Providence for the good of mankind, by which is introduced into the heart of the continent an ocean in itself, midway between the great Atlantic and Pacific Oceans. Fancy a bay so long as to extend from New York to Chicago, so wide as to extend from Washington to the Lakes, projected like a huge tongue of the sea into the land. What would remain of the fairest part of the United States? Yet this is the proportion of the Hudson's Bay, say 1,000 miles long and 600 miles wide, running from the north into the heart of Canada, carrying with it enormous riches in sea wealth for the supply of fish-food, so greatly benefiting, if permitted, the prairie States to the south.

In a report on the trade between the United States and the British possessions in North America, made by J. R. Larned, of the United States Treasury Department, in 1871, it was observed that—

"Ontario possesses a fertility with which no part of New England can at all compare, and that particular section of it around which the circle of the Great Lakes is swept forces itself upon the notice of the student of the American map as one of the most favored spots of the whole continent, where population ought to breed with almost Belgian fecundity."

Another American, the Hon. David A. Wells, many years ago, wrote as follows:

"North of Lakes Erie and Ontario and the River St. Lawrence, east of Lake Huron, south of the forty-fifth parallel, and included mainly within the Dominion Province of Ontario, there is as fair a country as exists on the North American continent, nearly as large in area as New York, Pennsylvania, and Ohio combined, and equal if not superior to those States as a whole in its agricultural capacity. It is the natural *habitat* on this continent of the combing-wool sheep, without a full, cheap, and reliable supply of the wool of which species the great worsted manufacturing industries of the country can not prosper, or, we should rather say, exist. It is the land where grows the finest barley, which the brewing interests of the United States must have if it ever expects to rival Great Britain in its present annual export of over $11,000,000 worth of malt products. It raises and grazes the finest of cattle, with qualities especially desirable to make good the deterioration of stock in other sections; and its climatic conditions, created by an almost encirclement of the Great Lakes, especially fit it to grow men. Such a country is one of the greatest gifts of Providence to the human race, better than bonanzas of silver or rivers whose sands contain gold."

In the matter of the fisheries alone, Canada stands unrivaled. Very few realize the vast stretches of coast line along which Canada controls the greatest fisheries in the world. Bounded as the Dominion is by three oceans, it has beside its numerous inland seas over 5,500 miles of seacoast, washed by waters abounding in the most valuable fishes of all kinds. The older provinces of the confederation have 2,500 miles of seacoast and inland seas, while the seacoast of British Columbia alone is over 3,000 miles in extent! It is impossible to take these figures in and all that they imply without realizing at once the enormous magnitude of this interest. But it is not alone in the matter of extent of seacoast line that Canada has a surplus in fish wealth; but, in the extreme northern location which she occupies she possesses an advantage which is of immense value, and this is that the fish are not only better and firmer in northern climates, but that the supply of fish-food, owing to the extreme northern location, is inexhaustible.

In timber, Canada possesses a wealth of very great importance to the United States. When the wide stretches of treeless prairies which this country contains are recalled, and the rapidly disappearing forests within the United States, it is with a sense of satisfaction that one turns to the northern half of the continent, containing as it does the finest forests and the greatest supply of this most essential element of human protection and comfort. Within the catalogue of the woods of Canada there are sixty-five species of forest trees, including nineteen of the pine family, while the space covered by timber within the Dominion is something enormous. Excepting the great triangular prairie east of the Rocky Mountains, lying between the United States boundary and a line drawn from the Red River to the Upper Peace River, the whole of Canada, up to the northern limit of the growth of trees, presents one vast forest area, except where it has been cleared by the hand of man.

Fully one-half of the lumber consumed in many Western States is now derived from the Canadian forests, climbing as it does over a wall in the shape of a duty of 20 per cent. The protection thus afforded practically operates as a stimulant for the destruction of American forests. The hard and white woods in Ontario, almost within sight of the border, are of inestimable value in the manufacture of furniture; and there are enormous supplies of the beautiful bird's-eye maple, black birch, oak, basswood, black ash, and other highly ornamental woods, which, in this country, are of great value for the highest grade of furniture and interior decoration.

Perhaps of all the surprises which the average American encounters in discussing the wealth of Canada nothing will startle him to a greater degree than this statement: That no country in the world possesses so much iron as Canada, in no land is it so easily mined, and nowhere is it quite so accessible to manufacturing centers. This is a statement which no doubt will challenge contradiction, and it is to be regretted that the space is too small to describe at length the location and precise advantage which the iron supply of this greater half of the continent would afford to the United States. Take the instance at New Glasgow, in Nova Scotia, where, within a radius of 6 miles, there are found deposits of iron ore of the highest quality, equal to that of any other portion of the world, side by side with limestone, chemically pure, in the immediate presence of coke in abundant quantities, from seams 30 feet thick, lying directly on a railway and within 6 miles of the Atlantic Ocean! Could there by any possibility be a combination more fortuitous than this? Throughout Nova Scotia there are deposits of ore of the greatest possible value; but in Quebec, and especially in Ontario, the value of the iron deposits is something enormous.

Near the city of Ottawa there is a hill of iron called the Haycock mine, which would yield an output of 100 tons per day of ore for one hundred and fifty years without being exhausted. On the line of the Ottawa, on the St. Lawrence, in the eastern townships, on the Kingston and Pembroke Railway, on the Central Ontario Railway, through Lake Nipissing, in Lake Winnipeg, on Big Island, and on Vancouver Island there are enormous deposits of ore, all possessing the singular advantage of almost a freedom from phosphorus. It has been truly said that "what the devil is to religion, that phosphorus is to iron." The peculiar advantage of the Canadian ore in this respect is sufficiently demonstrated by the fact that in the face of a duty of 75 cents per ton this iron is being steadily introduced, for the purpose of mixing with other ores, at Joliet, Ill., at Pittsburgh, Pa., and at other points. A market such as the United States would afford if it were free, and the introduction of enterprise and capital, would create for these deposits the same development and the same value that have followed the activity in the Vermillion, Menominee, and Gogebic regions. These latter deposits are almost within sight of Canada, and are but the edge of the great Laurentian range or belt of minerals which, starting on the Labrador coast, covers the vast area of Canada, paralleling the St. Lawrence and the Great Lakes till they find an ending in the Algoma district—a locality that has been aptly described a great treasure house of minerals, waiting only the touch of American enterprise and stimulated by an American market, to yield results far exceeding those of any mineral development on the continent.

Coincident with the presence of these great deposits of iron ore are discoveries of even greater importance in copper and nickel and in other metals hitherto nameless but of surpassing value. The copper development at Bruce mines, and especially and recently at Sudbury Junction, on the north shore of Lake Superior, is likely to be even more profitable than that of the famous Calumet and Hecla mines on the south shore of the same lake, whose payment of thirty millions of dividends on a capitalization of two and a half millions of dollars is a realization beyond the dreams of avarice. Already Ohio capitalists have invested over a million of dollars on the line of the Canadian Pacific Railway in these deposits. The development of nickel, of which there are only two or three known deposits in the world, is of great significance; while in gold and in silver, especially the latter, very excellent success has rewarded the efforts of the prospectors. Perhaps the most marvelous yield of silver that the world has ever seen was at Silver Islet, within the Canadian border on the Lake Superior shore, where, for a space of two or three years, an output was realized that enriched the owners with a rapidity equaled only by dreams in the Arabian Nights.

In British Columbia immense quantities of gold are known to exist, and the fact that over $50,000,000 worth has been mined from only a dozen localities, hardly yet developed, is full of the deepest significance, as indicating what yet remains in that distant region to reward the adventurous effort of the denizens of this continent.

But it is not alone in these prominent metals that Canada is rich in natural resources. In phosphates she possesses enormous quantities of the purest character. No country in the world needs fertilizers more than large portions of the United States, and no country is better able to supply them than Canada. Analysis shows that Canadian phosphates contain phosphoric acid up to 47 and 49 per cent., equivalent to 80 to 88 per cent. of phosphate of lime. No contribution to the wealth of the continent is of greater value than the development of the Canadian phosphates. In asbestos, in mica, antimony, arsenic, pyrites, oxides of iron, marble, graphites, plumbago, gypsum, white quartz for potter's use, siliceous sandstones for glass, emery, and numerous other products, Canada possesses enormous quantities awaiting the touch of man. In the matter of lead, it is found in almost every province, especially in British Columbia, the lead ore there containing as much as 15½ ounces of silver to the ton. The deposits of salt are the largest and the purest on the continent.

Again, another surprise awaits the observer in that in the article of coal Canada possesses the only sources of supply in the Atlantic and on the Pacific, and that between these two there are stretches of coal deposits amounting to 97,000 square miles! The magnitude of the interests involved in this question of the supply of coal, its contiguity and economy of handling, are of vast importance to the United States. It is significant testimony to the important position which Canada holds on the question of coal supply, when it is recalled that away down on the Atlantic the manufacturing coal of Nova Scotia should without doubt supply the manufacturing centers of New England at a minimum of cost, while midway across the continent, in wide stretches of territory of the lowest temperature, supplies should be drawn from the sources which Providence has placed within the Canadian border; and still further, that on the distant shores of the Pacific, San Francisco and contiguous cities should at this time be drawing their supply of artificial heat from the mines of British Columbia, and paying a tax to the overburdened Treasury of the United States of 75 cents a ton!

It will be observed that Canada is not the sterile waste many suppose it to be. Careful investigation will disclose that the Dominion presents to enterprising effort opportunities that are boundless. It only needs that the obvious interest of the mass of the people on both sides of the boundary line be consulted, and that such action be taken as their necessities demand, to render those vast opportunities available.

The natural channels of trade must be opened. The barriers which shut the source of supply from its market must be removed.

The necessities, the convenience, the prosperity, and happiness of the people as contradistinguished from the designs and ambition of those in place and power, should shape the policy of Canada and the United States in dealing with the questions under consideration.

There is something inherently wrong in that form of government which regards the open advocacy of the best interest and the highest good of the people as disloyalty.

Governments on this continent are for the people and not the people for the government.

I have advocated removing every barrier and hinderance to full and free trade between Canada and the United States. I have believed, and do now, that such unhampered trade relations would lead to political union. I have deemed political union indispensable to the peace, prosperity, and happiness of our race in North America. I have believed, and do now, that we can no more avert it than we can change the course of the seasons.

The attitude of some of our Canadian friends toward political union is amusing and in some cases ridiculous.

Occasionally some patriot breaks voice and becomes violent at the thought of what he in patriotic frenzy denounces to be a scheme to induce Canadians to sell their country, etc. As if the proposed union had in it any element of humiliation for our kinsman across the border. How absurd to suggest that a proposition to admit a Canadian province, or the Canadian Provinces, each to an equal share with the empire States of New York, Pennsylvania, Ohio, and Illinois in the control and management of the American Republic could work the humiliation of such province or provinces. If there is in it anything that smacks of humiliation it is not on the side of Canada. The proposition looks to the exaltation of Canada, not to her abasement. It looks to enlarging the opportunities of her people, not to restricting them.

Many protectionists in the United States regard the proposed union as a war upon the protective system. Nothing could be farther from the fact. It is not putting it too strongly to say many earnest protectionists know less of the philosophy upon which our protective system rests than they do of Canada, about which they know next to nothing. There is an impression that the system carried to its logical sequence would erect a Chinese wall around our country, and approach as nearly as possible to destroying all foreign competition, no matter what its character, as if a protective tariff dealt with boundary lines instead of those conditions which affect the cost of production.

I will not stop now to discuss the relation of union to protection, except to say that they are not antagonistic. I have frequently called attention to the error involved in supposing that the proper function of a protective tariff is to destroy and not to secure equality and fairness in competition.

What we complain of in the field of productive effort is not the competition itself, but that kind and character of competition which is unequal and unfair. We ask no odds of the Old World in an even field of competitive effort.

So the objection on our side to political union must find some better foundation to rest upon than the tendency of such union to restrict the opportunities of our people in the matter of producing and selling.

I know of no governmental policy that is more deserving of commendation than that which multiplies the facilities and enlarges the opportunities of the citizen. I hope we are not of those who would create a famine to raise the price of food, or would in anywise by legislative power arbitrarily limit the supply in order to stimulate the demand.

We are not likely to suffer by reason of too great abundance of those things which are essential to the health and comfort of the people. If our economic system is good for half the continent it is good for the whole of it. And those who are frightened at the competition which would result from bringing into our market the product of Canadian fields, forests, factories, and mines have studied only half the problem involved in the practical operation of the law of supply and demand.

I can not at this time discuss in detail or at length the several points involved in the proposition to unite the Dominion of Canada and the United States under one government. I have never doubted that such union would take place, and I have even less doubt that such union would be of advantage to the citizens of both countries.

I am frequently asked what has given rise to the general interest which is being manifested both in the United States and Canada in regard to the negotiations looking to a reunion between the two countries, and if I deem reunion attainable at an early day, and whether closer trade relations, such as unrestrained reciprocal trade, should precede the proposed reunion? And if we can not attain the last, can we the first?

I shall give my impressions in brief. We are witnessing a manifestation of the interest in reunion that has been felt for more than half a century.

The feeling is not new; the expression of it is more outspoken and aggressive than formerly. It is not improbable that both the Tories and Liberals of Canada were somewhat surprised at the introduction of resolutions proposing negotiations looking to political reunion. Not because the question is new to Canadians, for the truth is it has not been out of their minds for a hundred years, and they realize that it is as inevitable as it was at the beginning of this century that the United States would ultimately control the mouth of the Mississippi River. It is not always easy to say just what will set in motion the elements which will produce a given result, though it may be palpable that when these elements are stirred into action that that result will follow. We know what the final solution of the vexed questions which have been for a hundred years a source of unrest to both sides of the line will be.

The inevitable logic of the situation is not obscure. What the progressive steps may be which lead up to it may not be so clear; but the man who supposes that the pending international questions can be settled wisely and finally until they are rightly settled pays a doubtful tribute to his judgment, and he has not rightly apprehended the controlling factors in the pending problem who supposes that any settlement outside of reunion can be a right or permanent settlement. The logic of the situation, the commercial interests involved, the law of the mutually dependent interests, which always is and always will operate powerfully in shaping public policy, argue for reunion. The relation of source of supply to its natural market, the direction of the arteries of trade, the absence of natural boundaries, make the advantages, yes, the necessity, of reunion obvious; and these conditions speak

to the people on both sides of the line in tones more persuasive and convincing than the eloquence of a corps of jingos, most of whom talk as if disloyalty in the Dominion consisted in advocating the highest interests of Canadians.

As has been said, the logic of the situation constantly points to the proposed political reunion, and hence the resolution recently introduced by me only gave voice to thoughts that were present in the minds of citizens on both sides of the line.

Will it come speedily? That depends upon whether the ambition of politicians, supplemented by the folly of jingos, control, or the wisdom of statesmen shall prevail. I have no doubt, have never had a doubt, of the wisdom and advantage of unrestricted reciprocal trade between Canada and the United States, and it is observed that the liberals of Canada and many conservatives outside of Parliament labored to bring it about.

But Sir John Macdonald opposed the measure, and Sir John Macdonald is to-day the impersonation, or rather, let me say, the incarnation of the Government of the Dominion of Canada. He was strong enough to control his partisans in Parliament to vote to restrict Canadians in their opportunity to prosper. His policy, as expressed in that vote, is to leave Canadians so situated that they can not purchase what they need and have no market in which to sell their surplus products. Their privileges seem to be summed up in and limited to the right to vote for Sir John's candidates, pay taxes, and sing "God save the Queen."

It is a significant fact that more than one-fifth of the Canadian people have already marched to this side of the line, controlled by a prayerful anxiety to have Providence prosper the people. We are waiting for the other four-fifths to join us in the interest of the progressive development and liberty of the continent. This done, our Canadian cousins will at once be freed from the condition which compels them to contemplate the possession of vast resources which they can not utilize, the highways of their commerce blocked by themselves, the gateways to their natural markets closed against them by ambition, and kept closed by the piping of jingos who mistake noise for patriotism. The natural course of their trade leads into the midst of sixty millions of people, their neighbors and kinsmen, whom their governors insist are and must continue to be regarded as the inhabitants of a hostile country.

It will be noticed that their railroad system is so related to our transcontinental lines that they are enabled to nullify our interstate-commerce law. The trouble in regard to the fisheries stays continually to torment us. The use in common of the canals which form connecting links in the chain of our trans-continental commerce is not infrequently a source of misunderstanding and bitterness. Disputes in regard to jurisdiction on the west coast may prove a fruitful source of contention. The suggested danger and menace of an imaginary boundary three or four thousand miles long, which may serve as a base line from which to operate against us in case of war; all these things are factors in the problem.

In the presence of these factors in a problem which we are trying to solve, and which must be solved in peace or war, a move was made on both sides of the line by patriotic men to accomplish two things, to wit, to open up the natural highways and channels of trade and commerce between Canada and ourselves and to remove all obstructions by adopting a system of unrestricted reciprocal trade of commercial union, thus putting far from us all probability of hostile conflict. The move was palpably in the interest of the people on both sides of the line, however much it may have warred against the ambition of a few or the selfish interests, mainly local, of a very few more. The ruling powers in the Canadian Government opposed and, as stated above, refused to even consider the proposition, although its adoption confessedly tended to enlarge the opportunities of Canada and increase her prosperity, while binding the two branches of the great English-speaking people on this continent more closely together.

The Government of Canada has no patience with any arrangement that will remove all cause of attrition between Canada and the United States. I do not mean that Sir John Macdonald desires a conflict with us; but it would seem that he appreciates the importance of maintaining a strained relation, which enables him to appeal to his party in the name of loyalty. We observe that he can start a full chorus into voice in twenty-four hours, by announcing that their loyalty is called in question. He knows how easy it is to get up a cheap demonstrative exhibition of boisterous patriotism. It is always on tap, and passes current for loyalty. It costs nothing and is worth little, and the violence of the demonstration is, ordinarily, in inverse proportion to the amount of intelligent thought involved.

The resolutions proposing negotiations appeal to intelligent patriots. When closely scanned this jingo patriotism, which is so effusive and noisy, is like the froth on beer—it indicates neither the quality nor quantity of the article beneath. Sir John plainly told us by the votes of his partisans in Parliament that commercial union was not a possibility—that unrestricted trade was not desired, a closer and more friendly relation with the United States was not to be favorably considered. The logic of his official acts point unerringly to the real object he and his officials have in view. It is manifestly to treat us as a hostile nation while seeking a closer relation with the European powers, the ultimate object being to bring about imperial federation, thus establishing on this continent a government positively hostile to our institutions and standing as a constant menace to our peace. Does he in this represent the intelligent conviction of our kinsmen across the border? I do not believe he does, but whether he does or not the solution of the problem will not be found in what his policy suggests. Mere sentimentality will not long offer a successful barrier to the obvious demands of progressive civilization. The two branches of the great English-speaking family will find their opportunity, greatest prosperity, and securest liberty in unity.

There is not an intelligent Canadian who is not ambitious for knighthood who does not realize that he would find in political reunion enlarged privilege, increased prosperity, and a fuller measure of happiness. If we were separated by difference in race, language, or natural boundary, widely different institutions, the tendency to reunion might be controlled by astute politicians, even against the high behests of trade and commerce; but the conditions would have to be squarely reversed to indefinitely postpone the union of the Provinces and the States under one government.

I dissent utterly from the proposition that the first move should be made on the part of Canada. The position, in fact, is not tenable, for it will be observed that Canada could not inaugurate the movement without a suggestion, at least a suspicion of technical disloyalty. But since the controversies between the United States and Canada can not remain unsettled, and since they can not be settled in peace or by war without regard to the obvious logic and controlling law of the situation, but must be the result of giving to each potential factor its due weight and influence, a common destiny seems inevitable. One government is indispensable to that common destiny, so we need not wait for them to take steps to inaugurate negotiations to secure a union. The proposition to open such negotiations is honorable alike to our country and the Dominion.

I need hardly call your attention to the relation of the two countries in matter of character and location of natural resources, and how admirably they supplement each other. As you are aware, they bear to each other the same relation the two blades of a pair of shears do, and are most highly useful when working together. I am gratified at the interest felt in the early consummation of this union. I have received a large number of letters from all parts of the United States on the subject, one of which I will print in connection with my remarks, and a number from different parts of Canada—only one in opposition. I refer to this only as indicating the direction of the current of thought.

The election in Windsor, Canada, was very significant. Side issues were injected into the contest to break the force and influence of the strong popular voice for reunion. As it was, Mr. White, an avowed unionist, was beaten by only 38 votes, and if I may credit the statements of the daily journals a clear majority would, on the single issue of union or non-union, have been for union. The question is one for the people and not merely for those who enjoy both honor and emolument in the midst of abridged opportunity and financial disaster among the many. The following item, taken from the Toronto Globe, indicates that the people are fully alive to the importance of this matter:

A Grey County correspondent, signing himself anti-annexationist, writes as follows to the Galt Reformer: You and your numerous readers will be pleased to hear what the trend of public opinion is in this northern part of our fair Province on the questions of commercial union or annexation to the States, and imperial federation. The incident which I am about to relate has more than ordinary significance from the fact that part of this county of Grey is represented by Mr. Creighton, in the double capacity of member of the Provincial Legislature and manager of the Empire newspaper. If any part of this Province of Ontario more than another should be loyal it should certainly be the county of Grey, and especially the conservatives therein. Not very long ago a meeting of Conservatives was held in a certain village in this county, at which forty-one persons were present. The meeting was called to discuss in a quiet and friendly way the political situation. After various propositions were made one leading Conservative declared himself in favor of commercial union, but he could not think of joining the Grits to obtain it. Others expressed themselves as opposed to commercial union, and at last it was agreed that a secret ballot be taken to test the meeting on the question of annexation to the United States, when, to the surprise of many, thirty-six out of the forty-one ballots were for annexation. I would commend this state of matters to the manager of the Empire (or, as he is sometimes called, the "Empere-)." If this is the result of the leading editorials in the Empire for months past, in denouncing the "vile Grits" as annexationists, is not a change of base worthy of consideration on the part of the Empire and its manager?

Sir John Macdonald has few peers in any nation. He is able, astute, and, above all, a thorough politician, with kindliness and grace of manner which is quite captivating. Canada has for a generation been his political chess-board, and he has possessed the rare advantage of playing for both sides. He first plays for Sir John, and then moves around to the people and plays for them, and thus, for obvious reasons, he is uniformly successful. When the people begin to demand a highway to market, full and free commerce with sixty millions of people at their doors, and as visions of long-coveted opportunity and unexampled prosperity begin to open up before them, Sir John and his corps of officials cry out, disloyalty, and at once start a chorus to chanting "God save the Queen;" as if Providence, in order to save the queen, had to sacrifice the subjects.

The queen has no worthy interests that can be subserved by encouraging or permitting the continuance of a condition of things on this

side of the Atlantic which operates to estrange the Dominion and the United States. Imperial federation would have that result. England's natural allies are on this side of the water. Canada will never again become and remain a base line for hostile observation or aggressive movements in any conflict which the United States may have.

I do not pretend that the proposed union would be of personal advantage to each official connected with the ruling powers in Canada. I could not conceive it possible for them to have a more satisfactory arrangement than they have at present, so far as the individual rulers are concerned. They have place and power; they have honor and emolument; and by a shrewd system of taxation they can pay subsidies enough to retain what they have of place, power, honor, and emolument.

But two forces are operating to change the situation. One is the inexorable necessity for enlarged opportunity to develope and utilize their vast resources, which now only mock them. They will insist on either lighter burthens or increased strength to bear them; and they know that the situation is such that their market lies immediately to the south, and that they could not and will not continue to climb over a barbed fence to reach it, and pay half the value of their product as the price of reaching a market with the other half. These barriers must come down, in the interest of all concerned. The questions in dispute between us must be settled. They can not remain a constant menace to our peace much longer. The immediate representatives of the people in the several provinces have declared in favor of commercial union.

The council of premiers, if I may use that term, which met some months ago at Quebec or Montreal, was unanimously in favor of commercial reunion, and their constituents sustain them. This shows what the law of trade and commerce will do, and that the highest good of the people will ultimately control. Commercial union was, I repeat, spurned by Sir John. Everything in that direction was put under his feet. If he continues master in Canada there can be no settlement on that line. There are two ways for adjustment left open. One is to let matters drift and estrangement work its result. It is apparent what the result would be. There is left the other way, the people's plan. This Sir John may defeat by dissolving Parliament and holding an election at once, and in the usual manner secure and hold his majority. This will be laying up wrath against the day of wrath.

In referring to political union I use the term reunion. I do so because we were one from the date of the conquest of Canada until the treaty of Paris. The colonists did their full share in acquiring that territory. The fame of Wolfe and Montgomery is our common heritage. The embarrassment in Canada in the matter of joining the colonies was found in the terms of the treaty between England and France which followed the conquest. But a treaty made one hundred and twenty-five years ago, palpably against healthful progress, will soon be disposed of in the presence of the controlling necessities of the situation presented now. The fisheries should be common territory. The natural market of Canada should be opened to her people. Her vast resources, her boundless riches, now hidden as in a vault, should be opened to the enterprise of the people of this continent. Neither Government should stand as a menace to the other. This chain of lakes, these canals, should be the common highways of our commerce. They will be. Whatever may be said to the contrary, it is as palpable to the student who reflects as that like causes produce like effects.

The reason this should be consummated speedily is that the result may be attained in a manner worthy of the civilization of the age; worthy of the members of one great family, who are, whatever their affected differences may be, bound together by indissoluble ties, which can not be severed without destroying one or both and leaving scars which a century of peace could not heal. But I repeat again, this is the people's question. It is not wise to let it rest until the consummation of this great event will be made to serve the ambition of a few or to lay the foundations of vast fortunes for a few more. It is the people's highway of commerce that we ask to open. It is for the opportunity for the people to become enriched that we plead. It is for the broader and fuller privilege of the people on both sides of the line that we seek this consummation. A man's first loyalty is to his God. Next, to his country and his home. That loyalty which is constant to God and the home circle is sure to be in consonance with the well-being of the country to which loyalty is due.

I hope the questions raised by the pending resolution will be discussed in a broad and liberal spirit on both sides of the line. Their right solution is of transcendent importance to us, to our children, and to generations to come. I append to my remarks a letter received from a gentleman who has given every phase presented by the pending measure careful thought. He cites many interesting facts and figures, and each citation is an argument in favor of that reunion to which manifest destiny unerringly points.

I have often referred to the material advantage that would result to my countrymen if this union of the Dominion of Canada and the United States under one government could be consummated. It enlarges the opportunities of our people an hundred-fold. It secures to us with the blessings of lasting peace upon this continent the permanent supremacy of free institutions founded upon suffrage. It establishes upon an enduring basis an enlightened civilization based upon the precepts of Christianity. It would unite on this continent in indissoluble bonds the two great branches of the English-speaking family. The swelling tide of our commerce toward the north would cease to break upon the line which marks our northern boundary and roll back upon ourselves, but would grow with each coming month, and rushing on find new and ever-increasing markets, while sources of wealth in great variety and exhaustless in quantity would be opened up to the enterprise and industry of our people.

Our Canadian kinsman should discuss this proposition in the light of all the factors involved in its right solution. Loyalty to country is a noble sentiment, but a sentiment that should call practical common sense to sit in judgment with it. The view we take should sweep the whole horizon. The consideration we give the subject should embrace the many and varied interests affected. The conclusions reached and action taken should be for the centuries and the whole people, and not for a few years and a small number of individuals.

The proposition which meets with such general favor among us, and, as I believe, on the other side of the line, in nothing savors of mere territorial aggrandizement or the exaltation of the United States. The proposed union is in the interest of the peace, prosperity, and happiness of all the people of both nations. Its consummation detracts nothing from the dignity and honor of either. It is the people's matter, and its accomplishment will show to the world "that Peace indeed hath her victories no less renowned than war."

As I remarked a moment since, I will append to my remarks the letter of a thinker and reasoner, one who has vast interests on both sides of the line and can therefore realize the disadvantages of the present condition, and the advantages that would come to both nations as a result of political reunion, accomplished under the pressure of an intelligent appreciation by the people of the necessities of the situation and the inexorable decree of destiny—a destiny which guides and controls the progressive spirit of the age.

LETTER OF HON. S. J. RICHIE.

AKRON, OHIO, *February* 20, 1889.

MY DEAR SIR: The change of the geographical outlines of our country contemplated by the resolutions offered by you for the reunion of the territory now comprising the United States and that comprising the Dominion of Canada may excuse a reference to a considerable number of figures and data which embrace the history and growth of the two countries from their infancy up to the present time.

The area of the original thirteen States was 420,892 square miles, but they claimed an adjoining territory of 406,952 square miles, making a total of 827,844 square miles. This was acquired by the war of the Revolution, and ratified by the treaty with Great Britain in 1783. It included the States of New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Georgia, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, and South Carolina. Maine was afterward formed out of Massachusetts, and Vermont out of Massachusetts, New Hampshire, and New York, and West Virginia out of Virginia.

In 1803 we purchased from France the great territory of Louisiana, having an area of 1,171,931 square miles, at a cost of $15,000,000. This territory included the States of Louisiana, Arkansas, Missouri, Iowa, and Oregon. It also included large parts of Alabama, Mississippi, Minnesota, Nebraska, Kansas, and Colorado, and parts of the Territories of Wyoming and all of the Territories of Dakota, Montana, Idaho, Washington, and the Indian Territory. In short, about one-third of our whole present domain, including Alaska.

In 1819 we purchased, by treaty with Spain, the territory of Florida. It comprised 59,268 square miles, and we paid for it $6,500,000. It included all the present State of Florida, part of Alabama south of latitude 31°, and a strip of Louisiana east of the Mississippi River.

In 1845 we acquired Texas by annexation and purchase at a cost of $10,000,000. Her territory comprised 376,133 square miles, and included all the present State of Texas and also parts of Kansas, Colorado, and New Mexico.

In 1848, by the treaty of Guadalupe Hidalgo, we acquired a great slice of territory from Mexico, comprising 545,789 square miles. The cost of this war to the United States was estimated at $100,000,000, and we paid Mexico a further sum of $15,000,000 for this cession. This territory included all the States of California, Nevada, and Utah, and also parts of Arizona, New Mexico, Wyoming, and Colorado.

In 1853 we made a further acquisition from Mexico of 45,553 square miles at a cost of $10,000,000. This territory comprises parts of Arizona and New Mexico, and also of the States of Nevada and Colorado.

Lastly, in 1867, we acquired the Territory of Alaska from Russia. It embraces an area of 577,390 square miles, and we paid for this purchase the sum of $7,200,000.

In brief, the above are the dates, the amounts, and terms upon which the various acquisitions of territory now comprising the United States were made. The outlying territories claimed by the several States at the time of our treaty with Great Britain in 1783 were ceded to the United States on the following dates:

In 1784 Virginia ceded all her western territory. It included the State of Kentucky, part of Ohio, Indiana, and Illinois south of latitude 41°.

In 1785 Massachusetts ceded her territory west of New York and Pennsylvania to the Mississippi. This included parts of Michigan, Illinois, and Wisconsin.

In 1786 Connecticut ceded her territory in the Northwest, which also included part of Ohio, Michigan, Indiana, and Illinois, and for this cession the United States paid to her school-fund the sum of $1,200,000.

In 1787 South Carolina surrendered a strip of territory comprising parts of Georgia, Alabama, and Mississippi.

In 1790 North Carolina ceded her western territory, which included the whole State of Tennessee.

In 1802 Georgia surrendered her western territory, which included part of Alabama and Mississippi north of latitude 31°.

If to the above we add the four new States just admitted into the Union, we will have noted the changes in the map of the United States, and in the map of the several States during the first one hundred and fifteen years of our national existence, the whole comprising an area of 3,603,884 square miles.

The moneyed cost of this great domain may be briefly stated as follows:

War of the Revolution	$135,193,703
War with Mexico	100,000,000
Cost of treaty purchases	64,960,000
Or a total cost of	300,000,703

How insignificant these figures, representing the purchase price of our great empire, appear when contrasted with the enormous sums which our great civil war cost the Government, in maintaining and cementing this vast territory together as one strong, free, and undivided nation.

The Treasury Department shows a direct expenditure on the part of the Government, for the war of the rebellion, from the year of 1861 to 1879, of the enormous sum of $6,189,929,909. To this must be added the expenditure of the ten years between that time and the present. This would include the pensions paid, interest on the public debt, and many other incidental expenses, which would swell the amount to more than another thousand million. We are simply dazed in the presence of such stupendous figures; but we are not yet done.

The cost to the States in rebellion, although there is no record of it to be had, must, during the continuance of the war, have been quite as great as that of the Government, as the war was waged in their territory; and especially is this true if we concede to them the loss of their human chattels, estimated by them at $2,000,000,000. Still we must pile up this towering column of figures by the loss of all the property destroyed by both parties to the contest during the four years of this terrible war. There yet remains to be added the larger item of this great expense account of our national heritage. The records of the War Department show that from the Union Army there were—

Killed in battle	61,362
Died of wounds	34,727
Died of disease	183,287
Or a total of	279,376

There is no accurate statement of the loss of life in the Confederate army. The nearest thing to it is their published statement of the number known to have died of wounds and disease to have been 133,821.

These figures give a total of 413,197 human beings who laid down their lives in the war for and against a united country. Such, in part, is the history and the cost in blood and treasure of the great nation known as the United States, a country of which we are all proud to be citizens; a country from which nobody emigrates; a country to which the inhabitants of every other country in the world not absolutely barbarous continually immigrate.

Right beside us and stretching along our whole northern boundary line for a distance of nearly 4,000 miles is a country once a part of us, or we a part of them—if it pleases them better—which has also, during the time we have been going over, been changing her map and making a history for herself.

It may be said that prior to the declaration of our independence, in 1776, the whole of the territory now included in the Dominion of Canada was claimed by Great Britain, and in fact a great portion of it had been ceded to that power sixty-three years previous to that time by the treaty of Utrecht, in 1713. France, however, did retain very considerable possessions until the year 1763, when, by the treaty of Paris, she ceded all her possessions in this part of North America to Great Britain. This was the result of her war in North America.

It is not important for the purposes of this letter to go over the history of the several provinces now comprising the Dominion of Canada. Suffice it to say that in 1887 they formed a confederation under the provisions of what is known as the British North American act, which is the present constitution of the Dominion of Canada.

The Hudson's Bay Company is a corporation chartered in 1670 by King Charles. It held vast possessions between ill-defined lines for nearly two hundred years, and up to the treaty of 1842 between the United States and Great Britain it claimed much territory belonging to the United States south of the forty-ninth parallel of latitude and between the Rocky Mountains and the Pacific Ocean. In 1859, for the consideration of $1,500,000, the Dominion acquired all the territory belonging to this company except one-twentieth of the land between the Red River and the Rocky Mountains.

Canada, or the Dominion of Canada, may be said to have no war history and no war debt. Nearly the whole of her present debt was incurred in internal improvements and the building of her railways and canals. It will therefore be seen that material prosperity has not been as great in Canada as in the United States. She has had no waste of wars, and yet her per capita debt is much larger than the per capita debt of the United States. Had her material prosperity been as great as our own she would to-day be without any public debt.

The United States, as we have seen, have spent at least eight thousand million dollars in wars. Allowing the population of Canada to be one-twelfth that of our own, which is just about the relative proportions of the two countries when they started out in their separate existence, if the financial growth had been equal in the two countries, Canada having no wars and no waste of war, either in money or blood, should have somewhere to show to her credit one-twelfth of the sum we have wasted in wars. One-twelfth of $8,000,000,000 would give her $666,000,000. This sum would just about wipe out her whole foreign debt, which is represented in her Government, railway, and municipal securities. Why has her prosperity not been as great as our own?

In the first place, her climate is much more rigorous than the average of our own climate, and, second, until comparatively recently she has not been a country of varied industry. She has shipped the raw materials of the farm and the forest in exchange for the manufactured articles of all the necessaries and luxuries of life. Even to-day all her great mineral wealth, except what little coal has been mined in Nova Scotia, remains substantially where it was a hundred years ago; but she is a country of great material possibilities, with boundless resources of forest and farm, of mines, and of seas, which only requires capital and men to work them, and a market in which to sell the product of their labor. Without either or both of these her great latent possibilities must continue to remain substantially where they now are.

Who can stop to think for one moment of the great wheat-field north and west of Lake Superior and the forty-ninth parallel of latitude, a field from 200 to 300 miles in width and from 800 to 1,000 miles in length; of the 40,000 square miles of coal which underlies this same great field; of her deposits of silver, copper, nickel, and iron; of her wealth of forest, farm, and lake and seas; of her great area, equal in extent to our own, all occupied by less than 5,000,000 people, without inquiring why are there so few to occupy and utilize so great resources?

There is but one answer. It is hard to fight against geography, and Canada is and has during the whole period of her existence been engaged in a warfare of sentiment against geography. That this burden has been greater to her than the burden of all our wars has been to us is shown by the fact that we have paid the great debt and losses incurred by our wars and now carry a much lighter per capita load than she does, who has never paid any war debt or suffered anything from the ravages of war. Can any thinking man believe that this state of things will continue when people are continually casting about for additional means of bettering their condition and asking why it has not already been accomplished?

There is no great mountain barrier to separate her from us, and after which we might fashion the artificial barrier each country has erected and is still engaged in repairing and building higher in order the more successfully to fence each other out. The great mountain chains, as if in mockery of this, run north and south instead of east and west, and insist by their strong bands in fastening the countries together instead of separating them. A little more than a hundred years ago the two countries started out on their separate missions in the New World, one under a colonial existence, which she still maintains, and the other an independent country.

It is needless for me to enumerate here the various treaties which have at different times adjusted the boundary lines and other commercial questions between them. They are all well known to you. Suffice it to say, that they have one and all been weak, artificial, and ephemeral efforts to overcome the natural current and course of events. Can any one for a moment believe that of the one hundred and ten million of English-speaking people in the world, sixty-five millions of them, with their rapidly-increasing numbers, can have a permanent mission south of an imaginary line of latitude, while three millions of people with their increasing numbers who speak the same language and are of the same blood can have a permanent and separate mission north of the same imaginary line? If there are such, I frankly confess I am not of that number, and I make this statement without in the least indicating what my own wishes may be about it.

I may, however, say that if Canada does not desire to unite her destiny with the United States, I for one would not give $100 to have her do so. I see how restlessly Alsace and Loraine sleep in their German beds. The case of Canada and the United States is wholly different. The energy which has impelled and driven on the people of the two countries, side by side, from the eastern to the western sea, will not become exhausted when it touches the waters of the Pacific. It will exert itself in lateral expansion which will mock the statecraft which seeks to establish a barrier between people of one origin, one blood, one aim, and one destiny.

The measures you propose are in exact keeping with the line of our growth from our birth as a nation until the present day. This statement is equally true with regard to Canada. Both countries have been engaged in gathering up and cementing together all that lay, respectively, north and south of their national boundary line and the Atlantic and Pacific Oceans. This having been done, what remains but a victory of peace, greater than the victory of any war the world has ever known, to blend these united efforts into one grand and homogeneous whole—a great nation of one people reaching from the Gulf to the pole, and from sea to sea, and one which could furnish within herself not only every necessity but every luxury man can desire.

I had not the least idea of running to this length when I sat down to write you, and must apologize for the crude manner in which these suggestions and data are thrown together, without a moment's thought further than to refer to a few figures while writing. But I want to impress upon you the magnitude of the undertaking contemplated by your resolution, and to express my strong desire that your name shall ever be identified with such happy results of their operation as can only come from a most cordial acquiescence of all parties to the great transaction. Nothing short of this would be desirable or worth having. I fully believe that a wider range of knowledge of the people of the two countries of each other will bring with it a solution of every question affecting their common weal, outside and above the narrow lines of partisan policy.

Sincerely yours,

S. J. RITCHIE.

Hon. BENJAMIN BUTTERWORTH.

Commercial Union with Canada.

REMARKS

OF

HON. OSCAR L. JACKSON,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889,

On the joint resolution (H. Res. 129) to promote commercial union with Canada.

Mr. JACKSON said:

Mr. SPEAKER: I am opposed to what I suppose is the ultimate purpose and design of this resolution. I could have prevented its consideration at this time by an objection, but I do not want to place any obstruction in the way of the House disposing of it as the majority shall determine. I will add further as one reason I did not object that I feel that the gentleman from Illinois [Mr. HITT] who introduced this resolution, by his careful examination of the subject and great familiarity with all matters relating to our foreign affairs, as well as his uniform courtesy to others in the House, is entitled to have the resolution discussed and voted upon.

If we could have a yea-and-nay vote upon it I would content myself with voting against it. But as that is not possible under the circumstances, I avail myself of the indulgence of the House to very briefly state some of the objections I have to it.

In and of itself the resolution has no legal effect. It changes no law, and binds neither Canada nor the United States to any particular line of policy. It is but little if anything more than a declaration of sentiment. But it represents an idea, and I see in this resolution the forerunner of a policy that, if it should ever be adopted, will, in my judgment, bring only evil upon this country.

If commercial union alone is contemplated I consider that impracticable, so far as a joint collection of import duties and internal revenue is concerned. One great difficulty now in the United States is to harmonize the local interests in a country so large as ours. To attempt to combine them under one system, with a vast territory like Canada added, must increase this difficulty very much. We never could have any assurance that Canada would collect tariff duties fairly when there would be free opportunity to send goods imported across the line into the United States.

The thinly-settled country and extensive coast of Canada renders it very difficult to prevent smuggling.

When once the great markets of the United States are open free to goods inside of Canada the inducement for fraudulent importations will be too great to be withstood.

The result of a joint arrangement with Canada to collect import

duties means, in my judgment, the practical destruction of our tariff system in a very short time. There is an equal difficulty in the way of a binding agreement to levy and collect internal taxes.

Internal taxes in the United States are for the most part collected for expenses to run the Government and pay off debts. To some extent they are collected to restrict sales and to give Government supervision of some kinds of traffic.

Our plan is to pay off our debts and restrict taxation. Does any one suppose that the theories of internal taxation that would suit Canada for a long term of years would be satisfactory to our people? It is impossible.

The saving of tariff to our people on goods taken to Canada by the proposed arrangement is a small matter.

We will generally get back more tariff duties than we pay, and besides it would be poor policy to open our markets free to the products of the poorer paid Canadian labor.

My objection to this resolution goes further than the question of tariff, trade, and industry, important as I believe these to be.

If this resolution tends to anything it is to governmental union with Canada. It means in the future what is popularly termed annexation of Canada to the United States. To any such a purpose or design I protest and object. I do not stop now to inquire whether the people of Canada either favor or object to it. Neither do I care to discuss whether such a union would be desired by the people of the United States. I only know that the subject of late years is discussed frequently in the public press and elsewhere—discussed for the most part in a reckless, thoughtless manner, as if it were only a question of advantage and aggrandizement by the United States. If this question is to be debated before the people of this continent let both sides be heard.

In my judgment the annexation of Canada to the United States is much more likely to result in injury to the people of both countries than good. The United States has now territory enough when densely populated to test the strength of our form of government to its utmost limit. We believe that it is so wisely framed that it will endure for ages.

But we all know that a diversity of local interests is one of the greatest strains upon it, and that we have no need of taking increased risks in this direction. With the present territory the United States Government may reasonably expect to be considered in the coming years the greatest and strongest nation on the globe.

We do not need the vast territory of Canada to attain this position. We might absorb and govern Canada, but why run the risk of the additional complications and difficulties that its acquisition would bring?

Would it not be better than annexation to have a friendly neighbor on our north, a strong and powerful nation; a nation like ourselves in language, habits, and thought; a people with a republican form of government, proud of their institutions, and who would for many ages be willing to unite with us in saying to the nations of Europe and Asia that Americans must be allowed to govern and control the affairs of America?

We have now a sufficient heritage on which to work out for the people of the United States the problem of self-government. Our territory is ample, compact, and ocean bounded.

We have no right to imperil the success of free institutions by greed in acquiring new territory. We have at home, and fairly within the proper operations of our Government abroad, sufficient questions of importance to engage our attention.

No good reason can be given why we should go out of our way to try experiments and seek new complications.

Oklahoma Lands Opened to Settlement by the Indian Appropriation Bill.

REMARKS

OF

HON. WILLIAM M. SPRINGER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 1, 1889.

The House having under consideration the report of the conferees on the disagreeing votes of the two Houses on the bill making the appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1890, and for other purposes—

Mr. SPRINGER said:

Mr. SPEAKER: I desire to call attention to the important legislative provisions incorporated upon this bill relating to certain lands in the Indian Territory.

THE OKLAHOMA BILL.

It is well known to the House that there has been under consideration during this Congress (and I also say during several Congresses heretofore) a bill to organize the Territory of Oklahoma. The bill of the present Congress passed the House of Representatives February 1, 1889, by a vote of 147 in the affirmative and 102 in the negative. The bill has been pending in the Senate from that time until the present, and I regret to say with very little or no prospect at this time of its becoming a law.

The bill provided for opening to settlement under the homestead laws of the United States, with slight modifications, and through agreements hereafter to be made with Indian tribes, of certain lands in the Indian Territory known as the Cherokee Outlet, and the Creek and Seminole lands, in what is known as Oklahoma proper. It also included within its boundary the Public Land Strip lying north of the Panhandle of Texas, containing 3,672,000 acres of land. The Oklahoma lands, as embraced in that bill, amounted to nearly 2,000,000 acres, and the Cherokee Outlet contains over 6,000,000 acres. While the boundaries of Oklahoma, as described in the Oklahoma bill, embraced all the lands in the Indian Territory west of those owned and occupied by the five civilized tribes, including the Cherokee Outlet, yet all lands which were in any way incumbered by Indian titles or claims were excluded from the boundaries of the Territory, except for judicial purposes, until agreements could be had with Indians making such claims for the relinquishment of their rights.

The bill also, in section 13, declared that the leases heretofore executed in favor of the Cherokee Strip Live-Stock Association to what is known as the Cherokee Outlet were void and contrary to public policy; and it was made the duty of the President to cause the lessees of said lands and all other persons illegally occupying the same to be removed at once. The bill also established a Territorial government over the Public Land Strip and such of the lands of the Indian Territory as might by agreement with the Indians be opened to settlement under and by virtue of the provisions of the bill. This Territorial government was to be based upon the provisions of Title XXIII, chapter 1, of the Revised Statutes, relating to the government of all the Territories. These were substantially the provisions of the bill.

It is well known to all members of this House and to the country that this bill has been denounced in most severe terms both in this body and in the Senate. The criticisms generally have been directed to those provisions which look toward opening to settlement the Cherokee Outlet and other lands in the Indian Territory. One member of this House denounced these provisions as legalizing grand larceny; another member denounced these provisions as infamous, and as intended to rob the Indians of their lands. In the Senate the same reckless denunciation was indulged in. One of the Senators from the State of Kansas, chairman of the Committee on Public Lands [Mr. PLUMB], in a speech upon the Oklahoma bill in the Senate on yesterday, which he withholds for revision, said that the Oklahoma bill was the most infamous measure ever introduced in Congress, and frequently characterized it as "this infamy."

Such remarks ill became a Senator who had pledged himself solemnly to his constituents before his recent re-election to the United States Senate to favor this bill, and who had in numerous letters to his constituents and in private interviews with them assured them that he would vote for it. Yet at the last moment, when his influence would have been sufficient to have carried it through the Senate if exerted in its favor, he sought the closing hours of the debate in the body of which he is a member to thus vilify a measure which had received the indorsement of a large majority of this House, and the passage of which was demanded by the best interests of the country. It is believed that he could not have been re-elected Senator, as he was during this last winter, unless he had given positive assurance to his constituents that he would favor this bill. He gave such assurance, and thus obtained a re-election for six years to the Senate of the United States; and on the first opportunity, when it was in his power to have secured its passage, he assassinated it in the Senate of the United States and denounced it as "an infamy."

I regret that I have not the text of the Senator's speech before me, as it has not yet appeared in the RECORD. When it does appear I presume he will avail himself of the privilege of a liberal revision and suppression of objectionable expressions. He will doubtless eliminate the offensive word "infamy" as applied to the Oklahoma bill, and insert such new paragraphs as will convey the impression to his constituents that he has always been an earnest advocate of the opening of the Oklahoma and other surplus lands in the Indian Territory to settlement. He will doubtless appear as the author and defender of the provisions which the conference committee have engrafted upon the Indian appropriation bill, when, in fact, he aided the Senate committee and the Senate in striking down these very provisions. He voted in the Senate on a yea-and-nay vote to strike out of the Indian appropriation bill the very provisions which the conference committee have agreed to and again restored to the bill.

TOWN SITES.

The Senator from Kansas had much to say about the provision in the Oklahoma bill, section 9, in reference to town sites. He spoke of this provision as being in the interest of speculators, and asserted that town shares had been sold to support a lobby here in the interest of that bill. He seemed to base his entire opposition to the Oklahoma

bill upon the town-site section. It is due to the friends of the Oklahoma bill to state that the town-site section of that bill was prepared and introduced by my colleague from Illinois [Mr. PAYSON], and was adopted on his motion. It did not originate with the friends of the bill, but was forced upon them by one of its opponents, who claimed that he was perfecting the bill to prevent speculation, and—

to secure to the inhabitants of all towns, cities, and villages in said Territory the benefits and profits arising from the sales of lots therein.

This was the language incorporated in the section itself. It is a remarkable coincidence that the enemies of the bill in this House, claiming that their purpose was to make the bill perfect and honest, should have secured the adoption of an amendment to it which in the Senate the opponents of the bill seized upon as a most objectionable feature, and one framed in the interest of speculators and town-site jobbers.

I was not in favor of the Payson amendment myself, but was compelled to accept it at the time it was moved to prevent unreasonable and dilatory opposition to the bill. The provision could have been enforced in the interest of the people if all the officials charged with its execution would have acted honestly; but it left open a wide door for fraud and speculation, if the Secretary of the Interior had been disposed to connive at its abuse. I thought it better to rely upon the President to appoint an honest Secretary of the Interior than to imperil the bill by resisting the adoption of the provision. I leave, however, its author, my colleague from Illinois [Mr. PAYSON], and the Senator from Kansas [Mr. PLUMB], who has denounced it so mercilessly, to settle for themselves and with themselves the question as to whether the town-site section is a scheme for speculation or an honest measure in the interest of the people. When they do meet to settle the matter there need not be the slightest apprehension of any breach of the peace. They will doubtless felicitate themselves upon the fact that the one succeeded in setting up a man of straw in order to enable the other to easily knock it down.

I beg pardon for referring to remarks and votes of the members of the other body, and know that such reference is not within the strict rules of parliamentary procedure on ordinary occasions. But when a Senator so far forgets all sense of propriety as to brand with infamy a measure which has received the indorsement of a large majority of the representatives of the people, and which he pledged himself to support before his recent election to the Senate, I feel authorized in making this departure, and in thus calling the attention of the Senator's constituents and of the country to the course which he has pursued in reference to the Oklahoma bill.

PROVISIONS ON THE INDIAN APPROPRIATION BILL.

During the pendency of the Indian appropriation bill in this House the supporters of the Oklahoma bill, suspecting the treachery of its pretended friends and fearing its defeat in the Senate, determined to incorporate as many of its provisions as possible upon the Indian appropriation bill; and in this respect we were successful in securing the substance of all provisions in the Oklahoma bill which opened the Indian lands contemplated to settlement, leaving out only the provisions establishing a Territorial organization, and section 13, which struck down the cattle leases. When these provisions were considered in the Senate they were all stricken out, and the same Senator to whom I have called attention aided in thus eliminating from the Indian appropriation bill as it passed the House the provisions to which I have referred. The House disagreed to this amendment and a committee of conference was ordered. The conferees on the part of the House have succeeded after a long struggle in having restored to the Indian bill the leading provisions of the bill as it originally passed the House. These provisions are embraced in what will be known as sections 12, 13, 14, and 15 of the Indian appropriation bill. I will print these sections in full as an appendix to my remarks, and also the Creek cession and Indian court bills which passed at this session, and some public documents relating to the Cherokee Outlet.

The twelfth section of the Indian appropriation bill appropriates nearly $2,000,000 to pay the Seminole Nation for its right, title, and interest in certain lands ceded by article 3 of the treaty between the United States and said nation of June 14, 1866. The act passed at this session to ratify and confirm an agreement with the Muscogee or Creek Nation of Indians appropriates $2,280,000 for the purpose of extinguishing all right, title, and interest which that nation had in certain lands heretofore ceded to the United States by various treaties, and especially by an agreement recently entered into between Pleasant Porter and other delegates of the Creek Nation and Secretary of the Interior William F. Vilas.

OKLAHOMA LANDS OPENED TO SETTLEMENT.

By the provisions of these recent treaties with the Creeks and Seminoles nearly 6,000,000 acres of land in the very heart of the Indian Territory have been secured to the United States free from any Indian claim whatever, and are to be opened to settlement under the homestead laws as soon as the President of the United States shall issue his proclamation fixing the time for settlers to enter upon it. Sections 16 and 36 of the lands are reserved for school purposes. The rights of honorably discharged Union soldiers, as heretofore provided in the laws of the United States, are also preserved; but the commutation provisions of the homestead law are repealed. The lands are therefore held for homesteads only, and persons entering upon them must reside upon them and cultivate them for five years before obtaining a title thereto. But Union soldiers may reduce this time, as provided in the bill, by the length of time served in the Army, but to not a less time than one year.

It is to be hoped that the President of the United States will issue the proclamation at a very early day. There can be no valid excuse for delaying the issue of such proclamation. The people should be permitted to enter within two or three weeks from this time—certainly not later than the 1st of April—in order that they may be permitted to raise a crop during the ensuing season.

FREE HOMESTEADS.

While under the Oklahoma bill, in order to indemnify the Government for the money paid to the Indians, settlers were required to pay $1.25 an acre, in four installments, yet under the provisions contained in the Indian appropriation bill, to which I have referred, this requirement is omitted and settlers are permitted to take these lands without payment of anything except fees for entry.

A COMMISSION TO BE APPOINTED.

It is further provided in section 14 of the Indian appropriation bill that the President may appoint three commissioners to negotiate with the Indians in the Indian Territory for the cession of all their right, title, and interest of every kind to lands lying west of the ninety-sixth degree of longitude, and to report the result of any agreement reached to the Congress of the United States for future consideration. But it is further provided in the same section that the commission is authorized to submit to the Cherokee Nation the proposition that said nation shall cede to the United States all the rights of said nation in what is known as the Cherokee Outlet upon the same terms as is provided in the agreement made with the Creek Indians, of date of January 19, 1889, and ratified by the present Congress. (See act in Appendix.) And if the Cherokees shall accept and ratify such agreement the lands in the Outlet shall thereupon become a part of the public domain, to be disposed of as the other lands heretofore mentioned; and the President is authorized, as soon thereafter as he may deem advisable, to issue a proclamation opening said lands to settlement, in the same manner and to the same effect as is provided in regard to the lands acquired from the Creek Indians.

TWO LAND OFFICES ESTABLISHED.

By section 15 of the Indian appropriation bill the President is directed to create not to exceed two land districts embracing the lands which may be opened to settlement as provided in the bill, and he is authorized to locate land offices and to appoint registers and receivers for the purpose of executing the law and for the purpose of enabling titles to be acquired at once to the lands. It is believed that a commission properly composed will be able to conclude the agreement with the Cherokee Nation at a very early day for the cession of all their claims in and to what is known as the Cherokee Outlet, embracing over 6,000,000 acres of land.

THE OKLAHOMA BILL AND THE INDIAN APPROPRIATION BILL.

It will thus be seen that in so far as acquiring lands from the Indians is concerned, and the opening of these lands to settlement under the homestead laws of the United States, the provisions on the Indian appropriation bill are quite as ample and sweeping as were those contained in the bill to organize the Territory of Oklahoma. These provisions upon the Indian appropriation bill have received substantially the unanimous indorsement of this House, and I believe will receive the approval of the Senate. In fact, all of these provisions were incorporated upon the bill while it was pending in the House, by unanimous consent, and they were each and every one of them subject to a point of order, which any one member could have made. The avowed opponents of the Oklahoma bill in this House were all present when these legislative provisions were incorporated upon the Indian appropriation bill, and not one of them made the point of order, and they have therefore acquiesced in their enactment.

I will not say that these gentlemen have changed their views in regard to this legislation, although when the Oklahoma bill was under discussion similar provisions in that bill looking to acquiring Indian lands and opening them to settlement were denounced as infamous and as intending to rob the Indians of their lands. I am inclined, however, to the opinion that the denunciations of the Oklahoma bill, while nominally directed against the provisions to secure title to the Indian lands, were really intended for section 13, which struck down the cattle leases. Surely they could not have been aimed at that part of the bill which provides for Territorial organization, for the provisions are merely parts of the Revised Statutes of the United States which apply to-day to all the Territories and have received the sanction of Congress and the acquiescence of the people, many of them for nearly one hundred years. These provisions were not objectionable, although they have been denied the people who are to go upon these lands and make homes. The provision in the Oklahoma bill which provoked the wrath of certain Senators and Members of this House, and caused it to receive an opposition which no other measure before Congress ever did receive that finally passed, was that provision, in my judgment, which de-

cleared null and void and contrary to public policy the lease of the Cherokee Live-Stock Association to 6,000,000 acres of lands in what is known as the Cherokee Outlet.

TERRITORIAL GOVERNMENT.

It is a matter of regret that the conferees on the Indian appropriation bill did not incorporate a provision enacting Title XXIII, chapter 1, of the Revised Statutes of the United States relating to the government of all the Territories, and making this chapter applicable to the lands embraced in the Creek and Seminole cessions and to the Public Land Strip, and to such other lands in the Indian Territory as might be open to settlement, including the Cherokee Outlet, in pursuance of agreements with Indians for relinquishment of their titles.

Section 2 of the Oklahoma bill adopted the provisions of this chapter of the Revised Statutes, with some slight modifications. It also by section 3 provided that the Constitution and laws of the United States should have the same force and effect in the new Territory to be organized as elsewhere in the United States.

The Congress of the United States having failed to provide a government for the people who may locate upon these lands, it will be their duty to form a government for themselves. In doing so they will doubtless adopt as the basis of their government Title XXIII, chapter 1, of the Revised Statutes, as far as the provisions of this title may be applicable. If the Oklahoma bill had passed and the provisions of this title had been applied or extended to the lands opened to settlement by the Indian appropriation bill, the President would have been authorized to appoint a governor, a secretary, three judges of the district and supreme courts, and an attorney and marshal of the Territory, and the governor would have been authorized to call an election for members of a legislative assembly. As Congress has failed, however, to provide such a government, it will be the duty of the people to establish a government for themselves, and the officers provided by such government can and will be elected by the people.

The people of this country, schooled in the principles of the Declaration of Independence, have always been equal to every emergency into which they have been placed. They recognize that among the inalienable rights of men are the rights of life, liberty, and the pursuit of happiness, and that governments are instituted among men for the purpose of securing these rights. When Congress shall fail to furnish the people of the Territories with governments which will secure these rights, they are authorized, in fact required, to establish such governments themselves. But in doing so the people of this new and embryotic Territory, I feel assured, will not violate any of the laws of the United States, but will establish a government strictly in accordance with all the provisions of the Constitution and laws. It will be within the power of the government which the people will establish there to deal with all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States.

A UNITED STATES COURT.

Congress, at the recent session, passed an act to establish a United States court in the Indian Territory. That court will have civil jurisdiction throughout the entire Territory and over what is known as "No Man's Land" in all cases between citizens of the United States who may be in the Indian Territory where the matter in controversy shall amount to $100 or more. It will have criminal jurisdiction in all cases where the punishment is not by death or by imprisonment in the penitentiary. For these capital and penitentiary offenses criminals will still be punished in the courts at Wichita and Fort Scott in Kansas, at Fort Smith in Arkansas, and at Paris in Texas, as heretofore. This court may hold two or more terms each year at Muscogee, in the Creek Nation, and the President of the United States is authorized to appoint a judge, an attorney, and marshal of this court.

With the aid of this court, and with the jurisdiction already conferred upon United States courts in Kansas, Arkansas, and Texas, and with such provisions as may be established for territorial and municipal government by the people who may go upon the lands in the Indian Territory, as provided in the Indian appropriation bill, there need be no apprehension that law, order, and security will not prevail there. It will undoubtedly happen that crimes will be committed as heretofore in other communities of the United States; but I am of the opinion that after the new Territorial government of the people shall be established the per cent. of crimes there will not be greater than in other parts of the country. Hence we may assume that the people who go upon these lands will have a government, and that the government will be adequate, for the present at least, to the protection of life, liberty, and property.

THE CHEROKEE OUTLET.

As already stated by me, the commissioners who are to be appointed under the provisions in the Indian appropriation bill are authorized to conclude an agreement with the Cherokee Nation for the relinquishment of all their right, title, and interest in what is known as the Cherokee Outlet. Such relinquishment would have been secured ere this had it not been for the presence upon that outlet of two or three hundred thousand head of cattle owned by large cattle syndicates, members of which reside in all parts of the United States, and who are in many cases wealthy and influential citizens. They have importuned Representatives and Senators to protect them and their leases, and they have resisted every effort to open these lands to settlement under the homestead laws of the United States.

The Cherokee Strip Live-Stock Association had a lease running through five years of time, by the terms of which they paid the Cherokee Nation $100,000 a year as rental for the Outlet. That lease expired on the 1st day of October last, and has since been renewed by the Cherokee Nation, the rental being increased to $200,000 a year. If the Cherokees should, however, agree to the terms upon which the Creek lands were ceded to the United States, and which the commission referred to is authorized to make, they would obtain for these 6,000,000 acres the sum of $7,500,000, which would be placed in the Treasury of the United States for their benefit, and upon which they would receive interest at the rate of 5 per cent. per annum, or an annual interest of $375,000 a year. This amount, which the Government proposes to pay the Cherokee Nation in the way of interest, exceeds by $175,000 per annum the amount which the cattle companies are now paying for the use of those lands. Hence, it occurs to me that if the opponents of the Oklahoma bill were working in the interest of the poor Indian, they would recommend the adoption of the provision which would pay them $375,000 a year, rather than allow them to be swindled by the cattle companies by the payment of the inadequate sum of $200,000 a year for the use of the lands.

A LIBERAL OFFER FOR THE OUTLET.

I maintain, Mr. Speaker, that the offer which this bill makes, and which was substantially the offer in the Oklahoma bill, to the Cherokee Nation for the Cherokee Outlet, is one of the most liberal provisions ever tendered by the Government of the United States to an Indian tribe, and if the Cherokee Indians—I mean the masses of their people who constitute that nation—could be made to understand the munificent offer which the Government makes them they would embrace it with alacrity. If they should accept the terms which the Government offers them in this bill they would become the richest people per capita in the United States. They would have a perpetual income which would support their government without any taxation whatever being imposed upon them, which would furnish them ample schools for the education of their children, keep their bridges and highways in repair, and pay all the legitimate expenses of the government.

THE TITLE TO THE CHEROKEE OUTLET.

Much has been said during this session as to the nature of the title by which the Cherokees hold the Outlet. I will print in the appendix to my remarks the patent of the United States to the Cherokee Outlet and other lands in the Indian Territory. I will also print certain extracts from the remarks of Senator VEST, of Missouri, and the gentleman from Missouri [Mr. WARNER] in this House, and his colleague [Mr. MANSUR]. Also, the opinion of Attorney-General Garland as to the validity of leases to Indian lands; and the letter of Secretary Vilas notifying the Cherokee Nation that any lease which they might make to the Outlet would be disregarded by the Government. It is unnecessary at this time to discuss the legal questions involved in this title. It is enough to say that the Government proposes to purchase whatever title these Indians may have, be it one of occupancy, of outlet, or a title in fee-simple; and that the Government proposes to pay an ample price for the lands under all the circumstances.

But I may be pardoned for calling attention to the letter of Secretary of War John C. Calhoun, written in 1821, in which he notified the Cherokees that they acquired no right to the soil, but merely an outlet, so far as lands west of the ninety-sixth meridian were concerned.

And I desire also to call attention to the provisions of the treaty of 1828, in which this letter of the Secretary of War was referred to specifically and its provisions made a part thereby of the treaty. I further call attention to the able opinion of Judge Brewer, in 1887, in the case of the United States against Soulé and others, reported in 30 Federal Reports, page 918.

It is manifest from these provisions and authorities that the Cherokees acquired only a right of way in what is known as the Cherokee Outlet. It was described as an outlet, and not as a place for occupancy. By leasing these lands to cattle companies for grazing purposes, which companies have inclosed them by barbed-wire fences, the Indians have ceased to use these lands as an outlet, or as an easement, and they have, therefore, reverted to the United States; and in my opinion the Indians have no right or title in them. But, in order that we might not even be suspected of injustice to the Indians, we propose to allow them $1.25 an acre for their title, visionary and shadowy though it may be, to these lands. If they shall promptly conclude an agreement with the United States through the commission authorized to be appointed, that amount will be paid them or accounted for to them, and the Government will meet that obligation.

But I want to say here and now that if an agreement to that effect is not concluded by the time Congress may reassemble in December next, I for one will feel at liberty to resist, and shall resist, thenceforth any payment whatever to the Cherokee Nation for the lands embraced in what is known as the Cherokee Outlet. The Government will then be justified in opening these lands to settlement without further attempt at negotiation with those Indians, and I shall in that event favor a bill to that effect.

THE TREATY OF 1866.

In 1866, after the close of the late civil war, the Government of the United States made a treaty with the Cherokee Nation which embraced thirty-one separate articles. The Cherokee Nation had seceded from the United States and joined the Confederate States during the late war, and had thereby forfeited all their rights under treaties theretofore made with the United States. This treaty, therefore, was for the purpose of having a new understanding with that nation, and provided general amnesty for all their offenses.

Article 16 provided that the United States might settle friendly Indians in any part of the Cherokee country west of the ninety-sixth degree. Said lands thus disposed of were to be paid for to the Cherokee Nation at such price as might be agreed upon between the parties in interest, subject to the approval of the President, and if they could not agree, then the price was to be fixed by the President. In pursuance of that treaty the President of the United States appraised these lands at 47.47 cents per acre. On the 19th of August, 1868, a treaty was proclaimed, which had been made by the United States and the representative chiefs and headmen of the Cheyenne and Arapaho tribes of Indians, by which the United States agreed that the district of country west of the Arkansas River, south of the State of Kansas, east and north of the Cimarron River, should be set apart for the absolute and undisturbed use and occupation of said Cheyenne and Arapaho tribes of Indians, and for such other friendly tribes or individual Indians as they might be willing, with the consent of the United States, to admit among them. In that treaty the United States solemnly agreed that no person except the Indians mentioned, and except such officers, agents, and employés of the Government as may be authorized to enter upon Indian reservations, shall be permitted to pass over, settle upon, or reside in the Territory described in this article.

By reference to a map it will be seen that the boundaries of this Cheyenne and Arapaho reservation embraced the greater portion of what is known as the Cherokee Outlet—all of the Outlet west of the Arkansas River and all of the Outlet east of the Cimarron River. This treaty was ratified by the Senate, and is therefore the law of the land to-day, and has never been repealed nor superseded by other treaty made with those Indians. So that in legal contemplation all that part of the Cherokee Outlet between the rivers named is now an Indian reservation upon which are legally located the Cheyenne and Arapaho Indians. And the Government owes the Cherokee Nation 47.47 cents per acre for this land, and owes interest thereon at 5 per cent. per annum from the date of that treaty, 1868, to the present time. Hence, so far as the legal status of this part of the Outlet is concerned, the claim of the Cherokees to it has ceased to be one properly made upon the land, but can only be maintained as a money demand under their treaty with the United States of 1866; and I am of the opinion that even this money demand has ceased to be a valid claim against the United States, by reason of the facts I have heretofore stated.

It is true that the Secretary of the Interior, by Executive order, has located since 1868 the Cheyennes and Arapahoes upon lands west of the ninety-eighth degree of longitude and south of the lands embraced in what is known as the Outlet. But such Executive order can not operate as a repeal or abrogation of a treaty.

THE INDIAN COMMISSION.

It will be the duty of the commission which the President is authorized to appoint to enter into negotiations with all of the tribes in the Indian Territory who may set up any claim to lands in the Territory west of the ninety-sixth degree of longitude. It will be especially their duty to treat with the Cherokees for the relinquishment of their claim upon what is known as the Outlet. They are authorized to conclude an agreement, as I have already stated, upon the same terms as that embraced in the agreement made with the Creeks. This would allow the Cherokees $1.25 an acre for the 6,000,000 acres embraced in the Outlet.

I know it has been frequently stated upon this floor and elsewhere that the Indians can get $3 an acre for this land from private parties, and that the Government ought to pay as much as private individuals would pay. This suggestion is without proper reflection, and its absurdity will appear upon a moment's reflection. The Government has granted no absolute titles to Indian tribes. All Indian titles are of a limited nature, the Government granting the land for occupancy, and when such land shall be abandoned, or the tribes shall become extinct, the land shall revert to the United States. And Indian tribes have always been prohibited by acts of Congress from leasing or disposing of their lands in any way to private individuals. Congress has maintained, and still maintains, the right to the final disposition of the soil embraced in Indian reservations. It would be contrary to public policy, and in violation of the spirit of our institutions, to authorize sales of large bodies of lands to private individuals in this country, thus establishing a landed aristocracy and land monopolies, not in accordance with the spirit of our institutions. The Indians can sell only to the United States, and the United States in purchasing their claims or title should deal justly with them, but should not be brought into competition with the greed of private individuals.

If the Cherokees shall refuse to accept the liberal offer which the commission is authorized to make of $1.25 an acre, it has been suggested (and this is merely a suggestion) that the Arapahoes and Cheyennes be replaced upon that part of the Cherokee Outlet lying between the Arkansas and Cimarron Rivers, and that the Government pay 47 cents an acre for such lands for that purpose under the treaty with the Cherokees of 1866, and that the lands now occupied by the Cheyennes and Arapahoes should be opened to settlement under the homestead laws of the United States. Either this proposition, or the one which the commission is authorized to make, is the most liberal arrangement which the Government can make. If both of these propositions are rejected by the Cherokees I should favor the policy of resuming possession and control of the outlet without further efforts at negotiation with the Cherokee Indians, and opening such lands to settlement as a part of the public domain.

OPPOSITION OF THE CATTLE SYNDICATES.

The responsibility for delaying so long the opening of Oklahoma to settlement rests with the cattle syndicates. Their influence has been exerted in all parts of the country to obstruct all legislation having in view the extinguishment of Indian titles, the formation of Territorial government, and the opening of the lands to homestead entries. Had there been no cattle in the Cherokee Outlet, the Indian Territory west of the lands owned and occupied by the five civilized tribes would to-day be covered with the homes of a half a million people, and this wilderness and refuge for criminals would now be dotted with villages, towns, and cities; the wild lands would have been converted into productive farms, and civilization would have taken the place of barbarism.

I desire to call attention to the fact that these leases can not protect the cattle syndicates much longer in the occupancy of the Outlet. Section 13 of the Oklahoma bill declared the lease to the Cherokee Outlet void and contrary to public policy, and made it the duty of the President "immediately after the passage of this act to cause the lessees of said lands, and any other persons illegally occupying the same, to be removed from said lands." On the 31st day of January last the gentleman from Mississippi [Mr. HOOKER] moved to strike out that section from the Oklahoma bill. On that motion the vote was taken by yeas and nays, as follows: Yeas 53, nays 187. That vote expressed the deliberate judgment of the representatives of the people of the United States as to the validity of the lease to the Outlet. If the cattle syndicates shall be in possession when Congress assembles in December next I shall introduce a bill embracing section 13 of the Oklahoma bill only, and on the first opportunity will move to suspend the rules and pass it. Such a measure would undoubtedly pass both Houses by a three-fourths vote. Hence sooner or later the cattle barons will be driven from the Indian Territory.

IN CONCLUSION.

It is a subject of congratulation that, notwithstanding the great opposition which has been interposed to the opening of the Indian Territory, or of any portion of it, to settlement under the homestead laws of the United States, we are about to realize now, under the operation of the provisions which have been incorporated upon the Indian appropriation bill, the beginning of a new and liberal policy toward the Indian Territory.

Within a few weeks all citizens of the United States who are entitled by the provisions of the homestead laws to make settlements upon the public domain will be permitted to enter into the very heart of the Indian Territory and establish homes upon these fertile lands. The barriers to the progress of civilization in that locality have been broken down. The people will soon be authorized to go in and possess the land, and we may confidently expect that within a few years the Indian Territory will become one of the most populous and wealthy portions of our country, and that a new State, or perhaps two new States, may be formed out of it and be admitted into the Union on equal footing with the original States.

All this will be accomplished without any wrong being perpetrated upon the Indians. They will soon cease to be bound in the fetters of barbarism by their tribal relations. They will become citizens of the United States, and the Constitution of the United States and the laws of Congress will be extended over them and will protect their persons and property. They will become a part of the body politic. They will vote, hold office, and send their children to the public schools. They will enjoy all the blessings of civil and religious freedom the same as other citizens. Their white neighbors will become their friends and co-workers, and lend them a helping hand in all their efforts to better their condition. The lawlessness which has prevailed in the Indian Territory will soon disappear and law and order and security to persons and property will take its place and become firmly established there as in other parts of the Union.

APPENDIX.

THE CREEK AND SEMINOLE LANDS.

The following sections of the act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1890, and for other purposes, provide for opening to

settlement the lands recently acquired from the Creek and Seminole Indians:

SEMINOLE LANDS.

SEC. 12. That the sum of $1,912,942.02 be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to pay in full the Seminole Nation of Indians for all the right, title, interest, and claim which said nation of Indians may have in and to certain lands ceded by article 3 of the treaty between the United States and said nation of Indians, which was concluded June 14, 1866, and which land was then estimated to contain 2,169,080 acres, but which is now, after survey, ascertained to contain 2,037,414.62 acres, said sum of money to be paid as follows: One million five hundred thousand dollars to remain in the Treasury of the United States to the credit of said nation of Indians, and to bear interest at the rate of 5 per cent. per annum from July 1, 1889, said interest to be paid semi-annually to the treasurer of said nation, and the sum of $412,942.20 to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available; this appropriation to become operative upon the execution by the duly appointed delegates of said nation, specially empowered so to do, of a release and conveyance to the United States of all the right, title, interest, and claim of said nation of Indians in and to said lands, in manner and form satisfactory to the President of the United States, and said release and conveyance, when fully executed and delivered, shall operate to extinguish all claims of every kind and character of said Seminole Nation of Indians in and to the tract of country to which said release and conveyance shall apply, but such release, conveyance, and extinguishment shall not inure to the benefit of or cause to vest in any railroad company any right, title, or interest whatever in or to any of said lands, and all laws and parts of laws so far as they conflict with the foregoing are hereby repealed, and all grants or pretended grants of said lands, or any interest or right therein now existing in or on behalf of any railroad company, except rights of way and depot grounds, are hereby declared to be forever forfeited for breach of condition.

SEC. 13. That the lands acquired by the United States under said agreement shall be a part of the public domain, to be disposed of only as herein provided, and sections 16 and 36 of each township, whether surveyed or unsurveyed, are hereby reserved for the use and benefit of the public schools, to be established within the limits of said lands under such conditions and regulations as may be hereafter enacted by Congress.

That the lands acquired by conveyance from the Seminole Indians hereunder, except the sixteenth and thirty-sixth sections, shall be disposed of to actual settlers under the homestead laws only, except as herein otherwise provided (except that section 2301 of the Revised Statutes shall not apply): *And provided further*, That any person who having attempted to, but for any cause failed, to secure a title in fee to a homestead under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make a homestead entry upon said lands: *And provided further*, That the rights of honorably discharged Union soldiers and sailors in the late civil war as defined and described in sections 2304 and 2305 of the Revised Statutes shall not be abridged: *And provided further*, That each entry shall be in square form as nearly as practicable and no person be permitted to enter more than one quarter section thereof, but until said lands are opened for settlement by proclamation of the President, no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall ever be permitted to enter any of said lands or acquire any right thereto.

The Secretary of the Interior may, after said proclamation and not before, permit entry of said lands for town sites, under sections 2387 and 2388 of the Revised Statutes, but no such entry shall embrace more than one-half section of land.

That all the foregoing provisions with reference to lands to be acquired from the Seminole Indians, including the provisions pertaining to forfeiture, shall apply to and regulate the disposal of the lands acquired from the Muscogee or Creek Indians by articles of cession and agreement made and concluded at the city of Washington on the 19th day of January, in the year of our Lord 1889.

SEC. 14. The President is hereby authorized to appoint three commissioners, not more than two of whom shall be members of the same political party, to negotiate with the Cherokee Indians and with all other Indians owning or claiming lands lying west of the ninety-sixth degree of longitude in the Indian Territory for the cession to the United States of all their title, claim, or interest of every kind or character in and to said lands, and any and all agreements resulting from such negotiations shall be reported to the President and by him to Congress at its next session and to the council or councils of the nation or nations, tribe or tribes, agreeing to the same for ratification, and for this purpose the sum of $25,000, or as much thereof as may be necessary, is hereby appropriated, to be immediately available: *Provided*, That said commission is further authorized to submit to the Cherokee Nation the proposition that said nation shall cede to the United States in the manner and with the effect aforesaid, all the rights of said nation in said lands upon the same terms as to payment as is provided in the agreement made with the Creek Indians of date January 19, 1889, and ratified by the present Congress; and if said Cherokee Nation shall accept, and by act of its legislative authority duly passed, ratify the same, the said lands shall thereupon become a part of the public domain for the purpose of such disposition as is herein provided, and the President is authorized as soon thereafter as he may deem advisable, by proclamation to open said lands to settlement in the same manner and to the same effect as in this act provided concerning the lands acquired from said Creek Indians, but until said lands are open for settlement by proclamation of the President, no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall be permitted to enter any of said lands or acquire any right thereto.

SEC. 15. That the President may whenever he deems it necessary create not to exceed two land districts embracing the lands which he may open to settlement by proclamation as hereinbefore provided, and he is empowered to locate land offices for the same, appointing thereto, in conformity to existing law, registers and receivers; and for the purpose of carrying out this provision $5,000, or so much thereof as may be necessary, is hereby appropriated.

Approved March 2, 1889.

THE CREEK LANDS.

[Public—No. 82.]

An act to ratify and confirm an agreement with the Muscogee (or Creek) Nation of Indians in the Indian Territory, and for other purposes.

Whereas it is provided by section 8 of the act of March 3, 1885, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1886, and for other purposes," "that the President is hereby authorized to open negotiations with the Creek, Seminoles, and Cherokees for the purpose of opening to settlement under the homestead laws the unassigned lands in said Indian Territory ceded by them respectively to the United States by the several treaties of August 11, 1866, March 21, 1866, and July 19, 1866; and for that purpose the sum of $5,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; his action hereunder to be reported to Congress;" and

Whereas William F. Vilas, Secretary of the Interior, by and under the direction of the President of the United States, on the part of the United States, and the Muscogee (or Creek) Nation of Indians, represented by Pleasant Porter, David M. Hodge, and Esparhecher, delegates and representatives thereto duly authorized and empowered by the principal chief and national council of the said Muscogee (or Creek) Nation, did, on the 19th day of January, A. D. 1889, enter into and conclude articles of cession and agreement, which said cession and agreement is in words as follows:

Articles of cession and agreement made and concluded at the city of Washington, on the 19th day of January, A. D. 1889, by and between the United States of America, represented by William F. Vilas, Secretary of the Interior, by and under direction of the President of the United States, and the Muscogee (or Creek) Nation of Indians, represented by Pleasant Porter, David M. Hodge, and Esparhecher, delegates and representatives thereunto duly authorized and empowered by the principal chief and national council of the said Muscogee (or Creek) Nation;

Whereas by a treaty of cession made and concluded by and between the said parties on the 14th day of June, 1866, the said Muscogee (or Creek) Nation, in compliance with the desire of the United States to locate other Indians and freedmen thereon, ceded and conveyed to the United States, to be sold to and used as homes for such other civilized Indians as the United States might choose to settle thereon, the west half of their entire domain, to be divided by a line running north and south, which should be surveyed as provided in the eighth article of the said treaty; the eastern half of the lands of the said Muscogee (or Creek) Nation to be retained by them as a home;

And whereas but a portion of said lands so ceded for such use has been sold to Indians or assigned to their use, and the United States now desire that all of said ceded lands may be entirely freed from any limitation in respect to the use and enjoyment thereof and all claims of the said Muscogee (or Creek) Nation to such lands may be surrendered and extinguished as well as all other claims of whatsoever nature to any territory except the aforesaid eastern half of their domain;

Now, therefore, these articles of cession and agreement, by and between the said contracting parties, witness:

I. That said Muscogee (or Creek) Nation, in consideration of the sum of money hereinafter mentioned, hereby absolutely cedes and grants to the United States, without reservation or condition, full and complete title to the entire western half of the domain of the said Muscogee (or Creek) Nation lying west of the division line surveyed and established under the said treaty of 1866, and also grants and releases to the United States all and every claim, estate, right, or interest of any and every description in or to any and all land and territory whatever, except so much of the said former domain of the said Muscogee (or Creek) Nation as lies east of the said line of division, surveyed and established as aforesaid, and is now held and occupied as the home of said nation.

II. In consideration whereof, and of the covenant herein otherwise contained, the United States agree to pay to the said Muscogee (or Creek) Nation the sum of $2,280,857.10, whereof $280,857.10 shall be paid to the national treasurer of said Muscogee (or Creek) Nation, or to such other person as shall be duly authorized to receive the same, at such times and in such sums after the due ratification of this agreement (as hereinafter provided) as shall be directed and required by the national council of said nation, and the remaining sum of $2,000,000 shall be set apart and remain in the Treasury of the United States to the credit of the said nation, and shall bear interest at the rate of 5 per cent. per annum from and after the 1st day of July, 1889, to be paid to the treasurer of said nation and to be judiciously applied under the direction of the legislative council thereof, to the support of their government, the maintenance of schools and educational establishments, and such other objects as may be designed to promote the welfare and happiness of the people of the said Muscogee (or Creek) Nation, subject to the discretionary direction of the Congress of the United States: *Provided*, That the Congress of the United States may at any time pay over to the said Muscogee (or Creek) Nation the whole, or, from time to time, any part of said principal sum, or of any principal sum belonging to said nation held in the Treasury of the United States, and thereupon terminate the obligation of the United States in respect thereto and in respect to any further interest upon so much of said principal as shall be so paid and discharged.

III. It is stipulated and agreed that henceforth especial effort shall be made by the Creek Nation to promote the education of the youth thereof and extend their useful knowledge and skill in the arts of civilization; and the said nation agrees that it will devote not less than $50,000 annually of its income derived hereunder to the establishment and maintenance of schools and other means calculated to advance the end; and of this annual sum at least $10,000 shall be applied to the education of orphan children of said nation.

IV. These articles of cession and agreement shall be of no force or obligation upon either party until they shall be ratified and confirmed, first by act of the national council of said Muscogee (or Creek) Nation; and, secondly, by the Congress of the United States, nor unless such ratification shall be on both sides made and completed before the 1st day of July, A. D. 1889.

V. No treaty or agreement heretofore made and now subsisting is hereby affected, except so far as the provisions hereof supersede and control the same.

In testimony whereof we, the said William F. Vilas, Secretary of the Interior, on the part of the United States, and the said Pleasant Porter, David M. Hodge, and Esparhecher, delegates of the Muscogee (or Creek) Nation, have hereunto set our hands and seals, at the place and on the day first above written, in duplicate.

[SEAL.] WILLIAM F. VILAS,
Secretary of the Interior.

[SEAL.] PLEASANT PORTER.

[SEAL.] DAVID M. HODGE.

[SEAL.] ESPARHECHER, his x mark.

In presence of—
JOHN P. HUME.
ROBERT V. BELT.

Whereas the Muscogee (or Creek) Nation of Indians has accepted, ratified, and confirmed said articles of cession and agreement by act of its national council, approved by the principal chief of said nation on the 31st day of January, A. D. 1889, wherein it is provided that the grant and cession of land and territory therein made shall take effect when the same shall be ratified and confirmed by the Congress of the United States of America: Therefore,

Be it enacted, etc., That said articles of cession and agreement are hereby accepted, ratified, and confirmed.

SEC. 2. That the lands acquired by the United States under said agreement shall be a part of the public domain, but they shall only be disposed of in accordance with the laws regulating homestead entries, and to the persons qualified to make such homestead entries, not exceeding 160 acres to one qualified claimant. And the provisions of section 2301 of the Revised Statutes of the United States shall not apply to any lands acquired under said agreement. Any person who may enter upon any part of said lands in said agreement mentioned prior to the time that the same are opened to settlement by act of Congress shall not be permitted to occupy or to make entry of such lands or lay any claim thereto.

SEC. 3. That for the purpose of carrying out the terms of said articles of cession and agreement the sum of $2,280,857.10 is hereby appropriated.

SEC. 4. That the Secretary of the Treasury is hereby authorized and directed to pay, out of the appropriation hereby made, the sum of $280,857.10 to the national treasurer of said Muscogee (or Creek) Nation, or to such person as shall be duly authorized to receive the same, at such time and in such sums as may be di-

rected and required by the national council of said nation, and the Secretary of the Treasury is hereby further authorized and directed to place the remaining sum of $2,000,000 in the Treasury of the United States to the credit of said Muscogee (or Creek) Nation of Indians, to be held for, and as provided in said articles of cession and agreement, and to bear interest at the rate of 5 per cent. per annum, from and after the 1st day of July, A. D. 1889; said interest to be paid to the treasurer of said nation annually.

Approved March 1, 1889.

A UNITED STATES COURT IN THE INDIAN TERRITORY.

[Public—No. 98.]

An act to establish a United States court in the Indian Territory, and for other purposes.

Be it enacted, etc., That a United States court is hereby established, whose jurisdiction shall extend over the Indian Territory, bounded as follows, to wit: North by the State of Kansas, east by the States of Missouri and Arkansas, south by the State of Texas, and west by the State of Texas and the Territory of New Mexico; and a judge shall be appointed for said court by the President of the United States, by and with the advice and consent of the Senate, who shall hold his office for a term of four years, and until his successor is appointed and qualified, and receive a salary of $3,500 per annum, to be paid from the Treasury of the United States in like manner as the salaries of judges of the United States district courts.

SEC. 2. That there shall be appointed by the President, by and with the advice and consent of the Senate, an attorney and marshal for said court, who shall continue in office for four years, and until their successors be duly appointed and qualified, and they shall discharge the like duties and receive the same fees and salary as now received by the United States attorney and marshal for the western district of Arkansas. The said marshal may appoint one or more deputies, who shall have the same powers, perform the like duties, and be removable in like manner as other deputy United States marshals; and said marshal shall give bond, with two or more sureties, to be approved by the judge of said court, in the sum of $10,000, conditioned as by law required in regard to the bonds of other United States marshals.

SEC. 3. That a clerk of said court shall be appointed by the judge thereof, who shall reside and keep his office at the place of holding said court. Said clerk shall perform the same duties, be subject to the same liabilities, and shall receive the same fees and compensation as the clerk of the United States court of the western district of Arkansas; and before entering upon his duties he shall give bond in the sum of $10,000, with two or more sureties, to be approved by the judge of said court, conditioned that he will discharge his duties as required by law.

SEC. 4. That the judge appointed under the provision of this act shall take the same oath required by law to be taken by the judges of the district courts of the United States; and the oath, when taken as in such cases provided, shall be duly certified by the officer before whom the same shall have been taken to the clerk of the court herein established, to be by him recorded in the records of said court. The clerk, marshal, and deputy marshals shall take before the judge of said court the oath required by law of the clerk, marshal, and deputy marshals of United States district courts, the same to be entered of record in said court as provided by law in like cases.

SEC. 5. That the court hereby established shall have exclusive original jurisdiction over all offenses against the laws of the United States committed within the Indian Territory as in this act defined, not punishable by death or by imprisonment at hard labor.

SEC. 6. That the court hereby established shall have jurisdiction in all civil cases between citizens of the United States who are residents of the Indian Territory, or between citizens of the United States or of any State or Territory therein and any citizen of or person or persons residing or found in the Indian Territory, and when the value of the thing in controversy or damages or money claimed shall amount to $100 or more: *Provided*, That nothing herein contained shall be so construed as to give the court jurisdiction over controversies between persons of Indian blood only: *And provided further*, That all laws having the effect to prevent the Cherokee, Choctaw, Creek, Chickasaw, and Seminole Nations, or either of them, from lawfully entering into leases or contracts for mining coal for a period not exceeding ten years, are hereby repealed; and said court shall have jurisdiction over all controversies arising out of said mining leases or contracts, and of all questions of mining rights or invasions thereof where the amount involved exceeds the sum of $100.

That the provisions of chapter 18, Title XIII, of the Revised Statutes of the United States shall govern such court, so far as applicable: *Provided*, That the practice, pleadings, and forms of proceeding in civil causes shall conform, as near as may be, to the practice, pleadings, and forms of proceeding existing at the time in like causes in the courts of record of the State of Arkansas, any rule of court to the contrary notwithstanding; and the plaintiff shall be entitled to like remedies by attachment or other process against the property of the defendant, and for like causes, as now provided by the laws of said State.

The final judgment or decree of the court hereby established, in cases where the value of the matter in dispute, exclusive of costs, to be ascertained by the oath of either party or of other competent witnesses, exceeds $1,000 may be reviewed and reversed or affirmed in the Supreme Court of the United States upon writ of error or appeal, in the same manner and under the same regulations as the final judgments and decrees of a circuit court.

SEC. 7. That two terms of said court shall be held each year at Muscogee, in said Territory, on the first Monday in April and September, and such special sessions as may be necessary for the dispatch of the business in said court at such times as the judge may deem expedient; and he may adjourn such special sessions to any other time previous to a regular term; and the marshal shall procure suitable rooms for the use and occupation of the court hereby created.

SEC. 8. That all proceedings in said court shall be had in the English language; and bona fide male residents in the Indian Territory over twenty-one years of age and understanding the English language sufficiently to comprehend the proceedings of the court shall be competent to serve as jurors in said court, but shall be subject to exemptions and challenges as provided by law in regard to jurors in the district court for the western district of Arkansas.

SEC. 9. That the jurors shall be selected as follows: The court at its regular term shall select three jury commissioners, possessing the qualifications prescribed for jurymen, and have no suits in court requiring the intervention of a jury; and the same persons shall not act as jury commissioners more than once in the same year. The judge shall administer to each commissioner the following oath:

"You do swear to discharge faithfully the duties required of you as jury commissioner; that you will not knowingly select any one as juryman whom you believe unfit and not qualified; that you will not make known to any one the name of any juryman selected by you and reported on your list to the court until after the commencement of the next term of this court; that you will not, directly or indirectly, converse with any one selected by you as a juryman concerning the merits of any cause or procedure to be tried at the next term of this court; so help you God."

SEC. 10. That the jury commissioners, after they have been appointed and sworn, shall retire to a jury room, or some other apartment designated by the judge, and be kept free from the intrusion of any person, and shall not separate without leave of the court until they have completed the duties required of them; that they shall select from the bona fide male residents of the Territory such number of qualified persons as the court shall designate, not less than sixty, free from all legal exception, of fair character and approved integrity, of sound judgment and reasonable information, to serve as petit jurors at the next term of court; shall write the names of such persons on separate pieces of paper, of as near the same size and appearance as may be, and fold the same so that the names thereon may not be seen. The names so written and folded shall then be deposited in a box, and after they shall be shaken and well mixed, the commissioners shall draw from said box the names of thirty-seven persons, one by one, and record the same as drawn, which record shall be certified and signed by the commissioners, and indorsed "List of petit jurors."

SEC. 11. That the said commissioners shall then proceed to draw in like manner twelve other names, which shall be recorded in like manner on another paper, which shall be certified and signed by the commissioners, and indorsed "List of alternate petit jurors." The two lists shall be inclosed and sealed so that the contents can not be seen, and indorsed "List of petit jurors," designating for what term of the court they are to serve, which indorsement shall be signed by the commissioners, and the same shall be delivered to the judge in open court; and the judge shall deliver the lists to the clerk in open court, and administer to the clerk and his deputies the following oath:

"You do swear that you will not open the jury-lists now delivered to you; that you will not, directly or indirectly, converse with any one selected as a petit juror concerning any suit pending and for trial in this court at the next term unless by leave of the court; so help you God."

SEC. 12. That within thirty days before the next term, and not before, the clerk shall open the envelopes and make a fair copy of the lists of petit jurors and alternate petit jurors, and give the same to the marshal, who shall, at least fifteen days prior to the first day of the next term, summon the persons named as petit jurors and alternate petit jurors to attend on the first day of said term as petit jurors, by giving personal notice to each, or by leaving a written notice at the juror's place of residence with some person over ten years of age and there residing.

That the marshal shall return said lists with a statement in writing of the date and manner in which each juror was summoned; and if any juror or alternate legally summoned shall fail to attend he may be attached and fined or committed as for contempt.

That if there shall not be a sufficient number of competent petit jurors and alternates present, and not excused, to form a petit jury, the court may compel the attendance of such absentees or order other competent persons to be summoned to complete the juries.

SEC. 13. That if for any cause the jury commissioners shall not appoint or shall fail to select a petit jury as provided, or the panels selected be set aside, or the jury list returned in court shall be lost or destroyed, the court shall order the marshal to summon a petit jury of the number hereinbefore designated, who shall be sworn to perform the duties of petit jurors as if they had been regularly selected; and this provision shall also apply in the formation of petit juries for the first term of the court. The want of qualification of any person selected as juror under section 10 of this act shall not necessarily operate as cause of challenge to the whole panel.

SEC. 14. That the fees of the jurors and witnesses before said court herein created shall be the same as provided in the district court of the United States for the western district of Arkansas.

SEC. 15. That in all criminal trials had in said court, in which a jury shall be demanded, and in which the defendant or defendants shall be citizens of the United States, none but citizens of the United States shall be competent jurors.

SEC. 16. That the judge of the court herein established shall have the same authority to issue writs of habeas corpus, injunctions, mandamus, and other remedial process, as exists in the circuit court of the United States.

SEC. 17. That the Chickasaw Nation and the portion of the Choctaw Nation within the following boundaries, to wit: Beginning on Red River at the southeast corner of the Choctaw Nation; thence north with the boundary line between the said Choctaw Nation and the State of Arkansas to a point where Big Creek, a tributary of the Black Fork of the Kimishi River, crosses the said boundary line; thence westerly with Big Creek and the said Black Fork to the junction of the said Black Fork with Buffalo Creek; thence northwesterly with said Buffalo Creek to a point where the same is crossed by the old military road from Fort Smith, Ark., to Boggy Depot, in the Choctaw Nation; thence southwesterly with the said road to where the same crosses Perryville Creek; thence northwesterly up said creek to where the same is crossed by the Missouri, Kansas and Texas Railway track; thence northerly up the center of the main track of the said road to the South Canadian River; thence up the center of the main channel of the said river to the western boundary line of the Choctaw Nation, the same being the northwest corner of the said nation; thence south on the boundary line between the said nation and the reservation of the Wichita Indians; thence continuing south with the boundary line between the said Chickasaw Nation and the reservations of the Kiowa, Comanche, and Apache Indians to Red River; thence down said river to the place of beginning; and all that portion of the Indian Territory not annexed to the district of Kansas by the act approved January 6, 1883, and not set apart and occupied by the five civilized tribes, shall, from and after the passage of this act, be annexed to and constitute a part of the eastern judicial district of the State of Texas, for judicial purposes.

SEC. 18. That the counties of Lamar, Fannin, Red River, and Delta of the State of Texas, and all that part of the Indian Territory attached to the said eastern judicial district of the State of Texas by the provisions of this act, shall constitute a division of the eastern judicial district of Texas; and terms of the circuit and district courts of the United States for the said eastern district of the State of Texas shall be held twice in each year at the city of Paris on the third Mondays in April and the second Mondays in October; and the United States courts herein provided to be held at Paris shall have exclusive original jurisdiction of all offenses committed against the laws of the United States within the limits of that portion of the Indian Territory attached to the eastern judicial district of the State of Texas by the provisions of this act, of which jurisdiction is not given by this act to the court herein established in the Indian Territory; and all civil process, issued against persons resident in the said counties of Lamar, Fannin, Red River, and Delta, cognizable before the United States courts shall be made returnable to the courts, respectively, to be held at the city of Paris, Texas.

And all prosecutions for offenses committed in either of said last-mentioned counties shall be tried in the division of said eastern district of which said counties form a part: *Provided*, That no process issued or prosecution commenced or suit instituted before the passage of this act shall be in any way affected by the provisions thereof.

SEC. 19. That the judge of the eastern judicial district of the State of Texas shall appoint a clerk of said court, who shall reside at the city of Paris, in the county of Lamar.

SEC. 20. That every person who shall, in the Indian Territory, willfully and maliciously place any obstruction, by stones, logs, or any other thing on the track of any railroad, or shall tear up or remove, burn, or destroy any part of any such railroad, or the works thereof, with intent to obstruct the passage of

any engine, car, or cars thereon, or to throw them off the track, shall be deemed guilty of malicious mischief, and, on conviction thereof, shall be sentenced to imprisonment at hard labor for any time not more than twenty years:

Provided, That if any passenger, employé, or other person shall be killed, either directly or indirectly, because of said obstruction, tearing up, removing, burning, or destroying, the person causing the same shall be deemed guilty of murder, and, upon conviction thereof, shall be punished accordingly.

SEC. 21. That any person aforesaid who shall, in the Indian Territory, willfully and intentionally destroy, injure, or obstruct any telegraph or telephone line, or any of the property or materials thereof, shall be deemed guilty of malicious mischief, and, on conviction thereof, shall be fined in any sum not more than $500 and imprisoned for any time not more than one year.

SEC. 22. That every person aforesaid who shall, in the Indian Territory, maliciously or contemptuously disturb or disquiet any congregation or private family assembled in any church or other place for religious worship, or persons assembled for the transaction of church business, by profanely swearing or using indecent gestures, threatening language, or committing any violence of any kind to or upon any person so assembled, or by using any language or acting in any manner that is calculated to disgust, insult, or interrupt said congregation, shall, upon conviction thereof, be sentenced to imprisonment for any time not exceeding sixty days, or to a fine not exceeding $100, or both such fine and imprisonment.

SEC. 23. That every person aforesaid who shall, in the Indian country, feloniously, willfully, and with malice aforethought assault any person with intent to rob, and his counselors, aiders, and abettors, shall, on conviction thereof, be imprisoned at hard labor for a time not less than one nor more than fifteen years.

SEC. 24. That every person who shall, in the Indian Territory, knowingly mark, brand, or alter the mark or brand of any animal the subject of larceny, the property of another, or who shall knowingly administer any poison to or maliciously expose any poisonous substance with the intent that the same shall be taken by any of the aforesaid animals, or shall willfully and maliciously, by any means whatsoever, kill, maim, or wound any of the aforesaid animals, shall be deemed guilty of malicious mischief, and, on conviction thereof, shall be sentenced to imprisonment for a period of not more than six months, or a fine of not more than $200, or both such fine and imprisonment; and in case the animal shall have been killed or injured by said malicious mischief the jury trying the case shall assess the amount of damages which the owner of the animal shall have sustained by reason thereof, and, in addition to the sentence aforesaid, the court shall render judgment in favor of the party injured for threefold the amount of the damages so assessed by the jury, for which said amount execution may issue against the defendant and his property.

SEC. 25. That if any person in the Indian country assault another with a deadly weapon, instrument, or other thing, with an intent to inflict upon the person of another a bodily injury where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant disposition, he shall be adjudged guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than $50 nor exceeding $1,000, and imprisoned not exceeding one year.

SEC. 26. That if any person shall maliciously and willfully set on fire any woods, marshes, or prairies in the Indian Territory, with the intent to destroy the fences, improvements, or property of another, such person shall be fined in any sum not exceeding $500, or be imprisoned not more than six months, or both, at the discretion of the court.

SEC. 27. That sections 5, 23, 24, and 25 of this act shall not be so construed as to apply to offenses committed by one Indian upon the person or property of another Indian.

SEC. 28. That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Approved March 1, 1889.

PATENT OF THE UNITED STATES TO THE CHEROKEE OUTLET AND OTHER LANDS.

The United States of America to all to whom these presents shall come, greeting:

Whereas by certain treaties made by the United States of America with the Cherokee Nation of Indians of the 6th of May, 1828, the 14th of February, 1833, and the 29th of December, 1835, it was stipulated and agreed on the part of the United States that in consideration of the premises mentioned in the said treaties, respectively, the United States should guaranty, secure, and convey, by patent, to the said Cherokee Nation, certain tracts of land, the description of which tracts and the terms and conditions on which they were to be conveyed, are set forth in the second and third articles of the treaty of the 29th of December, 1835, in the words following, that is to say:

"ART. 2. Whereas by the treaty of May 6, 1828, and the supplementary treaty thereto of February 14, 1833, with the Cherokees west of the Mississippi, the United States guarantied and secured, to be conveyed by patent to the Cherokee Nation of Indians, the following tract of country: Beginning at a point on the old western Territorial line of Arkansas Territory, being 25 miles north from the point where the Territorial line crosses Arkansas River; thence running from said north point, south on the said Territorial line, where the said Territorial line crosses Verdigris River; thence down said Verdigris River to the Arkansas; thence down said Arkansas to a point where a stone is placed opposite the east or lower bank of Grand River, at its junction with the Arkansas; thence running south 44 degrees west 1 mile; thence in a straight line to a point 4 miles northerly from the mouth of the north fork of the Canadian; thence along the said 4-mile line to the Canadian; thence down the Canadian to the Arkansas; thence down the Arkansas to that point on the Arkansas where the eastern Choctaw boundary strikes said river and running thence with the western line of Arkansas Territory as now defined, to the southwest corner of Missouri; thence along the western Missouri line to the line assigned the Senecas; thence on the south line of the Senecas to Grand River; thence up said Grand River as far as the south line of the Osage reservation extended, if necessary; thence up and between said South Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line will make 7,000,000 acres within the whole described boundaries.

"In addition to the 7,000,000 acres of land thus provided for and bounded, the United States further guaranty to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said 7,000,000 acres, as far west as the sovereignty of the United States and their right of soil extend: *Provided, however*, That if the saline or salt plain on the western prairie shall fall within said limits prescribed for said outlet the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees. And letters patent shall be issued by the United States, as soon as practicable, for the land hereby guaranteed. And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States in consideration of the sum of $500,000, therefore, hereby covenant and agree to convey to the said Indians and their descendants by patent, in fee-simple, the following additional tract of land situated between the west line of the State of Missouri and the Osage reservation, beginning at the southeast corner of the same, and runs north along the east line of the Osage lands 50 miles to the northeast corner thereof; and thence east to the west line of the State of Missouri; thence with said line south 50 miles; thence west to the place of beginning; estimated to contain 800,000 acres of land; but it is expressly understood that if any of the lands assigned the Quapaws shall fall within the aforesaid bounds the same shall be reserved and excepted out of the lands above granted and a pro rata reduction shall be made in the price to be allowed to the United States for the same by the Cherokees.

"ART. 3. The United States also agree that the lands above ceded by the treaty of February 14, 1833, including the outlet, and those ceded by this treaty, shall all be included in one patent, executed to the Cherokee Nation of Indians by the President of the United States according to the provisions of the act of May 28, 1830. It is, however, agreed that the military reservation at Fort Gibson shall be held by the United States. But should the United States abandon said post, and have no further use for the same, it shall revert to the Cherokee Nation. The United States shall always have the right to make and establish such posts and military roads and forts in any part of the Cherokee country as they may deem proper for the interest and protection of the same, and the free use of as much land, timber, fuel, and materials of all kinds, for the construction and support of the same, as may be necessary: *Provided*, That if the private rights of individuals are interfered with, a just compensation therefor shall be made."

And whereas the United States have caused the said tract of 7,000,000 acres, together with the said perpetual outlet, to be surveyed in one tract, the boundaries whereof are as follows:

Beginning at a mound of rocks 4 feet square at base and 4½ feet high, from which another mound of rocks bears south 1 chain, and another mound of rocks bears west 1 chain, on what has been denominated the old western territorial line of Arkansas Territory, 25 miles north of Arkansas River; thence south 24 miles and 28 chains to a post on the northeast bank of the Verdigris River, from which a hackberry, 15 inches diameter, bears south 61 degrees 31 minutes east 43 links, marked C. H. L., and a cottonwood, 42 inches diameter, bears south 21 degrees 15 minutes east 50 links, marked C. R. K. L.; thence down the Verdigris River on the northeast bank, with its meanders, to the junction of Verdigris and Arkansas Rivers; thence from the lower bank of Verdigris River, on the north bank of Arkansas River, south 44 degrees 13 minutes east 57 chains to a post on the south bank of Arkansas opposite the eastern bank of Neosho River at its junction with Arkansas, from which a red oak, 36 inches diameter, bears south 76 degrees 45 minutes west 24 links, and a hickory, 24 inches diameter, bears south 89 degrees east 4 links; thence south 53 degrees west 1 mile to a post, from which a rock bears north 53 degrees east 50 links, and a rock bears south 18 degrees 18 minutes west 50 links; thence south 18 degrees 18 minutes west 33 miles 28 chains and 80 links to a rock, from which another rock bears north 18 degrees 18 minutes east 50 links, and another rock bears south 50 links; thence south 4 miles to a post on the lower bank of the north fork of the Canadian River at its junction with Canadian River, from which a cottonwood, 24 inches diameter, bears north 18 degrees east 40 links, and a cottonwood, 15 inches diameter, bears south 9 degrees east 14 links; thence down the Canadian River on its north bank to its junction with Arkansas River; thence down the main channel of Arkansas River to the western boundary of the State of Arkansas, at the northern extremity of the eastern boundary of the lands of the Choctaws, on the south branch of the Arkansas River, 4 chains and 54 links east of Fort Smith; thence north 7 degrees 25 minutes west, with the western boundary of the State of Arkansas, 76 miles 64 chains and 50 links to the southwest corner of the State of Missouri; thence north on the western boundary of the State of Missouri, 8 miles 49 chains and 50 links to the north bank of Cowskin or Seneca River, at a mound 6 feet square at base and 5 feet high, in which is a post marked on the south side, cor. n. ch. L. d; thence west on the southern boundary of the lands of the Senecas, 11 miles and 48 chains, to a post on the east bank of the Neosho River, from which a maple, 18 inches in diameter, bears south 31 degrees east 72 links; thence up Neosho River, with its meanders, on the east bank, to the southern boundary of Osage lands, 36 chains and 50 links west of the southeast corner of the lands of the Osages, witnessed by a mound of rocks on the west bank of Neosho River; thence west on the southern boundary of the Osage lands to the line dividing the Territory of the United States from that of Mexico, 288 miles 13 chains and 66 links, to a mound of earth 6 feet square at base and 5½ feet high, in which is deposited a cylinder of charcoal 12 inches long and 4 inches diameter; thence south along the line of the territory of the United States and of Mexico, 60 miles and 12 chains to a mound of earth 6 feet square at base and 5½ feet high, in which is deposited cylinder of charcoal 18 inches long and 3 inches diameter; thence east along the northern boundary of Creek lands 273 miles 55 chains and 66 links to the beginning; containing within the survey 13,574,135 acres and .14 of an acre.

And whereas the United States have also caused the said tract of 800,000 acres to be surveyed, and have ascertained the boundaries thereof to be as follows: Beginning at southeast corner of Osage lands described by a rock from which a red oak 20 inches diameter bears south 27 degrees east 76 links, and a burr oak 30 inches diameter bears south 59 degrees west 1 chain and another a burr oak 30 inches diameter bears north 8 degrees west 1 chain and 37 links; and another burr oak 40 inches diameter bears north 30 degrees west 1 chain and 81 links, and running east 25 miles to a rock on the western line of the State of Missouri, from which a post oak 10 inches diameter bears north 48 degrees 30 minutes east 4 chains; and a post oak 12 inches diameter bears south 62 degrees east 5 chains; thence north with the western boundary of the State of Missouri 50 miles to a mound of earth 5 feet square at base and 4½ feet high; thence west 25 miles to the northeast corner of the lands of the Osages described by a mound of earth 6 feet square at the base and 5 feet high; thence south along the eastern boundary of Osage lands 50 miles to the beginning, containing 800,000 acres.

Therefore, in execution of the agreement and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 14,374,135.14 acres: To have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee Nation forever; subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain, on the Western prairie, referred to in the second article of the treaty of the 29th of December, 1835, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article; and subject also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved; and subject also to the condition provided by the act of Congress of the 28th of May, 1830, referred to in the above-recited third article, and which condition is that the lands hereby granted shall revert, to the United States if the said Cherokee Nation becomes extinct or abandons the same.

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of December, in the year of our Lord 1838, and of the Independence of the United States the sixty-third.

[L. S.] M. VAN BUREN.

By the President:

H. M. GARLAND,
Recorder of the General Land Office.

AN OUTLET ONLY WAS GRANTED.

[Extracts from the speech of Senator VEST, of Missouri, in the Senate, March 3, 1889.]

To show the nature of this grant, as early as October 8, 1821, John C. Calhoun, then Secretary of War, wrote the following letter to the chief of the Arkansas Cherokees:

"SECRETARY CALHOUN'S LETTER.

"DEPARTMENT OF WAR, *October* 8, 1821.

"BROTHERS: I have received your communication of the 24th of July last, complaining that the promises of the Government in relation to intruders upon your lands and to an outlet to the west have not been performed. It has always been its intentions to carry into effect fully every promise made to you, and which I was under the impression had been done, particularly upon the points complained of, as orders were issued some time since for the removal of the whites from your lands and from the tract of country to the west of your reservation commonly called "Lovely's purchase," by which you would obtain the outlet promised. Copies of these orders are herewith inclosed for your information.

"Governor Miles, who is now here, on his return to the Arkansas Territory, informs me that he knows of but one person who has settled upon your lands, and he believes that person resides there with the permission of the nation.

"He is, however, authorized to call the attention of Major Bradford to the orders above referred to, and if they should not have been previously carried into effect, to request him to do so, without further delay. It is to be always understood that in removing the white settlers from Lovely's purchase for the purpose of giving the outlet promised you to the west you acquire thereby no right to the soil, but merely to an outlet, of which you appear to be already apprised, and that the Government reserves to itself the right of making such disposition as it may think proper with regard to the salt springs upon that tract of country. * * *

"J. C. CALHOUN.

"TEKE-E-TOKE, JOHN JOLLY, BLACK FOX, W. WEBBER, THOS. GRAVES,
"*Chiefs of the Arkansas Cherokees.*"

Now, to show that the Indians understand that this was an outlet and that at that time they could not possibly have thought they had this fee-simple title or anything like it, I read from the treaty of 1828, which is the substratum of all their right, upon which all subsequent treaties have been based and upon which they must stand to-day in regard to their claims in that patent.

In the treaty of 1828, as I was proceeding to say, they accepted the construction of Mr. Calhoun upon this grant of the Cherokee Outlet.

"And whereas the present location of the Cherokees in Arkansas being unfavorable to their present repose, and tending, as the past demonstrates, to their future degradation and misery; and the Cherokees being anxious to avoid such consequences, and yet not questioning their right to their lands in Arkansas, as secured to them by treaty, and resting also upon the pledges given them by the President of the United States and the Secretary of War of March, 1818, and 8th October, 1821, in regard to the outlet to the West."

That is the letter incorporated in their treaty, which I have read, from Mr. Calhoun to the Cherokee chiefs, and in which he tells them that they do not own the soil, and tells them that it is only an outlet to the hunting grounds in the West, and yet they succeeded afterwards in the turmoil and confusion and uncertainty that followed the war in obtaining this treaty of 1866, in which there was a quasi recognition of what is called now a fee-simple title to the Cherokee Outlet.

[Extracts from the speech of Hon. WILLIAM WARNER, of Missouri, in the House of Representatives, January 30, 1889.]

In an able opinion delivered by Judge Brewer in 1887 that distinguished jurist used this language:

"Manifestly Congress set apart the 7,000,000 acres as a home, and that was thereafter to be regarded as set aside and occupied, because, as expressed in the preamble of the treaty, Congress was intent upon securing a permanent home; beyond that the guaranty was of an outlet—not territory for residence, but for passage ground, over which the Cherokees might pass to all the unoccupied domain west. But while the exclusive right to this outlet was guarantied, while patent was issued conveying this outlet, it was described and intended obviously as an outlet and not as a home." (U. S. *vs.* Soule *et al.*, 30 Fed. R., page 918.)

The language of Mr. Calhoun with reference to the Cherokee title in and to the "outlet" was:

"You"—

The Cherokees—

"acquire thereby no rights to the soil, but merely an outlet."

The language of Judge Brewer in the opinion just quoted says of the "outlet" and the intent of Congress:

"Congress was intent upon securing a permanent home; beyond that the guaranty was of an outlet—not territory for residence, but for passage ground, over which the Cherokees might pass to all the unoccupied domain west."

There is nothing in the case of Holden *vs.* Joy (17 Wall.) in conflict with the position taken by the Secretary of War in 1821 or the opinion of the learned jurist, Judge Brewer, rendered in 1887, the case of Holden *vs.* Joy having been decided in 1872. The Supreme Court passed on the title which the Cherokees acquired in and to the "Cherokee neutral lands" under the treaty of December 29, 1835 (7 Statutes at Large, 479). None of these lands are or ever were embraced in what is known as the "Cherokee Outlet." There were 800,000 acres of these neutral lands. For them the Cherokees paid $50,000; by the terms of the treaty of 1835 they were to be conveyed to the Cherokees "by patent in fee-simple."

In 1880 Attorney-General Devens held that the Cherokees had no right to settle those of their own nation on the lands in this Outlet, and further that—

"No person attempting a settlement on these lands can justify under any authority given by the Cherokee Nation." (16 Attorney-Generals' Opinions, 470.)

[Extract from the speech of Hon. C. H. MANSUR, of Missouri, in the House of Representatives, February 25, 1888.]

After I had read and examined these treaties and learned that a patent had been issued embracing the "Outlet," I began to hunt for the authority by which it was made to embrace the Outlet, and especially the authority that prescribed its boundaries, its metes and bounds; and to my mind I find no sufficient authority therefor in any law or treaty for a patent in fee to the lands in the Outlet. When we remember that in 1828 the entire country west of Arkansas was wild and unorganized, the home of roving bands of Indians, a country unknown except to the hunter and ranger, while vast droves of buffalo covered the face of the earth, which were to the Indians bread, meat, clothing, wealth, we can at once understand the necessity to the Cherokees of an outlet from their reservation, and the right to hunt, kill, and appropriate at will the buffalo of the plains. I began to inquire for the origin of the Outlet, thinking if I could find it that I would surely learn that it was intended to be a mere right of passage over certain lands, an easement granted to the Cherokees for the purpose of passing to the great hunting plains of the West. After divers inquiries I was referred to the letter of Mr. Calhoun, which I have read in your hearing above, and, lo! the riddle was expounded. Mr. Calhoun states:

"It is to be always understood that in removing the white settlers from Lovely's purchase"—

For what?—

"for the purpose of giving the outlet promised you to the west, you thereby acquire no right to the soil, but merely to an outlet of which you appear to be already apprised."

Now, here the soil is expressly reserved. But this is not all. The Secretary, proceeding further, says: "The Government reserves to itself the right to make such disposition of the Outlet as it may think proper with regard to salt springs." This was seven years before the first treaty of 1828 was made, and this reservation of salt springs and of the right of other Indians, at the pleasure of the United States, to go to the salt springs and use the same, and thereby use the Outlet also, is expressly reserved in the treaty of 1833 and reiterated in that of 1835.

An examination of the treaties or inquiry upon my part where the authority for locating the Outlet existed has so far resulted in failure. I went in person to the Land Office some days ago and explained fully the character of the information I desired, and in due time received the letter of the Land Commissioner just read in your hearing. To my mind the letter does not give or cite any due authority for granting in fee the lands of the Outlet, or establishing its boundaries by metes and bounds, as now constituted.

The act of Congress of May 28, 1830, does not suffice. It simply calls for the patent to be made in certain cases by the Government to the Indians; nothing more. By article 2 of the treaty of 1835 it is stated:

"Whereas by the treaty of May 6, 1828, and the supplementary treaty thereto of February 14, 1833, with the Cherokees west of the Mississippi, the United States guarantied and secured to be conveyed by patent to the Cherokee Nation of Indians the following tract of country: Beginning at a point, * * * to said due west line, to make 7,000,000 of acres within the whole described boundary. In addition to the 7,000,000 of acres of land thus provided for and bounded, the United States further guaranty to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said 7,000,000 acres, as far west as the sovereignty of the United States and their right of soil extends: *Provided, however*, That if the saline or salt plain on the western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plains in common with the Cherokees, and letters patent shall be issued as soon as practicable for the land hereby guarantied."

In article 3, same treaty, is reiterated as follows:

"The United States also agree that the land above ceded by the treaty of February 14, 1833, including the Outlet, and those ceded by this treaty, shall all be included in one patent, executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830."

I call attention that by the terms of article 3 the lands ceded by two treaties, including the Outlet, but not the lands of the Outlet, are all to be included in one patent. I now call attention to the language of article 2, just read. The United States guaranty and secure to be conveyed by patent a tract of country (describing it) to contain 7,000,000 acres; then the Government proceeds and says, "In addition to the 7,000,000 acres thus provided for and bounded, we further guaranty to you a perpetual outlet west and a free and unmolested use of all the country west of the western boundary of your 7,000,000 acres as far as the sovereignty of the United States and its right of soil extends."

Now, in the case of the 7,000,000 acres, the treaty uses this language, "guarantied and secured to be conveyed by patent." What? The 7,000,000 acres, bounded as stated. Then when it comes to the outlet uses this language, "In addition to the land we guaranty a perpetual outlet west." A marked distinction in language and meaning.

And in a prior treaty made with the Cherokee Nation in 1834 they use this language:

"The United States agrees to possess the Cherokees and to guaranty it to them forever, and that guaranty is hereby pledged, of 7,000,000 acres of lands, to be bounded as follows, namely."

After describing the land, the article proceeds:

"The United States further guaranty to the Cherokee Nation a perpetual outlet west and a free and unmolested use of all the country lying west."

And the article concludes as follows:

"And the letters patent shall be issued to the United States for the land hereby guarantied."

Saying nothing about the Outlet.

It will thus be seen in the passage the "letters patent" do not really call for any outlet to be included.

I have been unable to find any other law or treaty bearing upon this question, and without further comment state that I see no sufficient reason in law or equity to include the fee of the lands in the Outlet in the patent issued by the Government to the Cherokee Nation. Nor do I find anywhere any valuable or other consideration emanating from the Cherokee Nation to the United States to support a change of the easement or right of passage over and on top of the lands of the Outlet into a fee or full ownership of the land.

OPINION OF ATTORNEY-GENERAL GARLAND AS TO THE VALIDITY OF THE LEASES OF THE CHEROKEE STRIP LIVE-STOCK ASSOCIATION AND OTHER CATTLE COMPANIES IN THE INDIAN TERRITORY.

DEPARTMENT OF JUSTICE, *Washington, July* 21, 1885.

SIR: By your letter of the 8th instant, inclosing a communication from the Commissioner of Indian Affairs of the 7th, the following questions are, at his suggestion, submitted to me with request for an opinion thereon:

"Whether there is any law empowering the Interior Department to authorize Indians to enter into contract with any parties for the lease of Indian lands for grazing purposes; and also whether the President or the Interior Department has any authority to make a lease for grazing purposes of any part of any Indian reservation, or whether the approval by the President or the Secretary of the Interior would render any such lease made by Indians with other parties lawful and valid."

These questions are propounded with reference to certain Indian reservations, namely:

1. The Cherokee lands in the Indian Territory west of the ninety-sixth degree of longitude, except such parts thereof as have heretofore been appropriated for and conveyed to friendly tribes of Indians.

2. The Cheyenne and Arapaho reservation in the Indian Territory.

3. The Kiowa and Comanche reservation in the Indian Territory.

Our Government has ever claimed the right, and from a very early period its settled policy has been, to regulate and control the alienation or other disposition by Indians, and especially by Indian nations or tribes, of their lands. This policy was originally adopted in view of their peculiar character and habits, which rendered them incapable of sustaining any other relation with the whites than that of dependence and pupilage. There was no other way of dealing with them than that of keeping them separate, subordinate, and dependent, with a guardian care thrown around them for their protection. (3 Kent Com., 381; Beecher *vs.* Wetherby, 95 U. S., 517, where most of the cases on this subject are cited and discussed.)

Thus, in 1783 the Congress of the Confederation, by a proclamation, prohibited "all persons from making settlements on lands inhabited or claimed by Indians without the limits or jurisdiction of any particular State, and from purchasing or receiving any gift or cession of such lands or claims without the ex-

press authority and direction of the United States in Congress assembled," and declared "that every such purchase or settlement, gift or cession, not having the authority aforesaid, is null and void, and that no right or title will accrue in consequence of any such purchase, gift, cession, or settlement." By section 4 of the act of July 22, 1790, chapter 33, the Congress of the United States enacted "that no sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any State, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States." A similar provision was again enacted in section 8 of the act of March 1, 1793, chapter 19, which by its terms included any "purchase or grant of lands, or any title or claim thereto, from any Indians or nation or tribe of Indians, within the bounds of the United States." The provision was further extended by section 12 of the act of May 19, 1796, chapter 30, so as to embrace any "purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto." As thus extended it was re-enacted by the act of March 3, 1799, chapter 46, section 12, and also by the act of March 30, 1802, chapter 30, section 12.

In the above legislation the provision in terms applied to purchases, grants, leases, etc., from individual Indians as well as from Indian tribes or nations; but by the twelfth section of the act of June 30, 1834, chapter 161, it was limited to such as emanate "from any Indian nation or tribe of Indians." And the provision of the act of 1834, just referred to, has been reproduced in section 2116, Revised Statutes, which is now in force.

The last-named section declares: "No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity unless the same be made by treaty or convention entered into pursuant to the Constitution."

This statutory provision is very general and comprehensive. Its operation does not depend upon the nature or extent of the title to the land which the tribe or nation may hold. Whether such a title be a fee-simple, or a right of occupancy merely, is not material; in either case the statute applies. It is not, therefore, deemed necessary or important, in connection with the subject under consideration, to inquire into the particular right or title to the above-mentioned reservations held by the Indian tribes or nations respectively which claim them. Whatever the right or title may be, each of these tribes or nations is precluded by the force and effect of the statute from either alienating or leasing any part of its reservation, or imparting any interest or claim in and to the same, without the consent of the Government of the United States. A lease of the land for grazing purposes is as clearly within the statute as a lease for any other or for general purposes, and the duration of the term is immaterial. One who enters with cattle or other live-stock upon an Indian reservation under a lease of that description, made in violation of the statute, is an intruder, and may be removed therefrom as such, notwithstanding his entry is with consent of the tribe. Such consent may exempt him from the penalty imposed by section 2117, Revised Statutes, for taking his stock there, but it can not validate the lease, or confer upon him any legal right whatsoever to remain upon the land; and to this extent and no further was the decision of Judge Brewer in United States *vs.* Hunter, 21 Fed. Rep., 615.

But the present inquiry in substance is (1) whether the Department of the Interior can authorize these Indians to make leases of their lands for grazing purposes, or whether the approval of such leases by the President or the Secretary of the Interior would make them lawful or valid; (2) whether the President or the Department of the Interior has authority to lease for such purposes any part of an Indian reservation.

I submit that the power of the Department to authorize such leases to be made, or that of the President or the Secretary to approve or to make the same, if it exists at all, must rest upon some law, and therefore be derived from either a treaty or statutory provision. I am not aware of any treaty provision applicable to the particular reservations in question that confers such powers. The Revised Statutes contain provisions regulating contracts or agreements with Indians, and prescribing how they shall be executed and approved (see section 2103); but those provisions do not include contracts of the character described in section 2116, hereinbefore mentioned. No general power appears to be conferred by statute upon either the President or Secretary, or any other officer of the Government, to make, authorize, or approve leases of lands held by Indian tribes; and the absence of such power was doubtless one of the main considerations which led to the adoption of the act of February 19, 1875, chapter 90, "to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany reservations, and to confirm existing leases."

The act just cited is, moreover, significant as showing that, in the view of Congress, Indian tribes can not lease their reservations without the authority of some law of the United States.

In my opinion, therefore, each of the questions proposed in your letter should be answered in the negative, and I so answer them.

I am, sir, very respectfully,

A. H. GARLAND, *Attorney-General.*

The SECRETARY OF THE INTERIOR.

LETTER OF SECRETARY VILAS ON THE RIGHT OF THE INDIANS TO LEASE THEIR LANDS TO CATTLE COMPANIES.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., September 28, 1888.

SIR: In view of the information of this Department that some steps have been taken by you, or by the council or other authorities of the Cherokee Nation, with a purpose either to renew the lease which was heretofore made with certain parties, calling themselves the Cherokee Strip Live-Stock Association, or with an association or corporation of that name, and which it is understood is about to expire or has expired, or to execute some other lease or agreement for the use or occupancy of the lands of the Cherokee Outlet or some part thereof, and that a session of the Cherokee Council is about to convene with a view to the enactment of measures to that end, I have the honor to advise and inform you, and through you the Cherokee Council and authorities of the Cherokee Nation, that the United States Government will recognize no lease or agreement for the possession, occupancy, or use of any of the lands of the Cherokee Outlet as of any legal effect or validity upon the rights of the United States or as conferring any right or authority or privilege over said lands upon any lessee, but that any such lease or agreement, if any should be made, will be without the authority or consent of this Government thereto, will be subject to cancellation, and any use or occupation by any lessee, or any person under such lessee, subject to instant termination by this Department at any time whenever any such action shall be for any reason deemed proper by the President or this Department, and will be subject to any legislation whatever, general or special, which Congress may enact affecting that portion of the Cherokee country or affecting the occupancy of any Indian lands for any purpose whatever, whether for grazing, pasturage, or otherwise.

I desire that this notice of the views and rights of this Government shall be communicated to the council and to any persons who may be in or contemplating negotiation, or may enter into negotiation, with the authorities of the Cherokee Nation for any such use or occupancy, in order that there may be no misconception or misunderstanding upon the subject.

Very respectfully, yours,

WM. F. VILAS, *Secretary.*

Hon. J. B. MAYS,
Principal Chief, Cherokee Nation,
Tahlequah, Indian Territory.

Suppressing of Labor-Saving Machines by Act of Congress—Uses and Abuses of Opportunity.

SPEECH

OF

HON. BENJAMIN BUTTERWORTH,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889.

The House having under consideration the conference report on the bill making appropriations for sundry civil expenses of the Government, on the item with reference to the use of steam plate-presses in the Bureau of Engraving and Printing—

Mr. BUTTERWORTH said:

Mr. SPEAKER: In regard to the character of the work these steam-presses do I beg to call the attention of the House to one controlling fact. It is this: The experts who were called by the organization which is seeking to have these presses thrown out having placed before them a number of bills, a part of which were printed by the steam-presses and a part by the hand-presses, that part of each bill by an inspection of which they would be enabled to tell whether it was printed by hand-press or by the steam plate-press being concealed, and the expert interrogated as to which was the better work, three times out of four selected the bill printed by the steam plate-press as being the better work, as it doubtless was.

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

Mr. BUTTERWORTH. I beg my colleague's pardon, but I have only three minutes, and must decline to yield. I repeat, the experts selected the bills printed by steam-presses as being the better work.

Mr. WHEELER. Because they were fixed up for that purpose.

Mr. BUTTERWORTH. Yes, sir. They were fixed up by the steam plate-presses, and in that way only.

Mr. GALLINGER. That was not true of the examination before the House committee.

Mr. BUTTERWORTH. There are not, as this committee knows, hand plate-printers enough in the United States to do the work that must be done. The use of the steam-press has multiplied over and over again the quantity of this character of work. This increased amount of work results from the fact that the cost has been cheapened and this character of printing is used in many instances because useful and beautiful where plainer or an entirely different kind of work had been used before, so that to throw out of use this labor-saving machinery is simply to confirm by law the establishment of a trust or combine which will control this great industry more fully than the Standard Oil Company controls the oil business or the sugar trust controls the sugar market. I call attention to this because gentlemen upon this floor are accustomed to denounce trusts, syndicates, and combines with great earnestness, and I join with them in the denunciation of these powerful organizations, but I desire that gentlemen should be consistent. The necessity of preventing a trust from throttling the law of supply and demand in one case is equally apparent in the other.

The investigation by the Senate committee, not made under the controlling influence of the necessities of a political campaign, leaves no trace of doubt that the interest of the Government and the interest of the people, and, in fact, the highest interest of both, if they are indeed separable, demands that these labor-saving machines be utilized hereafter as heretofore. To say that they shall not be is simply to say that all labor-saving machinery wars against the interest of American workmen. Such a statement would be absurd, although there are a vast number of persons who believe that the influence of the introduction of labor-saving machinery is to reduce the number of men employed and reduce the wages of those who obtain employment. The exact reverse of the proposition is true, as I can abundantly prove.

The destruction of these plate-printing presses is a plain step toward throwing the Hoe press out of the public printing establishment, driving reapers and mowers from the fields, breaking cotton gins, cutting down telegraph lines, and destroying the improved methods for doing away with human drudgery and increasing the comfort, convenience, and happiness of our people. I do not hesitate to say that it would be a more manly thing, in comparison with what is proposed in this bill, to authorize forcible methods to be used against the men who stand at these steam plate-printing presses, to deprive them of their opportunity to earn bread.

Mr. Speaker, I have given careful consideration to this matter, and I feel keenly the humiliation involved in the step we are urged to take. My friend from New York [Mr. FARQUHAR] says we want this work printed in the highest style of art. I agree with the gentlemen that we want this work well done, but his remark seems to imply that the work is not well done; but there he is in error. He constantly calls attention to the fact that the face of the bills which circulate in lieu of money can not be printed upon this press. I repeat again, nobody has claimed that it could be, and it is not attempted to do it, because the character of the work is different. But it is a startling proposition

that because a certain printing-press will not do one kind of work, it shall not be used for doing another kind of work which it does do well. The fact is the opposition resort to special pleading, and what is said smacks of an excuse for doing an act against which we naturally revolt.

Mr. FARQUHAR. One moment.

Mr. BUTTERWORTH. I would yield if I had time, but I have not.

Mr. FARQUHAR. The hand-press prints both the face and the back of the notes, and they have never been printed so well by the steam-press. That is my proposition.

Mr. BUTTERWORTH. My friend fails again to draw the line between the two classes of work. We have not contended, I repeat, that these presses print the face of the bill, but as to the back and the part of the work that they are designed to do, the gentleman's own witnesses do not sustain him in the assertion he makes, for not only is the testimony of the several Secretaries of the Treasury during several administrations, and all of those whose duty it is to see that this work is well done, that these machines meet every requirement, but the experts who were summoned to denounce the work of the steam-presses testified that it was superior to that of the hand-presses. They came to scoff but remained to praise.

The SPEAKER. The three minutes of the gentleman from Ohio [Mr. BUTTERWORTH] have expired.

Mr. BUTTERWORTH. I want one minute more.

Mr. LONG. I yield the gentleman a half a minute more.

Mr. BUTTERWORTH. The pending proposition involves something beyond a question of price. The course proposed is not in an open, manly way to break these printing-presses with a hammer, or throw them out into the street, but to fix the rate of compensation for the printing at a nominal sum, which is equivalent to saying that if the presses are used their use will be without compensation, thus doing indirectly that which we hesitate to do directly, for the strong reason that the act is against the civilization of the age; it is a fight against progress; it is an effort to appeal from the methods of civilization to those of barbarism, and this House can not afford to do that.

I beg to call the attention of the House, and of the country, to the fact that the real question underlying this proposition is one of transcendent importance. Our action to-day will tend to uphold or deliberately strike down the independence and manhood of American workmen. We will determine to-day whether Congress is the champion of the freedom and the dignity of American labor or the friend of trusts and combines.

The fact that the throwing out of this labor-saving machinery is demanded by a labor trust does not sanctify the demand any more than if the request was preferred by a sugar trust or beef syndicate. The fact that the former controls a number of votes and the latter does not may serve as an excuse for our votes, but can not justify our action in omitting to vindicate the most important rights of an American citizen.

Do not fail to keep in mind that there is something involved beyond a mere determination whether the Government shall pay one price or another for having certain work done. Beyond all this it opens up the whole question of the rights and duties of the individual citizen. The most sacred rights of American workmen are involved. We are called upon to-day to decide whether the authority of the Government may be successfully invoked to prevent the use of labor-saving machinery and whether syndicates, trusts, and combines are to be fostered and encouraged, and whether the freedom, dignity, and independence of American labor is to be maintained. A question more vital to the interests of the freemen of this country has never been discussed in this House, and I may be pardoned for expressing surprise at the seeming indifference manifested by many gentlemen upon this floor, and confess to being humiliated in observing there is too much reason to believe that vote-catching is regarded as of higher consequence than the preservation of the rights, liberty, and the independence of the individual citizen. But this vote-catching policy may in good time operate the other way, and lose instead of gaining votes.

It will be observed, as I have stated before, that these steam plate-presses have been used for a number of years, have been thoroughly investigated time after time by the Secretary of the Treasury and those whose duty it is to know what is required to protect the public interest and see to it that that interest does not suffer.

Over a hundred thousand dollars a year is saved by the use of this press. Not only that, but probably more than five times that sum is saved by reason of the influence of these presses to prevent an absolute monopoly, or close combine, or well-managed trust, to control arbitrarily all this class of work. So fully and clearly was it shown before the Senate committee that these power-presses not only did their work well, but did it better than the average run of hand-work, that the Senate committee was unanimous in favor of retaining these presses, though, under the threat of the House that the sundry civil bill would be lost and an extra session result, they backed down and allowed the House, in a spirit of demagogy, to put aside the labor-saving machinery and uphold a monopoly or close combine, and that although members on this floor have been for years earnestly denouncing monopolies, trusts, and combines as ulcers on the body politic.

Who are interested in having this wrong done, and what influences will secure it? Two organizations are anxious to have these power-presses destroyed. First, the organization of plate-printers, in order to secure absolute control and a complete monopoly of this industry, and, acting in the same direction, and in aid of the accomplishment of what the plate-printers propose, is a bank-note company of New York. Once destroy this power-press and the Government will be at the mercy of this New York corporation and this association of hand plate-printers. The result will be that the people of this country will be taxed half a million, or a million dollars or more each year as the work grows, and that sum will go to the American Bank Note Company and a certain number of individuals who form this labor trust. In other words, these men will have succeeded in striking down or controlling all competition, and exercising more power in this industry than any trust or combine in this country now exercises with reference to any other. Its power will be the same, and its influence just as bad as that of the Standard Oil trust, or the beef trust, or the sugar trust. They are one and the same in spirit, principle, and purpose, no matter what the thing supplied is—whether labor or wheat—whether labor or sugar or oil. The result of the arbitrary control of the supply by a combine is dangerous to the well-being of the community.

It is proper to say here that a committee of this House was appointed to look into this matter. They were appointed in the midst of a national political battle, the Presidential contest, and I do not make any mistake in asserting that it was not unnatural that the honorable gentlemen should have reasoned in the direction of their desires, and, without any disrespect to the members of that committee, I assert that it is not violent to suppose if they had been in private business, and had nothing to do with politics, and no active personal concern about the result of the political contest, the investigation might have resulted differently. There would have been an absence of disposition to merely respond to the demands of an organization which it was believed controlled a vast number of votes, which votes would be cast in favor of the party which was most subservient in building up the trust or combine.

I am concerned about this matter, not because the Government can not stand the loss of a half a million or a million or several millions of dollars, but because American freemen can not afford to have their independence and manhood, and the rights and privileges which appertain to both, sacrificed by this House, in the hope and expectation that members indulging in that pastime may receive the suffrages of the members of certain organizations as a compensation.

I have listened with a great deal of interest to arguments and suggestions in regard to the rights of American workmen, and have noted how common it is to pay tithes of anise, mint, and cumin, while leaving the weightier matters of the law undone. There is nothing so good to conjure with now as the word labor. There has not been an act passed by this body which had in it the leaven of injustice to American workmen since I have been a member that has not been urged in the name of labor. The freedom and independence of the American workman has not been abridged in a single instance by any law of Congress since I have been a member, except in the name of the very men whose rights were abridged. It recalls to my mind the course of the Roman senate. It is known to gentlemen upon this floor that whenever that body of Roman legislators desired to commit a wrong upon the citizens of Rome, to restrict their liberties, or impose additional burdens upon them, it was the invariable custom to couple the name of the people with the decrees of the senate.

Gentlemen may think I am discourteous in using language that is severely plain, but no other language will fairly meet this case. When this question was considered on the 23d of January, the discussion naturally took a somewhat broader range than the consideration of the merits of these printing-presses. It involved the influence on the well-being of the country, of the peculiar methods often resorted to by labor organizations on the one hand, and trusts, syndicates, and combines on the other. This is an opportune time for me to say a word of the relations of these two agencies to the rights and liberties of the people; not the well-being of a few, but the well-being of the many—the masses. The criticism I make is not upon individuals, but upon methods and practices which individuals utilize improperly to attain wealth or power or both. The broadest opportunity consistent with the rights of the citizen should remain, but the abuse of it should be prohibited.

A statement was made at that time, by some gentlemen who were more anxious to find an excuse for an unwise vote than to state the precise truth, that I had opposed labor organizations. The statement was entirely at variance with the fact. There is not a syllable in my remarks of the 23d of January that even squints in that direction. The exact reverse is true. I believe in organization to promote the good of all concerned, to disseminate intelligence, to prosecute needful investigation, for the purpose of developing the best methods, securing the largest opportunity, and increasing the prosperity and happiness of all. It was not with the organization, but with certain methods of the organizations that I had my quarrel.

To oppose an organization is one thing; to oppose the unwise methods of an organization is quite another. An organization may be not only defensible, but in the highest degree commendable, its purposes wise, and most of its methods may be such as to challenge our approval and even admiration, and yet there may be other methods it adopts which are not defensible, or even excusable. That against which I protested

was the disposition of these organizations, whether it be the sugar trust, the Standard Oil trust, beef trust, or labor trust, no matter for what purpose it was organized, to resort to force or fraud to accomplish its object. I complain of the disposition to absolutely control and destroy all competition, to limit and in large measure abridge the most important privileges of the citizen by the far-reaching power of wealth on the one hand, or the use of intimidation or violence upon the other.

Both methods are equally inexcusable. They are as dangerous to the permanency of free institutions and point to the anarchy of the approach of which they are the ominous harbingers. One controls the market in which the farmer sells his cattle, the other controls the market in which I want to dispose of my service. The one says I shall not sell my cattle or oil or sugar except by its permission; the other says I shall not contract for my labor except with its permission. The beef trust says I shall not carry on the occupation and trade of a butcher except it please the syndicate to permit it. The other says no boy or man in America shall learn the trade of a plate-printer or carpenter or machinist except the combine consent. The result is that butchers are compelled to quit business or conduct it with and on the terms dictated by the Chicago dressed-beef trust, and farmers receive for their cattle what the trust is pleased to pay, and the consumer of beef must pay for his meat such price as the trust sees fit to demand. Our boys can not learn the carpenters' or any other trade without the permission of a labor trust; and thus American freemen are reduced in the matter of their natural rights to the condition of slaves. I am perfectly aware that no such thing is intended by any labor organization. But what I point out is the fact that the rules and methods I object to tend to do just that thing, and will in the end destroy the freedom of the individual citizen. The only safe methods are those which are in perfect harmony with the personal liberty of the individual.

The Standard Oil trust is often defended because, as is said, whether truly or not, that it has reduced the price of oil to the consumer. The sugar and beef trusts are defended because, they tell us, they are engaged in a mere business venture, and it is nobody's business but their own how they conduct that business so they do not violate the letter of the law. They are working to promote their individual interests, which is, of course, their right, as an abstract proposition. But we find the danger in the manner in which they accomplish results. It will be observed that they succeed by the utilization of great wealth and certain public agencies, such as corporations, railways, ship lines, telegraphs, telephones, etc., in throttling the law of supply and demand, and, within a certain range, fixing the price of the commodity to the consumer. As intimated the beef trust fixes the price of cattle at the pasture of the farmer, and it is needless to say that he is in hard lines in the presence of the low prices received for his cattle. They also arbitrarily fix the price of meats to the consumer, and we are living witnesses to the fact that, while the price of cattle in the pasture is so low as to suggest bankruptcy among the farmers and producers of cattle, meat is so high in the markets of the country as to suggest not only the bankruptcy of the consumers, but scant allowance on the table of the citizen.

The same condition obtains with reference to the producers and consumers of sugar and oil, and these agencies, by which the law of supply and demand is paralyzed, are becoming so powerful that they control legislative bodies and defy any and every attempt to regulate their authority or abridge their power. It is not of the first consequence whether they reduce the price of a given commodity or not. It is true, however, that they do not do anything of the kind. But whether they do or not, this is not a country in which the liberties of the people, their rights and privileges, can be secure in the presence of the arbitrary exercise of the one-man power.

I do not hesitate to assert that our system of Government is seriously threatened from several directions. One danger proceeds from the power and influence of aggregated capital and combined wealth. Its power to-day in this country is unlimited. He is a brave man who dares call in question the right of individuals to employ their own capital according to their pleasure and without reference to the opportunities or rights of others. The agencies mentioned, which are at the command of combined capital, to wit, railroads, telephones, telegraphs, and the thousands of other instrumentalities by which communication can be had and the facility with which that can be consummated in an hour or a few hours which a few years ago required days, weeks, and even months, not only suggest but in the light of our daily observation and experience leave no doubt that far within the range of the opportunity and privilege authorized, or rather permitted by law, combined capital may and in fact does exert an influence and wield a power absolutely at war with the liberty and rights of the citizen.

The startling announcement has been made, as the result of careful investigation, that within ten years from to-day, if we move steadily along the line we are now pursuing, 75 per cent. of the wealth of the United States will be controlled by 1 per cent. of our people. I am stating the condition clear within the limit warranted by the facts. It is needless to say that that condition of things could not continue long, not because it would be impossible to have all the property in the United States under the control of one man and yet the people enjoy the largest liberty and the fullest measure of happiness, but because, while such a condition of things is remotely possible, it is not in any wise even remotely probable.

Wealth has always been in every nation the fruitful source of corruption, in public and in private life, and that corruption insures the decay of the civic virtues in the wake of which swiftly follows the overthrow of free institutions and the establishment of despotism. I believe to-day that Congress is powerless to successfully combat these agencies. I have read articles in which it is claimed that trusts, syndicates, and combines are a positive advantage; that they tend to cheapen products and to prevent that destructive competition which ends in the bankruptcy of the competitors. The argument does not go to the root of the matter nor suggest the real point of danger. There is something of vastly more importance to the people of the United States than a difference of a few cents in the price of a gallon of oil or pound of sugar. It is the preservation of that homogeneity of privilege and opportunity among the citizens in the absence of which freedom is a farce and so-called independence a delusion and snare.

A writer in one of the magazines recently tried to make it clear that there is no danger in trusts. They will run their course and perish, said he. That is true; and it is equally true of locusts and cholera and yellow-fever and the potato bug, but that is no excuse for permitting either to exist if we can prevent it and still less an excuse for encouraging the plague. It is gratifying to know there will be an end of each. The extent of the ruin each may work before perishing is an important inquiry.

Admitting that the price of the article is reduced, which is not the fact, for capital is as heartless as a wolf; but suppose it were true; it destroys the opportunity of the individual citizen; it enthrones the president of a combine and the manager of a trust as a king, who exercises in this country more power, or as much, as a crowned head exercises in Europe.

Homogeneity among our people in the matter of their opportunities and privileges is absolutely indispensable to the permanency of free institutions based upon popular suffrage. It is a melancholy spectacle to see one individual owning one hundred homes, and ninety-nine citizens homeless, particularly when half the one hundred are quite the peers, morally and intellectually, of the citizen who owns the one hundred houses. Wealth is now so readily utilized in multiplying itself that it can absolutely, or at least in large measure, control the law of supply and demand. We witness it every day. It has the power to forestall every market, whether it be the cattle market, the sugar market, or the real-estate market. The great mass of the people are compelled to pay large tribute to the few, nor would this be cause of complaint if in exacting that tribute the opportunities, privileges, and rights of the many were not abridged in a manner which may not be lawless, but lacks the spirit of Christian philanthropy and the leaven of unselfishness. These organizations are fortified, and whether they will ever be destroyed, except by revolution, is problematical.

Of the same character and not less dangerous we have organizations which attempt, and in fact succeed, by intimidation and violence, in controlling the law of supply and demand in the matter of labor. These organizations exist all over the country, and arbitrarily deprive the men, women, boys, and girls of the United States of the highest right of an American citizen—a right that is more sacred or as sacred as any that pertain to American citizenship.

The highest right of an American citizen is to be permitted to mind his own business, and the highest obligation that rests upon an American citizen is to mind his own business and let that of his neighbor severely alone. The only interference which ought to be tolerated is that which the law, which is the formulated will of the people, permits or sanctions.

These organizations, being similar in every respect to the trusts and combines they would overthrow, yet deny my right to make a contract for my labor except with their permission and on such terms as they are pleased to dictate; and if I, being a carpenter, a blacksmith, or a mechanic, engaged in my calling where these organizations exist, dare to disregard their mandate and attempt to exercise the right of a freeman by contracting for my labor with my neighbor on such terms and subject to such conditions as we agree upon, I am not only in danger of being starved, but in danger of having my head broken. And for what? Simply because I have exercised a right which ought to pertain to every freeman, and in the absence of which he is a cowardly and contemptible slave.

Nor is this all. These organizations deny me the right to teach my boy my trade, and to-day, if I am a carpenter or a machinist engaged in my own shop, I can not take my boys into my shop to help me earn bread, or to learn to earn their own bread, without the permission of one of these organizations. The result is that my boys must go out into some other vocation than that pursued by their father, and if he persists in exercising a right above that of a galley-slave he is put under the ban and is in danger, not only of losing his employment and property, but of suffering bodily injury. I do not state it too strongly. If I can not buy supplies of a farmer on such terms as he and I agree upon; if I can not contract to build a house upon terms satisfactory to me and the citizen who wants the house built; if I can not utilize my powers, mental and physical, within the law as I deem best in winning bread, but must first obtain permission of some organization, in what sense am I a freeman? and what criminal folly it was to fight the battles of the Revolution to establish free institutions.

I was severely criticised by Mr. Powderly for my observations upon the floor of the House in denying the right of any organization to say what trade I should learn or what contract I should make as a free man for the work I might perform. I have no doubt Mr. Powderly believes that he is the especial champion of the workingmen of this country, and I will, for the sake of the argument, agree that he believes his method and his policy are right, and that those men who stood in front of the bakery owned by the poor widow of New York and tried to starve her and her children into submission and obedience to the mandates of the bakers' union were doing God's service. The woman was guilty of hiring a baker that suited her and paying him a price that they could agree upon, and thereupon a choice collection of individuals, having no conception of the spirit of free institutions and no right appreciation of the privileges of an American citizen, stationed themselves in front of her door, to warn off customers, break up her business, and starve the poor creature into submission, her offense being the exercise of a right and privilege, in the absence of which she would be worse than a slave upon a cotton plantation before the war.

I am not forgetful of the fact, and I want to treat all parties to this controversy fairly, that these associations are organized in the interest of labor and in the interest of the American workman. My criticism is not of the purpose, not of the organization; they are both worthy. But the methods I criticise are tyrannical and often cowardly, since it is a war of the many with one. I denounce the system that refuses to permit me to learn any trade I please and to teach my boy any trade he wants to learn as not being in the interest of free, independent, honorable labor. Organized tyranny can never be in the interest of freedom. A combination which arbitrarily deprives citizens of their highest and most sacred right can never be a suitable instrument to guard the liberties of the people.

I repeat and reiterate only that I may not be successfully misrepresented. My quarrel is not with the organization of this craft or that or the other; but when they seek arbitrarily, by fraud, by violence, or by other coercive method to starve or force men into subservience to rules which restrict the opportunities of the boys of this country to learn trades and devote themselves to useful avocations in life, then that organization and those organizations, so far as that method is concerned, is committing a grievous blunder—in fact, something worse than a blunder. It is a crime against the freedom and independence of the American citizen, and to-day there are a hundred thousand tramps upon the highways, driven into idleness and want by the arbitrary exercise of this tyrannical power.

It is a sad spectacle for a citizen to see his own son driven from his side to the highway by the threat that the father will be forced out of employment and starved with his family if he permits that son to assist him in earning bread by learning the calling of his father. And yet such scenes are of daily, yes hourly occurrence. What is the character of the freedom and equality before the law where such tyranny can be successfully practiced?

I have received, since I made my remarks upon the floor of the House on the 23d of January, over three hundred and fifty letters in regard to the tyranny I then condemned, such as the boycott and sometimes violence, to compel observance or the rules of some organization. Every letter except one approved most heartily of my language, condemning the methods that I denounced. These letters were from as many as twenty different States. They were from carpenter and doctor, lawyer and machinist, banker and shoemaker, bricklayer and merchant, hod-carrier and plowman, priest and layman, minister and parishioner. There was but one dissent in all these letters. They were from the freemen of the country, and some of the recitations were full of instruction.

One was from a soldier who had eight children, several of them boys. He endeavored to have these boys learn some trade, in order that they might earn bread. Each boy was turned away from the shops where he applied, kept out by the rules of labor organizations, which limited arbitrarily the number of apprentices that might be employed, and to-day not one of those boys has been able to learn a trade in the land and under the Government his father fought to save. And in some instances a majority of the mechanics in the shop from which the boys were turned away were unnaturalized foreigners, who secured employment on arrival on our shores, while the native-born man and boy were excluded, or if he entered did so at his peril. And I am told that for denouncing this iniquity I will damn myself politically. I reply emphatically, the man who upholds it stands in great danger of being damned here and hereafter.

Just at this point I want to call the attention of Mr. Powderly and his staff to a grievous error upon which they are constantly stumbling. It is that no man can be a champion of the freedom, independence, and dignity of labor unless he turns a grindstone, makes shoes, or, in other words, is employed daily in working with his hands as contradistinguished from working with his brains. And as a result of such teaching citizens are to be divided into classes according to their several occupations and arrayed against each other. And we witness every day as a result of that teaching (no trace of which, thank God, had its origin in a free country or under our Constitution) exhibitions of bitterness and unrest in the community. The test of devotion set up by many so-called champions of labor is the degree of willingness to yield to slavish subserviency to the mandates of the chiefs of certain organizations. As if I had less interest in the freedom and independence and the maintenance of the true manhood and dignity of the American workman (I do not use the word American as descriptive merely of native-born citizens, but the whole body of workmen in the United States) than Mr. Powderly or any one of his aids.

Any intelligent citizen who will use his common sense will see that, to say the least, I will have as much, and I will add ten times as much, interest in upholding the individual liberty and retaining securely the broad opportunities which are our inheritance as citizens of the United States than the grand master workman of the order of the Knights of Labor; and it is a piece of arrogance to assume that he is more the friend and champion of my countrymen than I am. I am aware that the manner in which he at times applies the lash to legislators, and the slavish manner in which they cringe beneath it, is well calculated to induce the belief that legislative bodies are in the main the embodiment of conspiracies against the people. Mr. Powderly seems to think that criticism of his methods are assaults upon the individuals composing labor organizations. That to differ with him is treachery to my countrymen, and to condemn the methods he upholds is not to be tolerated. I am quite willing to concede that he desires to promote the good of the members of his order. But when he arraigns others who dare to differ with him as to the wisdom and expediency of certain methods which he approves as the enemy of American workmen he ceases to be entitled to respect.

But let us inquire upon what foundation rest the claims of some of these champions of labor who pose before the country as if before their advent darkness brooded over all the homes in the land. What have they and theirs at stake more than I have? Instance Mr. Powderly, who criticises me with vindictive spirit. I have ten and possibly a hundred relatives to each one of his who would suffer by reason of the abridgment of the rights, privileges, and opportunities of the citizen. I have four children who are dependent for their success in life upon maintaining in the fullest degree the freedom, independence, and dignity of American workmen. There has not been a war waged in this country within two hundred years for the establishment or maintenance of freedom and equality in which my ancestors and kinsmen did not take part on the side of freedom. Every relative I have in the world depends upon his labor for home and bread, whether that labor be performed with hand or pen or both. The same is true of nineteen-twentieths of the members on this floor.

And in this connection it is well to note that those who denounce me and others for differing with them in regard to what the best methods are for promoting the good of all are usually of that class who never struck a blow for freedom in the land they came from, and come to the United States and attempt to teach the people who established free institutions how to be free, and are impudent enough to denounce all who exercise the rights of freemen as enemies of the workmen of America.

I have little patience with these exhibitions of arrogance, and still less with the intolerance that accompanies them. Organization is important, intelligence is indispensable, and, supplementing these, free and fair discussion is the best avenue to right conclusions, and we have the ballot to correct abuses, and unless it is corrupted it offers adequate means to redress such grievances as can be corrected by legislative enactment.

Mr. Powderly, in a letter addressed to me, said, impliedly, that the course pursued in admitting apprentices in the several mechanical industries is similar to that established by the lawyers for regulating admission to the bar. He is mistaken in his facts and conclusion. Students are examined for admission to the bar to determine whether they are competent to conduct a cause in court where the interests of clients are or the liberty of a citizen is at stake; but lawyers never boycott a lawyer for having his son read law or permitting a neighbor's boy to read law in his office, nor do doctors employ that course.

Let us apply this system to the farmer. Suppose those who labor on farms should arbitrarily fix the price of that labor, draw the rule rigidly, and exclude everybody from the harvest field by force, unless they received $3 or $5 a day. How many would there be at work in the fields, and what would be the price of the potatoes, carrots, cabbage, and wheat produced. Suppose the farmers should form an association and declare that they would limit the number who would be permitted to raise corn, wheat, potatoes, beans, cabbage, pigs, chickens, and other articles grown and produced on the farm, and by force compelled observance of their rule of seclusion, and suppose, further, that the farmer fixed the price of wheat at $2, potatoes at $1.50, eggs at 30 cents per dozen, etc., and enforced the decree by boycott and violence, overturning market wagons, and hammering a farmer occasionally, tearing down barns and the like, how would the consumer fare, and how long would a free people submit to it?

But this is as legitimate and proper as a system of boycott, as that which shuts me out of a machine-shop, or my boy out of a machine-shop, or fixes the price of any commodity arbitrarily. I am not intimating that workingmen may not strike, singly or in a body; that is legitimate and legal, though frequently unwise and inexpedient. But whether it is wise in any given case is matter of judgment. It is a palpable right. But the boycotting is quite another thing, and is, in

my judgment, indefensible. The boycott is an appeal from law to lawlessness, from courage to cowardice, from the manly to brutal methods. It will soon become known who are in fact the sufferers from these bad methods and who bears the burdens. First, the workmen will in the end suffer, and secondly, the people outside of these organizations suffer. They tax every farmer in the country. They tax every man, woman, and child in the United States. Nine-tenths of the citizens of the United States pay tribute to these organizations by reason of their arbitrary exercise of power. The farmer's son is by force shut out from profitable avocations, and in defiance of law. And yet those who practice this tyranny number only about one-sixtieth of the population. And yet one would suppose from the dictatorial manner in which they deprive citizens of their highest rights that they constituted fifty-nine-sixtieths instead of being one-sixtieth part of our population.

Would it not be well for us in our solicitude about votes to consider the interest of the great mass of the people who are interested in maintaining the absolute freedom of the citizen.

Suppose the farmers, teamsters, doctors, and laborers in unskilled occupations, and the great army in other callings should conclude to hold their Representatives to a strict account for surrendering the rights of the many to secure special advantage to the few, there would be an end of time-serving or of the political existence of the member.

Take the case under consideration. There are not a sufficient number of hand plate-printers in the United States to do the work. The organization permits only a certain number, a few, to learn the trade, so you see they establish a trust and have that industry by the throat. They say if we allow a larger number of persons to become skilled hand plate-printers, the supply may become too great, and wages be reduced. Suppose that was true, as it is not, does that confer upon some combine or association the right to arbitrarily shut others out, and if so why may not the farmer do the same, and the lawyer, and doctor, and so on, and if all trades, callings, and crafts may do so, what will we do with the boys and girls who are idle? How will they live, how will we keep them? Or shall they be knocked in the head as redundant population? How short-sighted, not to use a harsher term, they must be who suppose that the permanent freedom and well-being of the people can be subserved by such tyranny.

The vote to suppress the labor-saving machines in the Bureau of Engraving and Printing will deal the independence and highest rights and interests of labor a blow from which they will not recover in years.

I observe that Mr. Powderly in a speech just delivered in Cincinnati denounced all labor-saving machinery as at war with the interest of American workmen. If he has only investigated enough to reach the absurd conclusion that labor-saving machinery wars against the interest of American workmen he has hardly got beneath the bark of the question he is considering. If he will pursue his investigations intelligently and diligently he will discover that the exact reverse of his proposition is true. The fact that American workmen are to-day receiving high wages, and that so many are employed, is due in the main to the inventive genius of my countrymen. Labor-saving machinery never reduced the wages of workmen. But a larger number of mechanics in the United States are employed and each employé is receiving increased wages by reason of the introduction of labor-saving machinery, and the cost of all he buys is reduced, and not only that, but drudgery has practically ceased. Men instead of being mere beasts of burden are intelligent, cultivated workmen and operatives, whose homes bear witness of the education and refinement of the occupants.

I can readily understand why Mr. Powderly, as grand master, speaks with such confidence, and assails with audacity all who criticise the methods, or any method, of the organization at the head of which he is. He is accustomed to see Legislatures run before his threat and obey with promptness, as if he owned the members of the body. He may witness just such a spectacle here to-day; men abandoning their own judgment and imposing burthens upon the people and consenting to deprive American citizens of their inestimable rights in the belief that Mr. Powderly, and those who represent him, as master workmen and walking delegates, can absolutely wreck the political fortunes of any man in public life by simply denouncing him as an enemy of labor and turning loose upon him all who will obey the dictates of their chief.

I beg to call the attention of Mr. Powderly, and I do it respectfully, for I am glad to admit that many good things have fallen from his lips and much wise counsel from his pen, but, I repeat, I beg to call his attention to the fact that the people are awakening to the necessity of arresting every system of wrong and oppression in this country, whether it come from a trust which arbitrarily restricts our right to get a fair price for beef in the market, or compels us to pay an extravagant price for a steak at the butcher shop, or refuses to permit men to attend to their own business without the officious intermeddling of others.

Possibly these legislators who run so humbly before the threats of master workmen and walking delegates will be called to an account by the other and larger number of citizens whose rights and privileges are outraged. Let me see how many there are who dictate legislation; how many there are who are engaged in this business of restricting the rights of all our people. We know where to locate the syndicates, trusts, and combines that are robbing us in the markets of the world and abridging our privileges there. We are able also to locate the other combines and trusts that are tyrannizing the citizens in their highest right, which is to fight the battle of life like free men in their own way, utilizing all the powers of brain and muscle that the Lord has given them. Those who are operating on either flank of the great mass of the people in the form of oil trusts, the sugar trust, the steel trust, the coal trust, or the labor trust are not numerous. They do not represent altogether 3 per cent. of our people, and the time will come when those who yield to either and consent to restrict the rights and privileges of the vast majority will be held to a strict account.

I have been notified, and the notification amuses me, that I am to be sat upon for daring to call in question any method of a labor organization, as if I had no right in the interest of my children and my neighbors' children to combat error, and so strive for better methods and happier conditions. Two of my intimate newspaper friends have expressed solicitude, because I have dared to defend the dignity and independence of American manhood. I appeal to every citizen outside of these combines, to every farmer who holds a plow, in fact to every one who favors personal liberty and the broadest opportunity to see to it that blind and selfish subserviency to the very few involves treachery to the vast number of people whose interests are affected, and that while public servants are seeking to escape from the Scylla of the threats of the trusts and combine on the one hand they may be dashed to pieces on the Charybdis of the righteous wrath of the vast number whose interests they have betrayed.

The methods we complain of are so entirely un-American, so utterly at war with the spirit of our institutions, that they could not be tolerated without incurring the danger to which they inevitably tend. Let me put the case in a nutshell. An organization in this country assumes the right to say, arbitrarily, that the sons of American citizens shall not acquire a trade as a means of earning a livelihood, under penalty of receiving bodily harm if they attempt it. The same organization insists upon its right, and does now exercise the tyranny of preventing American citizens from getting employment according to their own desire and necessities, and this under penalty of punishment both for the employer and the employed.

They assume, also, and exercise the right of fixing the price at which men may work. They assume, also, and exercise the right of taking charge of a man's business, refusing to permit him to have any potent voice in its management. All this abridges the liberty and right of every citizen in the United States, imposes needless burdens upon them, increases the number of paupers and criminals, lines the road with tramps, and tends to the subversion of free institutions. Other organizations are able, some through the lawful and others through the lawless and corrupt use of wealth, to drive out of business thousands and thousands of merchants, tailors, and manufacturers by competition which is unjust or absolutely inhuman and lawless.

They arbitrarily, by reason of the power of their organizations and the far-reaching and corrupting influence of money, depress the market where the producers of the farms, the fields, and forests, and mines sell their products, and enhance the price in the market of the consumers by an unconscionable exercise of power, within the law it is true, but none the less dangerous to the rights of our people. All these agencies, whether they operate in the name of labor or in the name of so-called legitimate business enterprise, are effective instrumentalities in hurrying this country into revolution.

Our people will not long permit the one system or the other. Naturally enough, each extreme makes the other the excuse for its existence. They are so strong to-day that Congress—that part of it which is not interested with one extreme or the other—does their bidding. What will be the result? I am not a pessimist. The man who recognizes the tendency of existing conditions, and studies with care the signs of the times, and points to danger signals that are the legitimate result of what is observed, can not properly be called a pessimist; nor can the indifferent, thoughtless citizen, who observes none of these things, and has no appreciation of the situation, fairly be called an optimist. He is more nearly a simpleton than an optimist.

I have talked with thoughtful observers from every part of this nation, with capitalists and communists, with law-abiding citizens and anarchists, with the law-abiding and those who are restless even under needful restraint, and nine out of ten have reached the conclusion that we must either speedily throttle these agencies and influences or the result will be civil commotion and possibly a plutocracy, and our children will behold, even if we do not, the country controlled by bayonets in the hands of men recruited from the ranks of those who stood in one of these labor combines, and were instrumental, unconsciously, of destroying the very liberty they deemed they were protecting.

Capital is said to be timid. It can not die nor be wholly destroyed. It neither eats nor drinks, and when the labor trust and the trusts for the use and abuse of capital have, through their joint efforts, brought us to the verge of civil strife, capital will call out for protection, and, as the security of despotism is better than the rule of a mob and anarchy, armies will spring up at the command of the law and liberty will be smothered between the corrupt use of capital on the one hand and the unwise or foolish abuse of power by those who were devoted to freedom but unappreciative of what was essential to preserve it on the other.

I have endeavored to be candid in dealing with the subjects I have discussed, being conscious of desiring only the freedom, prosperity, and happiness of my countrymen. I can not consent to appear blind to what is passing before my eyes, even though that affected blindness might inure to my political advantage. I know that in a contest with capital labor has an unequal battle at the best, but it will go worse with it if it shall organize a tyranny in its own ranks as oppressive as that charged against combined capital. I have, in the interest of my countrymen, endeavored to point out how organized capital on the one side and organized labor on the other are undermining the foundation upon which rests the liberty of the people. To say I am unfriendly to labor because I differ with certain gentlemen as to the best methods of protecting its interests is stupid, and unworthy of honest men. Those who suppose that the workmen of America are too ignorant or too much blinded by prejudice to appreciate the true philosophy of the situation either underestimate the intelligence of our people or I pay them a compliment to which they are not entitled.

Before I close I want to call attention again to this disposition among Mr. Powderly's friends to divide the people of this country into classes according to their avocation, as if a man is better or worse by reason of being a plowman or a priest, a butcher or a banker. Perfect homogeneity among our people must abide with us or freedom will depart. Moral and intellectual worth must be the standard by which good citizenship is measured, and any other standard is incompatible with the spirit of our Constitution and system of government.

Those who arrogate to themselves the exclusive right to speak for the laborers of this country ordinarily know little of the country, and a very large per cent. of them are not citizens, and it is a little bit—in fact, it is a good deal presumptuous in them, to arraign men whose lives have been lives of toil and of unceasing effort, and whose fathers and mothers before them spent their lives in honorable employment, whose ancestors, in fact, gave us a country and free institutions, and secured to these very critics and self-appointed champions of labor the opportunity to enjoy the privileges which they abuse and the liberty which they will, I fear, help, albeit unconsciously, to destroy.

No man who is intelligent and can study and reflect will or can be convinced that the well-being of each individual is not inseparably connected with the well-being of all. There is not one man out of ten in any community who does not live by his labor, whether that labor be of the head or hand, and what we witness of a few organizing themselves to enjoy peculiar privileges and opportunities, and in so doing by force or fraud shut out others from the privileges which every freeman ought to enjoy in this country, is a thing which will not be tolerated, if, in fact, we can properly be regarded as free citizens of a free country.

The free school and the honest, intelligent exercise of the elective franchise afford us a shield against the permanent abridgement of any important right.

How far short we come of fully realizing the healthful potency of a right use of the ballot. And least of all do we appreciate the fact that unless guided by intelligence and virtue popular suffrage is liable to become the parent of despotism.

Ignorance is the mother of folly, and folly may tear down in a day that which it has taken philosophy centuries to build up.

The point is to draw the line between use and abuse. Large capital is essential to many useful enterprises, but its use should be so controlled that while it brings blessings in one hand it does not scatter curses with the other. Let organizations so conduct their business as not to destroy their usefulness by palpably abridging the liberty of the citizen in a manner incompatible with the spirit of free institutions.

Bills for Raising Revenue.

The Senate bill shows that protection has wrought upon its beneficiaries the full effects Mr. Madison predicted of the bank upon the stock-jobbers. They have "become the pretorian bands of the Government, at once its tools and its tyrants, bribed by its largesses and overawing it by clamors and combinations."

REMARKS

OF

HON. WILLIAM L. WILSON,

OF WEST VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 2, 1889,

On the constitutional right of the Senate to amend House bills for raising revenue, and on the Senate substitute for H. R. 9051.

Mr. WILSON, of West Virginia, said:

Mr. SPEAKER: This House devoted several months of its first session to the preparation and final passage of a bill designed to relieve the Treasury of excessive revenues by relieving the people of excessive taxes. Having retained this bill for exactly six months the Senate returns it to us with the official message that it "has passed the same with an amendment." An examination of this so-called amendment shows that the Senate has run its pen through every line and paragraph of the House bill, and under the pretext of amendment substituted a bill of its own, original and complete, more comprehensive in its scope, very different in its purpose and effect. Of all the work so laboriously done by the representatives of the people there is returned to us but the title and the enacting clause, and the title itself is no longer a true and appropriate one.

The bill which this House passed was properly entitled "A bill to reduce taxation and simplify the laws for the collection of revenue." The bill which the Senate returns to us is, in effect, a bill to increase taxation, and create new machinery for the collection of revenue.

This, Mr. Speaker, is in the language and meaning of the Constitution a "bill for raising revenue," and the seventh section of the first article of the Constitution provides that—

All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills.

We are thus confronted with the question whether the Senate bill is in form and in fact an amendment to the House bill, or a new and original bill in itself, and therefore an invasion of the constitutional privileges of the House. This is a question not to be settled by the rules of either House, or by appeals to any manuals of parliamentary practice.

It must be decided by examining into the history of the constitutional provision I have quoted, and the interpretation of it asserted by the House whenever called upon to maintain its prerogative under it. I need not remind the House that the idea embodied in this clause was not original with the framers of our Constitution. It was borrowed by them from a provision, which, from time immemorial, has existed in the English constitution, under which the House of Commons, as the immediate representative of the English tax-payer, has claimed and exercised the exclusive right to frame money-bills; that is to say, bills imposing taxes on the people or appropriating their money.

One of the most ancient and valued rights of the commons—

Says a high authority, Mr. May—

is that of voting money and granting taxes to the crown for the public service. From the earliest time they have made this right the means of extorting concessions from the Crown and advancing the liberties of the people. They upheld it with a bold spirit against the most arbitrary kings, and the bill of rights crowned their final triumph over prerogative. They upheld it with equal firmness against the lords. For centuries they resented any "meddling" of the other house with "matters of supply," and in the reign of Charles II they successfully maintained their exclusive right to determine as to the "matter, the measure, and the time" of every tax imposed upon the people. (1 May, 440.)

That exclusive right is as firmly maintained to-day as it was two centuries ago, and does not allow amendment, alteration, or rejection of a money bill in the House of Lords.

HISTORY OF CLAUSE IN OUR CONSTITUTION.

Let us now trace the history of the introduction of this principle in its modified form into our Constitution. Mr. Speaker, the distribution of the powers of government was not a matter of secondary consideration with the framers of the Constitution. By such distribution, wisely made and clearly defined, they aimed to establish a system in which energy of administration should not imperil, but promote and secure the liberties of the people. Their threefold partition of political power into legislative, executive, and judicial, with the safeguards by which they sought to protect each from the encroachment of the other, and to protect the people from the encroachment of them all, has established a fundamental rule or principle of American constitutional law. On this principle, as a basis, twenty-five American Commonwealths have since been erected in this country, some already possessing, many others destined soon to possess, more inhabitants than the twelve States whose deputies framed the Constitution.

But, Mr. Speaker, scarcely less important in the eyes of those deputies, and as the event proved very closely connected with their most difficult and protracted controversy, was the distribution of the powers of legislation granted to Congress between the two Houses of which Congress was to be composed.

The great statesman whose services in framing the Constitution, in securing its ratification, and in making the laws through which it was put into operation have given him the not unmerited title of "Father of the Constitution," vividly portrays in a contemporary letter to Mr. Jefferson the chief controversies of the Federal Convention after its members had agreed upon the groundwork of a government which should operate, not upon the States nor through their intervention, but directly upon the people. These controversies were upon four subjects:

First. To unite proper energy in the executive and proper stability in the legislative departments, with the essential character of republican government.

Second. To draw a line of demarkation which should give to the General Government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them.

Third. To provide for the different interests of the different parts of the Union.

Fourth. To adjust the clashing pretensions of the large and small States.

Each of these was so pregnant with difficulties and all of them so involved in diversity of opinion that the final concord reached seemed to Mr. Madison to be not less than a miracle. But he declares that the controversy which created more embarrassment and more alarm for the issue of the convention than any other, than all the rest put together, was the adjustment of representation as between the larger and smaller States.

The small States took their stand for equal representation, according to the rule of the confederation, in both branches of Congress.

The large States were not less determined upon proportional representation in both branches. The latter were Massachusetts, Pennsylvania, Virginia, the two Carolinas, and also Georgia, which had as yet but a sparse population but cherished great expectations of future growth.

The small States were New Hampshire, Connecticut, Delaware, New Jersey, Maryland, and, all unsuspicious of the imperial greatness in store for her, New York.

They were thus six to six—Rhode Island refusing to participate in the convention—but New Hampshire was absent during the earlier stages of the controversy.

The "Virginia plan" proposed to the convention as the basis of its deliberations, and in its main features adopted by it as the outline of its work—really the plan of Mr. Madison, but presented by the governor of the Commonwealth, Edmund Randolph—provided for a legislature of two branches, the first branch chosen directly by the people, the second by the first from persons nominated by the Legislatures of the States.

Suffrage was to be proportioned in both branches to the quotas of contribution or to the number of free inhabitants, and each branch was to have the right to originate acts.

When these provisions were reached in considering the plan in the committee of the whole, there was a long and excited debate, but by a vote of 6 to 5, New Hampshire being absent, the large States carried a resolution for proportional suffrage in both branches, and in this shape the committee reported it back to the convention, with the clause allowing each branch to originate acts. Before this was done, however, Mr. Gerry, of Massachusetts, moved to restrain the Senatorial branch from originating money bills, arguing that the other branch was the more immediate representative of the people, and it was a maxim that the people ought to hold the purse-strings. This motion, made after the committee of the whole had decided in favor of proportional representation in both branches of Congress, was lost, receiving the votes of New York, Delaware, and Virginia.

When the resolutions reported back by the committee of the whole were considered in the convention there was little serious conflict of opinion until it reached those relating to the rules of suffrage in the two branches. The large States were still in the majority and able to carry through the convention the resolutions which they had carried through the committee, but so firm and threatening was the stand taken by the smaller States that they hesitated to force the decision. I have already quoted Mr. Madison's testimony that this was the most embarrassing and dangerous controversy of the convention. It was during its pendency that Dr. Franklin made his memorable motion that prayers invoking the assistance of Heaven and its blessings upon their deliberations should be held every morning before proceeding to business. It was of this period and this controversy that Luther Martin, in his address to the Maryland Legislature, spoke as follows:

> I believe near a fortnight, perhaps more, was spent in the discussion of this business, during which we were on the verge of dissolution, scarce held together by the strength of a hair, though the public papers were announcing our extreme unanimity.

And it is almost ludicrous to find that Mr. Martin deemed it his duty to report that:

> During this struggle, to prevent the large States from having all power in their hands, which had nearly terminated in a dissolution of the convention, it did not appear to me that either of those illustrious characters—the Hon. Mr. Washington or the president of the State of Pennsylvania (Dr. Franklin)—was disposed to favor the claims of the smaller States against the undue superiority attempted by the larger States.

Suffrage in the first branch was made proportional by the vote of 6 to 5. This concentrated the entire struggle upon the rule of suffrage in the second branch. Judge Wilson, the great Pennsylvania jurist, proposed a compromise, allowing a Senator for each hundred thousand population, States not having that population to have one Senator each.

Dr. Franklin said:

> The diversity of opinion turns on two points: If a proportional representation takes place, the small States consider that their liberties will be in danger; if an equality of votes is to be put in its place, the large States say their money will be in danger—

And suggested a compromise whereby the States were to have equal representation in the Senate, but in voting money or taxes to have suffrage in proportion to their contributions to the Treasury. Upon a test vote, the States, for the first time, were exactly divided, as one of the Georgia deputies, fearing, doubtless, a dissolution of the convention, separated from his colleague. There was no way out of the controversy but through a compromise, and General Pinckney moved for a committee of one from each State to devise and report some compromise.

Mr. Luther Martin had no objection to a commitment, but declared that no modifications whatever could reconcile the smaller States to the least diminution of their equal sovereignty.

Mr. Roger Sherman said:

> We are now at a full stop.

And nobody, he supposed, meant that they should break up without doing something. A committee he thought most likely to hit on some expedient.

Mr. Wilson and Mr. Madison opposed commitment, but Mr. Gerry said:

> Something must be done or we shall disappoint not only America, but the whole world.

A committee of one from each State was elected by ballot, as follows: Mr. Gerry, Mr. Ellsworth, Mr. Yates, Mr. Patterson, Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy, Mr. Rutledge, Mr. Baldwin, and thereupon the convention adjourned for two days.

The compromise agreed upon by this committee and reported by Mr. Gerry consisted of two propositions, which were—

> Recommended to the convention on condition that both shall be generally adopted.

The propositions were—

First. That in the first branch of Congress each State should have one member for every forty thousand inhabitants, counting all the free and three-fifths of the rest, and that this branch should be invested with the sole power of originating bills for raising or appropriating money or fixing the salaries of the officers of the Government, which were not to be altered or amended by the second branch.

Second. That in the second branch each State should have an equal vote.

In other words, the compromise secured to the smaller States equal representation in the Senate by giving to the House, in which the large States had proportional representation, exclusive power over money bills.

This report was finally adopted after some days' debate, during which the number of representatives to which each State should be entitled in the first branch, prior to the taking of a census, was definitely fixed. The provision for equality of votes in the Senate, however, was not made acceptable to many of the representatives of the larger States, particularly to Mr. Madison, and they omitted no opportunity afterwards of opposing it directly, or indirectly through the provision as to money bills in exchange for which it was supposed to be granted to the small States. Mr. Gerry said if no compromise took place he foresaw a secession, on which some gentlemen seemed decided.

Colonel Mason said the report was meant as a general ground of accommodation.

> There must be some accommodation on this point or we shall make little further progress in the work. The consideration which weighed with the committee was that the first branch would be the immediate representatives of the people; the second would not. Should the latter have the power of giving away the people's money, they might soon forget the source from whence they received it. We might soon have an aristocracy.

Dr. Franklin said that the report could not be considered separately, the committee having reported several propositions as mutual conditions of each other. It was always of importance that the people should know who had disposed of their money. It was a maxim that those who feel can best judge. This end, he thought, would be best attained if money affairs were to be confined to the immediate representatives of the people. This was his inducement to concur in the report.

When Mr. Rutledge, of South Carolina, a large State, proposed to reconsider the two propositions touching the origination of money bills in the first and the equality of votes in the second branch, Mr. Sherman, of Connecticut, and Mr. Martin, of Maryland, insisted on reconsidering the whole plan. It was a conciliatory plan, they said, and if any part were now altered it would be necessary to go over the whole ground again, and Mr. Gerry sustained them, saying he did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. It was the corner-stone of the accommodation; but his colleague, Rufus King, thought it would be better to do nothing, to submit to a little more confusion and convulsion than to submit to such an evil as the allowance of an equal vote. Mr. Strong, of Massachusetts, replied that the small States had made a considerable concession in the article of money bills and were entitled to concessions on the other side.

The whole report was agreed to by the votes of five States in the affirmative, to wit: Connecticut, New Jersey, Delaware, Maryland, and North Carolina. Four States voted against it. Pennsylvania, Virginia, South Carolina, and Georgia. Massachusetts was evenly divided, and the deputies from New York had retired from the convention.

The large States had clearly not given up the fight.

The convention having agreed upon a series of general resolutions referred them to a committee of detail to prepare and report the Constitution. That committee made its report August 6, 1787, and the fifth section of the fourth article of the Constitution was in these words:

> All bills for raising revenue or appropriating money and for fixing the salaries of the officers of the Government shall originate in the House of Representatives and shall not be altered or amended by the Senate. No money shall be drawn from the public Treasury but in pursuance of appropriations that shall originate in the House of Representatives.

The fight against equality of representation in the Senate was reopened over the report of the committee on detail. Accordingly when the above section was reached a motion was made by Mr. Pinckney, of South Carolina, to strike it out, in which he was seconded by other deputies from the large States. This motion was intended to clear the way for an assault upon the section giving equality of votes in the Senate, soon to be reached.

Colonel Mason said he was unwilling to travel over this ground again. To strike out the section was to unhinge the compromise, of which it made a part. The duration of the Senate made it improper. He did not object to that duration; on the contrary, he approved it; but joined with the smallness of the number it was an argument against adding this to the other great powers vested in that body. His idea of an aristocracy was that it was the government of the few over the many. An aristocratic body, like the screw in mechanics, working its way by slow degrees and holding fast whatever it gains, should ever be suspected of an encroaching tendency. The purse-strings should never be put into its hands.

The motion to strike out prevailed, but on the next day Governor Randolph, whose anxiety for the success of the convention was now greater than his desire for a victory of the large States, gave notice of a motion to reconsider this action as endangering the success of the plan and extremely objectionable in itself.

When the clause relating to votes in the Senate was reached he wished to postpone until this motion was acted upon, declaring that if the section as to money bills were not reinstated his plan would be to vary the representation in the Senate. Dr. Franklin again stated that the two clauses, the originating of money bills and the equality of votes in the Senate, were essentially connected by the compromise which had been agreed to.

Mr. Williamson said the State of North Carolina had agreed to an equality in the Senate merely in consideration that money bills should be confined to the other House.

Colonel Mason said that unless the exclusive right of originating money bills should be restored to the House he should—not from obstinacy, but duty and conscience—oppose throughout the equality of representation in the Senate. The section, however, was not postponed, but acted upon favorably.

At a later day Mr. Randolph brought up his motion to reconsider the action striking out the clause as to money bills, and it was carried, Maryland alone voting against it, and South Carolina being divided.

The whole ground was fought over again. Mr. Randolph proposed to amend by making the section read "bills for raising money for the purpose of revenue."

Colonel Mason was again the chief speaker. He argued that the Senate did not represent the people but the States in their political character. It was improper, therefore, it should tax the people. It was not like the House, chosen frequently and obliged to return frequently to the people. "Senators are chosen by the States for six years—will probably settle themselves at the seat of government, will pursue schemes for their own aggrandisement, will be able, by wearying out the House of Representatives and taking advantage of their impatience at the close of a long session, to extort measures for that purpose—particularly extort an increase of their wages." Mr. Gerry said: "Taxation and representation are strongly associated in the minds of the people; they will not agree that any but their immediate representatives should meddle with their purses; the acceptance of the plan would fail if the Senate be not restrained from originating money bills." Again the clause was stricken out, but at a later and appropriate point Mr. Strong, of Massachusetts, moved to insert the following provision:

> Each House shall possess the right of originating all bills, except bills for raising money for the purposes of revenue, or for appropriating the same and for fixing the salaries of the officers of the Government, which shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other cases.

No vote was taken on this; but at a later day it was, together with other matters, referred to a committee of one from each State.

As reported back, it was in this form:

> All bills for raising revenue shall originate in the House of Representatives and shall be subject to alteration and amendments by the Senate.

Again, Mr. Gouverneur Morris moved to postpone this clause. It had been agreed to in the committee on the ground of compromise, and he should feel himself at liberty to dissent from it, if on the whole he should not be satisfied with certain other parts to be settled.

Mr. Sherman was for giving immediate ease to those who looked on this clause as of great moment and for trusting to their concurrence in other proper measures, but those who were withholding action on this clause to extort other measures prevailed and once again it was temporarily postponed. This is well explained by Mr. Madison in a foot note in the Madison papers:

> Colonel Mason, Mr. Gerry, and other members from large States set great value on this privilege of originating money bills. Of this the members from the small States, with some from the large States who wished a high-mounted government, endeavored to avail themselves by making that privilege the price of arrangement in the Constitution favorable to the small States and to the elevation of the Government.

This note explains the successive postponements and occasional striking out of this provision. When it had served these purposes as long and as much as possible, it was taken up and passed in its present form, the words "but the Senate may propose or concur with amendments" being taken from the constitution of Massachusetts. At the final vote it received the support of all of the States except Maryland and Delaware.

I have thus been at some pains, Mr. Speaker, to trace the history of this provision through its ups and downs in the Federal convention, from its first introduction to its final adoption, in order to show the value and meaning given to it by the framers of the Constitution. That history shows that some of the wisest members, such as Mr. Mason and Mr. Gerry, deemed it a matter of great moment in itself; that it was used to settle the most dangerous dispute by becoming the price paid by the smaller States for equality of representation in the Senate, and that its potency as a solvent of such controversies being discovered, the combination mentioned by Mr. Madison used it again to secure accession of power to the General Government and finally to balance and offset the special prerogatives of the Senate, namely, the power to ratify treaties, confirm appointments, and try impeachments.

It thus stands in our Constitution to-day as the compensation received by the large States for equality of votes in the Senate, and in the coordination of the two branches of Congress as the special privilege of the House to offset and balance the special privileges of the Senate. Clearly, then, it is not a trivial or insignificant provision. If this House fails to maintain its rights under it in the spirit of the framers of the Constitution and according to the precedents of former Houses, we shall be faithless to the people who send us here and forfeit the respect of those who come after us.

ACTION OF HOUSE IN FORTY-FIRST CONGRESS.

Having spent so much time in tracing the history of this clause I can not, as I had intended, refer to all the controversies or discussions which have arisen upon it in the course of our legislative history. They are easily accessible, and show that this House has never failed, unless it be in the Forty-seventh Congress, to maintain and defend its prerogatives, temperately, firmly, and fully. I will allude to the three latest occasions when the question has arisen. On the 26th of January, 1871, the Senate passed a bill originating in that body to repeal the income tax. The House on receiving the bill immediately passed a resolution returning it to the Senate—

> With the respectful suggestion on the part of the House that section 7, Article I, of the Constitution, vests in the House of Representatives the sole power to originate such measures.

The Senate asked for a conference. Its conferees, Messrs. Scott, Casserly, and Conkling, contended that the language of the Constitution, "bills for raising revenue," meant bills whose direct purpose was to raise revenue by the levy of taxes, imposts, duties, or excises, and that the Senate could originate a bill to repeal a law imposing such taxes, even if such repeal made necessary the imposition of other taxes. The House conferees, Messrs. Cooper, ALLISON, and VOORHEES, maintained in reply that the clause in the Constitution vested in the House the right to originate all bills relating directly to taxation, whether to impose or to remit taxes, and that in the exercise of this right the House should—

> Decide the manner and time of the imposition of and remission of all taxes, subject to the right of the Senate to amend any of such bills originating in the House before they have become a law.

I call the attention of the House to the able and elaborate report made by the House conferees, through Mr. Hooper, chairman of the Committee on Ways and Means, in which they set forth the grounds, historical and otherwise, of their position, and recommended to the House the following resolution, which, after consideration, was adopted by the House without division:

> *Resolved*, That this House maintains that it is its sole and exclusive privilege to originate all bills directly affecting the revenue whether such bills be for the imposition, reduction, or repeal of taxes; and in the exercise of this privilege, in the first instance, to limit and appoint the ends, purposes, considerations, and limitations of such bills, whether relating to the matter, manner, measure, or time of their introduction, subject to the right of the Senate to "propose or concur with amendments as in other bills."

I will not quote from the debate, which was necessarily brief, because the report was called up by Mr. Hooper on the last day of the session, but I can not pass it over without directing especial attention to a very full and carefully prepared speech in maintenance of this report which General Garfield under leave printed in the Globe, and which may be found in the Appendix to the Congressional Globe, third session, Forty-first Congress, page 264, in which he examines into the history of the constitutional provision in question and collates the precedents which had arisen in either House up to that time. In closing this review he used this language:

> The tendency of the Senate is constantly to encroach, not only upon the jurisdiction of the House, but upon the rights of the Chief Executive of the nation. The power of confirming appointments is rapidly becoming a means by which the Senate dictates appointments. The Constitution gives to the President the initiative in appointments as it gives to the House the initiative in revenue legislation.
>
> Evidences are not wanting that both these rights are every year subjected to new invasions. If in the past the Executive has been compelled to give way to the pressure, and has in some degree yielded his constitutional rights, it is all the more necessary that this House stand firm and yield no jot nor tittle of that great right intrusted to us for the protection of the people.

The resolution thus unanimously passed by the House settled its interpretation of the Constitution as to originating revenue legislation, and asserted its prerogative no less fully and firmly as to bills professing to repeal or reduce than as to bills professing to impose or increase taxes.

ACTION OF HOUSE IN FORTY-SECOND CONGRESS.

There yet remained ground for dispute between the two Houses as to the extent of the power of the Senate under its right "to propose or concur with amendments as on other bills," which is the question raised by the present Senate bill. Fortunately this very question arose and was passed on by the House at the next session of Congress.

The House passed and sent to the Senate a bill "to repeal existing duties on tea and coffee." The Senate substituted for the House bill, under the form of an amendment, a bill of its own, containing a general revision of revenue laws, both as to import duties and internal taxes.

The Committee on Ways and Means, through Mr. DAWES, its chairman, submitted to the House a resolution declaring this action of the Senate in conflict with the true intent and meaning of the clause of the Constitution which requires that all bills for raising revenue shall originate in the House, and directing that the Senate substitute should lie upon the table, and the Senate be notified of the passage of this resolution.

Nothing could be more directly in point so far as the present controversy is concerned than this resolution. The cases are exactly parallel. In that case the House originated a bill relating to special subjects; the Senate struck out all except the enacting clause and substituted a general revenue bill of its own under the guise of an amendment to the House bill. In the present case the House originated a revenue bill much more comprehensive, to be sure, than that originated in the Forty-second Congress, but still a bill confined to special subjects or items, and not affecting or touching several entire schedules and many subjects of taxation, both under the tariff and internal-revenue system. The Senate struck out all of this bill except the enacting clause, and substituted a general revenue bill of its own under the guise of an amendment to the House bill.

I wish, Mr. Speaker, I could quote more largely from the remarks made in the House upon the resolutions submitted by Mr. DAWES, especially as several of the speakers are now prominent Senators, and have participated in framing the bill sent us by the Senate.

The important point, however, is to ascertain the opinion of the House as to the extent of the power of amendment possessed under the Constitution by the Senate.

Mr. DAWES himself said that they could not fail to recognize the fact that an uneasiness is begotten among the people from observing the growing tendency of the Senate to gather to itself all functions of the Government of the United States.

> The assertion is now made by the other branch that, under the form of an amendment to any bill that reaches them upon the subject of revenue, jurisdiction is given to that body to legislate to any extent in originating new objects of revenue, modifying the modes of collecting the revenue, reducing the revenue upon such objects as they please, or entirely repealing, on the one hand, the duties imposed upon foreign goods or, on the other, the taxes levied for the purposes of internal revenue. That provision of the Constitution which guaranties to the people's representatives the right to originate all bills of this character seems, if the view of the Senate is correct, to be entirely nugatory.
>
> There is no value in the provision to the people's representatives on this floor if under the form of an amendment the Senate has entire jurisdiction of the subject and can substitute any bill touching the revenue in any form that they please. * * * The history of this provision of the Constitution, the modification which it introduced of the corresponding provision in the British constitution, the early construction of the clause as well as the debates upon it, so far as they relate to the subject, convince me that originally it was the intention of the framers of the Constitution to confine the power of amendment on the part of the Senate to the subject-matter of the bill itself. The right to originate bills of this nature in the House of Representatives ceases to be of any value if the moment such a bill leaves this House the Senate may, under the form of an amendment, originate everything that is of value or importance in a revenue bill and compel the House of Representatives to pass upon, under the form of an amendment, a substitute from the Senate, measures of revenue which they have refused to originate.

And he very forcibly summed up:

> If in the form of amendment this can be done there can be no bill sent to the other branch in any respect touching the revenue which does not imperil the rights of the people's representatives here, touching any source of existing revenue or any imaginary source of revenue upon which legislation is possible.

Mr. COX with equal emphasis maintained the same view.

Mr. Garfield said the House could not overrate the importance of the issue raised by the sending of the bill to the House, and continued:

> The case now before us is new and difficult. I think the same point has never come into controversy. It raises the question how far the Senate may go in asserting their right "to propose or concur with amendments as on other bills." If their right to amendment is unlimited, then our right amounts to nothing whatever. It is the merest mockery to assert any right.
>
> What, then, is the reasonable limit to this right of amendment? It is clear to my mind that the Senate's power to amend is limited to the subject-matter of the bill. That limit is natural, is definite, and can be clearly shown. If there had been no precedent in the case, I should say that a House bill relating solely to revenue on salt could not be amended by adding to it clauses raising the revenue on textile fabrics, but that all the amendments of the Senate should relate to the duty on salt.

Mr. HALE, now a Senator from Maine, said:

> Now, this restriction as to the right of originating revenue bills is worth nothing to the House unless it carries with it—and it seems to me this is the force of the restriction—a limitation on the right of the Senate to amend. The House has the sole right of originating revenue bills. If that right is good for anything, it must carry with it the right of selecting the objects upon which revenue is to be raised, and if that is the force of the privilege given to the House, then the privilege of amendment must necessarily be restricted to the subject-matter which the House has selected and embraced in its revenue bills.

Mr. HOAR, now a Senator from Massachusetts, said:

> This is a matter, I think, of deep importance. The position which the Senate has taken on this and kindred questions threatens the permanence of the Senate itself. If this legislation be admitted, this House, who represent the people, give to the Senate, who represent the States, the great equivalent which in the formation of the Constitution was given by the small States to the large States in consideration for their equality in the Senate. * * *
>
> Now, Mr. Speaker, what is the position of the Senate of the United States? First, by undertaking to make a revenue bill sent there by this body substantially a new measure, it claims to originate, for all practical purposes, a money bill in defiance of the express provision of the Constitution.

Similar views were urged by Messrs. Maynard, B. F. Butler, F. Wood, Campbell of Ohio, Clarkson N. Potter of New York, and others, and the resolution offered by Mr. DAWES was adopted by a vote of 153 yeas to 9 nays.

Of those voting in the affirmative the following are now members of the Senate: Mr. BECK, Mr. DAWES, Mr. FARWELL, Mr. FRYE, Mr. HALE, Mr. HAWLEY, Mr. HOAR, Mr. PLATT, Mr. SAWYER. Thus the House decided promptly and almost unanimously on the first occurrence of the question that the right of the Senate to amend a revenue bill was limited to amendments to the subject-matter, and tabled, without considering it, a so-called amendment of the Senate to a House revenue bill which, like the one now sent to us from that body, was in purpose and effect an original bill.

ACTION OF FORTY-SEVENTH CONGRESS.

A similar question arose in the second session of the Forty-seventh Congress, when the Senate, under the form of an amendment to a House bill, entitled "An act to reduce internal-revenue taxation, and for other purposes," passed a substitute containing a general revision of our tax laws.

The majority of that House was more anxious to please the protected interests of the country, at whose bidding the Senate had acted, than to maintain and defend the rights of the people, yet it declared by a vote of 117 to 36, in a preamble to the resolutions agreeing to a conference, its opinion that the Senate substitute was in conflict—

> With the true intent and purpose of the Constitution, which requires that all bills for raising revenue shall originate in the House of Representatives.

I have thus considered, Mr. Speaker, the history of the special prerogative of the House, not only in the deliberations of the Federal convention, but in the debates and resolutions of the House itself whenever the question now in issue has been raised. That question is one for the House, and for the House alone, to determine. It alone must in every instance determine what are its own constitutional rights and privileges. The Senate can not decide that question for the House. If the exclusive privilege of the House to originate revenue bills is the price by which the small States purchased equality of representation in the Senate; if it is also the weight thrown into the scale to keep the balance even, when the exclusive privileges of the Senate as to treaties, appointments, and impeachments were placed in the opposite scale—and no one who investigates its history will doubt that it is both—then it is a most substantial and important prerogative.

But it is only substantial and important if the right of the Senate to "propose or concur with amendments" be limited to amendments directly to the subject-matter of the House bills. A looser or wider interpretation of the right of the Senate emasculates the prerogative of the House; turns the whole question into a quibble of legislative etiquette, and has no higher concern than an enacting clause. It was not on a question of legislative etiquette, of mere precedence in suggesting a subject of legislation, nor on a contest over an enacting clause that the framers of the Constitution spent so much earnest contention, and it was not by any such barren and empty device that they conciliated the most dangerous and difficult strife of the convention.

THE HOUSE ALONE THE FULL AND IMMEDIATE REPRESENTATIVE OF THE PEOPLE.

The right which they secured for this House was the right of control by the people themselves over their own taxes and largely over their own expenditures. It puts the taxation of the people in that branch of the Government where alone is found representation of the people.

The Senate represents the States in their political capacity. The House represents the people, the tax-payers, in their individual capacity. In the words of Mr. Benton, we of the House are "the full and immediate representatives of the people."

In the great prerogative of laying taxes there can be, according to the true principles of free government, no other representation than that which is "full and immediate."

Full representation, Mr. Speaker, means equal and proportionate representation. It does not mean that the six million inhabitants of the State of New York shall have the same voice and no greater than the fifty thousand inhabitants of Nevada in determining the measure and subjects of taxation for the American people. Yet in the Senate the vote of Nevada is exactly the same as the vote of New York.

To-day there are nine States entitled on the basis of a proportional representation to but 15 votes out of 325 in this House, that have 18

out of the 76 votes in the Senate; there are twenty States having forty Senators, or a majority of the Senate, which are entitled to but seventy-six representatives in this branch.

The four Territories for whose admission as States we have recently provided, will send five representatives to this House, then to consist of 330 members, and will possess one sixty-sixth part of its membership. They will send eight representatives to the Senate, making its membership eighty-four in all, and possess nearly one-tenth part of its strength. In this Hall their united representation will exactly equal that of the State of Arkansas. In the Senate it will equal that of New York, Pennsylvania, Ohio, and Illinois, which have a population of 18,600,000, or nearly one-third of that of the entire Union. To give the power of taxation to a body constituted as the Senate is would put it in the power of a small fraction of the people to tax the entire people, thus introducing a false principle into our system of government, which, like every other false principle, would ultimately work derangement and discord.

But not only do the people find in this branch alone their "full" representation. Here and here only are they "immediately" represented. Members of the House are chosen directly by the people and for a brief term of official service. Every alternate year the House dissolves and its entire membership goes back to the people, who thus hold in their hands the power of swift punishment for official faithlessness. It was this idea which Mr. Jefferson expressed when he said of the House, "Taxes and short terms will keep them right." Senators are chosen not by the people, but by the Legislatures. They hold office for six years. The Senate is a continuing body. It never dissolves, but renews one-third of its members biennially. Its limited membership and long term of service inspire and aid those encroachments upon other branches of the Government which Colonel Mason so clearly anticipated and illustrated by his striking comparison of the screw in mechanics, and which General Garfield so forcibly described in the words I have already quoted.

We have seen during this session of Congress an example of its encroachment on the constitutional right of the Executive to make appointments beyond anything which General Garfield had observed. How many hundreds of nominations made by the President since last December are now hung up in the Senate, not acted upon, the vacancies reserved for the incoming Administration. In this way a Republican majority in the Senate to-day has, by an unpatriotic and partisan abuse of its power to confirm nominations, actually curtailed for three months the constitutional term of office of a Chief Magistrate elected by the people, as to one of his highest prerogatives. According to the statement made by Senator HARRIS, of Tennessee, in the Senate a few days ago, President Cleveland has sent in to the Senate at the present session 458 nominations, of which 179 have been confirmed; and of these 131 were regular promotions in the Army and Navy, thus showing but 48 confirmations of other appointments made by the Executive. President Arthur, after the election of a Democratic successor, sent in 612 nominations, of which the Senate confirmed 592.

And, Mr. Speaker, the wretched and paltry partisanship of this action of the Republican majority in the Senate is emphasized by the fact that the vast majority of the nominations made by the President have been for offices in which he had permitted the post-election appointees of his predecessor to serve out their terms.

But the fact most prominent in our recent history, which has arrested the attention of every intelligent and awakened the anxiety of every thoughtful citizen, is the fact that the Senate in its membership is drifting away from the people, is less in touch and sympathy with them; less regardful of their burdens; more the representative of the corporate wealth of the country and of that spirit of privilege against which the spirit of Democracy has been contending ever since the foundation of our Government.

I disclaim all intention to speak discourteously of that body. I gladly admit that it has still many Senators in both parties worthy of adorning its rolls at any time in its history, but I refer to the fact which every thinking American citizen must regard as one of the danger signals of our times, that it is becoming the fashion to regard a seat in the Senate not as requiring statesmanship, nor yet even as the reward of political training and service, but as a dignified retirement for the successful business man who has accumulated great riches. Immense wealth acquired in any of those ways for which the rapid development of such a country as ours offers unusual facilities, or by the control of the great transportation systems of the country, or by those privileges which our revenue laws secure to great corporations or combinations to levy taxes and tribute upon the mass of the people, has become a recommendation, and, more ominous still, a passport to such a seat.

In more than one State in the Union the influence of railroad corporations is all powerful in the selection of the representatives in the Senate. It may be that the number of those who hold their seats in the Senate by virtue of their individual wealth or by the favor of great corporations is as yet smaller than the people believe. But it is a steadily increasing, not a diminishing class. A body thus constituted can not be safely joined on terms of equality with the immediate representatives of the people in imposing taxes on the people. It is out of reach of their immediate chastisement and displeasure, out of sympathy with them in their burdens. Indeed, such men as I have described too often have interests adverse to the interests of those whom they assume to represent. Not only are all their sympathies and associations with corporate wealth, but they are enriched by the taxes which they help to place or help to keep upon the people. They represent their own pockets, which are overflowing with gains taken by unjust laws from the pockets of their people, and they refuse to change or to modify those laws. Sir, the old Federalists when driven by the people from every other branch of the Government made their last stand and vainly tried to entrench themselves permanently in the judiciary.

To-day the great monopolies of the country and the trusts, privilege and law-made wealth, have chosen the Senate as that branch in which they will entrench themselves and through whose control they will defeat all efforts of the tax-payers to escape from unnecessary burdens, nay will even add to those burdens. Unable because of the plain prohibition of the Constitution to originate a revenue bill, the Senate eagerly seize upon any bill sent them by the representatives of the people to increase and add to the bounties awarded the beneficiaries under our tariff. Sir, the very bill lying before me carries absolute proof of this charge. We sent to the Senate last July a bill for the relief of the people from needless taxes, a measure so moderate in its details that selfishness itself seemed challenged to make way for its passage. It proposed some lessening of taxes on the necessaries of life, so that the great mass of the people might not feel the weight of the Government thrown so heavily upon them in their daily battle with hunger and cold. It proposed some removal of taxes on the materials of industry, so that the American workingman might not feel the needless exactions of the Government narrowing the market for the products of his labor, and at the same time the field of his employment, lessening his wages and at the same time his personal independence.

But this bill of the people's representatives was thrown aside, every provision of it summarily rejected, and the majority of the Senate, certainly including among its numbers enough direct beneficiaries of tariff taxes to make it such majority, has substituted a bill of its own, adding to the burdens of the tax-payer by increasing the cost of the necessaries of life, and hardening the lot of the laborer by increasing the cost of the materials of industry.

Urged on by the close combination of protected interests which receive the larger part of the taxes exacted from the people, they have met the just and long deferred request of the people for relaxation of burdens in the insolent spirit of the son of Solomon, who, rejecting the counsels of the elders, and listening to the words of his presumptuous associates, replied to a like request of the people—

> Whereas my father did lade you with a heavy yoke I will add to your yoke; my father hath chastised you with whips, but I will chastise you with scorpions.

Mr. Speaker, I turn from an inviting field when I forbear an extended examination of the bill sent us by the Senate, but I will append to my remarks a letter from the Secretary of the Treasury which fitly portrays its general features and accurately analyzes its conflicting and monstrous details.

In view of the circumstances under which this bill was prepared it may well be likened to a bottomry bond given by the leaders of a great party then tossing on a dangerous and uncertain sea at the exorbitant rates which heartless usurers extorted for insuring a successful voyage. Its subsequent protracted consideration and deliberate passage by the Senate makes it not a just and equable scheme of general taxation, but an attempt to place upon the earnings of the American people a usurious mortgage *in perpetuam* as the consideration exacted by the protected interests for returning the Republican party to power.

It shows that protection has wrought upon its beneficiaries the full effects which Mr. Madison predicted the bank would have upon the stock-jobbers:

> They will become the pretorian bands of the Government, at once its tools and its tyrants, bribed by its largesses, and overawing it by clamors and combinations.

How unmistakably they have overawed the framers of the Senate bill by their clamors and combinations, an example or two, taken at random, will convince us.

Let us take the cotton schedule. I find in Bradstreet's for January 5, 1889, a statement of the dividends declared by the chief cotton mills of New England for the year 1888, all of which show "a period of great if not unexampled prosperity" in that industry. Let the American farmer listen to some of them.

The Pepperell mills having declared a dividend of 12 per cent. yearly since 1873, last year advanced it to 14 per cent. The Dwight mills declared 10 per cent. The Androscoggin 10 per cent. The Manchester 12½ per cent.

The Amoskeag mills, whose manager, if I am not wrong in my recollection, fired a broadside against tariff reduction in the shape of a report to the stockholders in the height of the last campaign, declared a dividend of 10 per cent. in money, according to its custom for many years past, and in addition thereto a dividend in stock. At Fall River, Mass., eighteen companies increased their dividends, which reached 30 per cent. for the Union mills, 20 per cent. for the Troy, 22 per cent. for the

Granite, 22½ per cent. for the American Linen, 16 per cent. for the Bourne, 15 per cent. for the Seaconnet, and others follow in close succession. This journal adds that—

The various mills are running in full, with their output sold up to production, if not indeed well ahead of it, and all branches of the industry begin the year under remarkably favorable conditions and with exceptionally bright prospects.

Yet, Mr. Speaker, the Senate bill sent over to us after the declaration of these dividends is not even content with the tariff rates under which they are possible, but actually increases the bounties paid by the farmer and the laborer to these mill-owners. Look also at the increase of taxes on some of the most widely used raw materials and its effect on the cost of the necessaries of life to the people of the country.

The increase in the rates upon wool is made the pretext for enormous increases in the rates upon woolen goods and for a merciless aggravation of the discriminations already existing against the coarser and cheaper qualities of goods which are necessaries of life to so large a mass of the people.

Women's and children's dress goods, woolen or worsted, valued at 15 cents per square yard, now pay 68 per cent.; valued at 37 cents per square yard a tax of 59 per cent. The Senate bill retains the latter rate, while advancing the taxes on the cheaper goods from 68 to 85 per cent.

Woolen cloths valued at 64 cents per pound now pay a tax equal to 90 per cent. Under the Senate bill they would pay 110 per cent., while cloths twice as valuable would pay 77 per cent. Worsted cloths valued at 24 cents per pound pay 76 per cent. Under the Senate bill they would pay 180 per cent.! Those of finer quality valued at $1.10 per pound are advanced only from 72 to 80 per cent.

So with woolen shawls, of which the cheaper qualities would pay under the Senate bill 41 per cent. more taxes than those of finer quality. Equally indefensible and cruel discriminations against the consumers of cheaper goods are found in the rates proposed on blankets, flannels, hosiery, underwear, and knit goods of wool.

And what can be said in defense or excuse of the proposed increase of more than 100 per cent. on tin-plate, an article not made at all in this country, of which we import $20,000,000 worth annually, exchanging for it the products of the American farmer and dairyman? Nothing whatever, Mr. Speaker, except that some members of the protected combination desire to enter upon the manufacture of tin-plate, and think they can not do so with profits equal to their demands unless the tax upon imported tin-plate is increased from 1 cent per pound to 2.15 cents per pound. Let me dwell for one moment on this proposed tax, for it concentrates in itself the "sum of all the villainies" of the protective system. It is—

First. An unjust and burdensome tax upon one of the necessaries of life, as it would add at once over seven millions of dollars taxes to the consumers of tin.

Second. It will cripple an important and rapidly-growing American industry, which employs many more laborers than will ever find employment in the manufacture of tin-plate—the canning trade in fruits, meats, vegetables, fish, and other articles, both for home consumption and for exportation—by added taxes on one of its raw materials.

Third. It will strike a disastrous blow at the prosperity of the American farmer, now able to find a market for $20,000,000 worth of his farm products, exchanging them for tin-plate, by diminishing and gradually altogether prohibiting the introduction of the article for which he exchanges them, and this at a time when every man who watches our foreign trade knows there is a narrowing market for our farm products abroad, because our restrictive laws are forcing our chief customers to look eastward for the supplies of grain and flour they have hitherto taken from us. Thus in one tax are struck three hurtful and needless blows at American industry: increased cost of living to the laborer by added taxes on his kitchen and his table; diminished employment in the great canning industry by added taxes on one of its raw materials; and lessening prices for the American farmer by closing one of the outlets for his surplus products.

All these burdens upon the people, all these blows at American labor, will secure us what, Mr. Speaker? A few more protected manufacturers added to that gigantic combination of tax-devourers, the American Iron and Steel Association, and a so-called "home market" for less than one-twentieth part of the agricultural products we are now able to exchange for tin-plate.

With what biting force may the American laborer address to the framers and supporters of the Senate bill the words uttered by Mr. Webster in April, 1846:

On the raw material which is to come here and furnish occupation and employment to the manufacturers and artisans of the country you have raised the duty. You indulge in the luxury of taxing the poor man and the laborer. That is the whole tendency, the whole character, the whole effect of your bill.

One may see everywhere in it the desire to revel in the delight of taking away men's employment. You reduce the wages of labor by taxing the raw materials.

And who can wonder that Secretary Fairchild, after exposing the selfish greed which has everywhere filled the Senate bill with incongruous and conflicting taxes, should exclaim:

If the people are to be forever tortured by taxation, then "call in the Cossacks," lay on the knout, put on the manacles, and apply the thumb-screws in an earnest, orderly, and straightforward manner.

Could a more signal proof than this bill be offered of the wisdom of the early statesmen who sought to restrain by constitutional provisions the power of the Senate in framing money bills, or a more signal warning against any relaxation of the prerogatives we hold as to such bills, not for ourselves, but as the prerogatives and safeguards of the people?

Let us, Mr. Speaker, catching the spirit of the framers of the Constitution and of those representatives who have preceded us in this Hall, reaffirm the resolution so promptly and decisively adopted by the House in the Forty-second Congress, determined that the Republic shall suffer no detriment by any failure on our part to maintain the right of taxation as the special trust and responsibility of the representatives of the people.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 27, 1889.

DEAR SIR: I am in receipt of your note of the 25th instant, requesting me to communicate to you any further information I can give as to the general effect the Senate substitute for House bill No. 9051 would have upon the customs revenue.

Any approach towards a full or satisfactory dissection and analysis of this bill would require much more time than the present situation affords. Therefore only a brief reference to a few of the more singular features of the measure will be attempted.

The Senate Finance Committee, in their report upon the substitute as originally presented, gave as the primary reason for "a careful and thorough revision of our revenue laws," the need for a reduction of the national revenues. There is general agreement among reasonable men that there is urgent need for a reduction of the revenues.

It can not be fairly denied that this accumulation represents money which has been unnecessarily and cruelly taken from the people of the United States by excessive and oppressive taxation. Hence all fair-minded and patriotic men should agree that the prime duty of Congress is to reduce such taxation to the extent at least of the surplus revenue. In other words, the relief the people need is a reduction of taxation. A mere reduction of the surplus would only relieve the Treasury. Manifestly the governing idea of the Senate committee was to reduce the surplus, not as a rule by the reduction of excessive and burdensome taxes, but by an increase of such taxation, for in their tariff schedules increases of rates largely exceeds reductions, in number and percentage. At the same time their increases are generally made upon articles commonly and necessarily used by the masses of the people, while, with few exceptions, the reductions relate to articles none, or comparatively few, of which are imported, and in which the domestic producer has supremacy in our market.

REDUCTION OF TAXATION.

The only articles of consequence, in every day and necessary use, and which are imported in considerable quantities, upon which the rates of customs duty are reduced, are: Beams, girders, and other structural iron or steel; iron and steel railway bars; white-pine lumber; sugar and molasses, and rice. And the reductions on these, except on sugar, molasses, and rice, are not sufficient to enable the foreign producer to compete with the domestic article to such an extent as to materially reduce the cost to the American consumer, and thereby to relieve him from onerous customs taxation.

INCREASE OF TAXATION AND PROHIBITION OF IMPORTS.

1. Prominent among the articles commonly and necessarily consumed by the people generally upon which customs taxes are increased, either by direct advances in rates of duty or indirectly by the restoration of duties on coverings, packing charges, etc., or by the abolition of damage allowances, are the following:

Blacking, by duty on covering, etc., increased, say 15 per cent.; Portland cement, from 20 to 31 per cent.; glue, from 20 to 25 per cent. and upwards; orange mineral, from 70 to 82 per cent.; Prussian blue, from 25 to say 40 per cent.; Frankfort black, from 20 to 25 per cent.; chrome green and chrome yellow, from 25 per cent. to average, say 50 per cent.; other common paints and colors, variously from 25 to say 30 per cent. and above; cod-liver oil, from 25 to over 28 per cent.; medicinal preparations, increased by duty on coverings, etc., say 15 per cent.; spirit varnishes, from 95 to 124 per cent.; earthenware, tiles and brick, and slates and slate-pencils, increased by duty on coverings, freight, etc., say 10 per cent.; glass bottles and other glassware, by change of rates, duty on coverings, and abolition of damage allowance, increased, say 10 to 30 per cent.; common window and plate glass, looking-glass plates and mirrors, increased by change of rates, abolition of damage allowances, etc., say 2 to 10 per cent.

Boiler and other plate iron and steel, from 31 to 40 per cent.; hoop-iron and steel for baling purposes and barrel-hoops increased variously, say 10 to 73 per cent.; common black sheet-iron and taggers' iron, thinner than No. 29 wire gauge, from 30 to 64 per cent.; tin-plates, terne-plates, and taggers' tin, 34 to 73 per cent.; fence-wire rods, from 41 to 48 per cent.; iron and steel wire, valued over 5 cents per pound, variously from 10 to 35 per cent.; bronze powder, from 15 to 30 per cent. and above; cutlery of all kinds, and shotguns and pistols, increased variously from 10 to 100 per cent.; pins and needles, by duty on packing charges, etc., say 15 per cent.; small wood-screws, from 45 to 52 per cent.; britannia, japanned, and plated ware, from 35 to 45 per cent.; machinery of all kinds, increased by duty on packing charges, etc., say 15 per cent.; various unenumerated manufactures of copper and other metals, and house furniture, say 5 per cent. by duty on inland freight, etc.; osier and willow baskets, from 30 to 35 per cent.; horses, mules, cattle, and hogs increased variously 2 to 17 per cent.

Beans, from 10 to 24 per cent.; peas, from 20 to, say, 30 per cent., and cabbage from 10 to, say, 40 per cent.; green and dried fruits, increased by abolition of damage allowances say 10 per cent.; hops, from 43 to 53 per cent.; prepared vegetables, from 30 to 35 per cent.; cotton thread and yarn and cotton cloths of various kinds, increased by change of rates and duty on packing charges, variously, say 5 to 20 per cent.; cotton hosiery and knit goods of all kinds, increased by change of rates and duty on packing charges, etc., say 20 to 60 per cent.; cotton damask and articles of wearing apparel, from 35 to 40 per cent.; cotton velvets, velveteens, and cotton flannel, variously, from 10 to over 100 per cent.; cotton cords, braids, lacings, webbing, suspenders, and various other manufactures of cotton, by advanced rates and duty on packing charges, etc., increased 10 to 20 per cent.

Flax, hemp, and China grass yarn, variously 5 to 20 per cent.; flax or linen thread and twine by duty on packing charges, etc., and increased rates, say, 5 to 20 per cent.; bags and bagging, from 40 to, say, 50 per cent.; burlaps, grass cloth, and other manufactures of jute, ramie, China grass and sisal grass, from 35 to 40 per cent.; sail duck or canvas for sails, from 30 to 40 per cent.; Russia and other sheetings, from 35 to 40 per cent.; brown and bleached linens, canvas, table-cloths, crash, toweling, handkerchiefs, etc., and various other manufactures of flax, hemp, jute, manilla, grass, etc., increased by duty on freight, packing charges, etc., say 5 per cent.; collars and cuffs for men's wear increased, say 20 to 30 per cent., by change of rates and duty on packing charges, etc.; oil-cloth, linoleum, etc., by change of rates and duty on charges increased, say 5 per cent.;

woolen and worsted yarns, increased variously 2 to 73 per cent.; cloths, increased variously 8 to 104 per cent.

Shawls, increased 8 to 15 per cent.; flannels, increased 5 to 33 per cent.; blankets, increased 9 to 55 per cent.; laces, increased 5 to 32 per cent.; dress goods, increased 5 to 17 per cent.; ready-made clothing, increased 5 to 16 per cent.; hosiery and other knit goods, increased 10 to 197 per cent.; balmorals, increased 8 to 62 per cent.; felts and plushes, increased 9 to 25 per cent.; trimmings, increased, say, 10 per cent.; carpets, increased 5 per cent.; and other manufactures of wool, goat hair, etc., increased 10 to 20 per cent.; blank books and other manufactures of paper, increased 5 to 20 per cent.; brushes and brooms, increased 5 per cent.; leather gloves, increased 5 to 25 per cent.; fur hats, from 30 to 50 per cent.; leather and manufactures of leather, increased 5 to 10 per cent.; lime, from 10 to 35 per cent.; manufactures of India rubber and gutta-percha, increased 5 to 10 per cent.; matches, from 35 to, say, 45 per cent.; lead-pencils, by packing charges, etc., say, 10 per cent.; pearl and other buttons, increased by change of rates and packing charges, etc., say, 35 per cent.; clocks, from 30 to 45 per cent.; and saddlery and harness furniture, from 35 to 45 per cent.

2. As to many of these articles the very refinement of severity in taxation has been attained by making the rates either absolutely or practically prohibitive, thereby forbidding competition from abroad and subjecting the consumer here to the inexorable exactions liable and likely to result from combinations of domestic producers. Conspicuous among these articles the importation of which is prohibited by this bill are chrome paints, spirit varnishes, hoop iron and steel for baling purposes, and barrel hoops, common black sheet-iron, cutlery, shotguns and pistols, small wood-screws, heavy machinery, cotton and linen thread, certain cotton cloths, cotton hosiery and other knit goods (fashioned, etc.), woolen and worsted yarn, cloths, shawls, hosiery and knit goods, common leather gloves, fur hats, manufactures of India rubber, pearl and other buttons, and saddlery and harness furniture.

3. With respect to Portland cement; certain manufactures of glass, common black sheet (taggers') iron, tin-plates, certain kinds of hosiery and other knit goods, cotton velvets and velveteens, burlaps, sail canvass, brown and bleached linen, table-cloths, toweling, handkerchiefs, etc., some descriptions of wool dress goods, certain kinds of brushes and leather gloves, pearl and shell buttons, and some other articles, the advance in rates fails of justification even upon the pretext of protecting established home industries; for the articles are either not produced here at all, or only in such limited quantities and defective quality as not to meet the demand, and in the nature of things can not be successfully and economically produced here.

INEQUALITIES, ANOMALIES, AND INCONGRUITIES.

One of the avowed purposes of the framers of this singular bill was to correct the inequalities and remedy the anomalies and incongruities of the existing tariff, yet in many ways they have multiplied and intensified these defects. For example:

1. Actual relief from taxation is not afforded to the masses of the people even as to most of the articles added to the free-list, since the rates of duty on the manufactures into which they enter as materials are either not correspondingly reduced or not reduced at all, but are in instances actually increased. This is true as to chlorate of soda, crude baryta or barytes, beeswax, crude coal tar, potash in various forms, hemp seed and rape seed, jute, jute butts, manilla, sisal grass, sunn, and other fibrous grasses, old scrap and refuse India-rubber, braids, plaits, flats, etc., of straw, chip, etc.; bristles, sour-orange juice, feathers, and downs, watch-jewels, human hair (raw, etc.); and olive oil and other oils used for soap making and other manufacturing purposes. The same rule holds good where the rates have been reduced on materials used in manufactures, and the rates on the latter have not been reduced or correspondingly reduced. This applies to crude glycerine, refined nitrate of potash, copper, and hatters' plush. By the transfer of the following articles of common use from the free to the dutiable list at the high rates proposed, there would result not only a cruel and unnecessary increase of customs taxation, but also an increase of revenue, namely: Fresh fish, at 16 per cent.; macaroni, vermicelli, and similar preparations, at 35 per cent.; sugar of milk, at 33 per cent.; gold size or japan, at 40 per cent.; lead in silver ore, at 59 per cent.; horses, at 13 per cent.; cattle, at 18 per cent.; hogs, at 3 per cent.; sheep, at 25 per cent., and other animals for breeding purposes, at 20 per cent.

No 2 furnished.

3. While almost uniformly and largely increasing customs taxes on articles of common and necessary use by the people generally, this bill reduces the rates on the following articles of luxury:

Pearls, from 50 per cent. as "beads," or 25 per cent. as "jewelry," to 10 per cent.; oil of bay leaves or bay-rum essence, from 59 to 25 per cent.; fruit ethers, oils, and essences, from 229 to 115 per cent.; beads and bead ornaments, from 50 to 40 per cent.; confectionery, from 71 to 50 per cent.; leaf-tobacco, not suitable for wrappers, from 35 to 20 cents per pound; ground spices, from 50 to 40 per cent.; filberts and walnuts, from 55 to 37 per cent., and certain other nuts from 44 to 33 per cent.; oil of cognac, from 533 to 14 per cent.; gelatine, from 30 to 25 per cent.; artificial flowers and dressed and finished birds for millinery ornament, from 50 to 40 per cent. At the same time straw and chip laces and ornaments and certain fashion plates are added to the free-list.

4. The rates of duty are advanced, either directly or indirectly, upon the following articles used in the domestic arts and manufactures, and some of which are not produced at all, or are not successfully produced in this country, namely:

Boracic acid, from 77 to 95 per cent.; cobalt oxide, from 20 to 27 per cent.; coal-tar dyes and colors, by duty on packing charges, etc., say 5 per cent.; extracts of logwood and other dye-woods, from 10 to 15 per cent.; extracts of sumac, from 20 to 26 per cent.; and of hemlock bark, from 20 to 50 per cent.; extracts of indigo; black taggers' iron or steel, from 39 to 64 per cent.; steel ingots, blooms, slabs, billets, bars, strips, hoops, sheets, etc., variously from 20 to 45 per cent., and from 45 to 63 per cent.; fence wire rods, from 41 to 48 per cent.; type metal, from 20 to 59 per cent.; zinc in blocks or pigs, from 46 to 54 per cent.; umbrella and parasol ribs, frames, and sticks, from 40 to 45 per cent.; antimony, from 10 to 12 per cent.; quicksilver, from 10 to 14 per cent.; bronze powder, from 15 to above 39 per cent.; rattans or chair cane, manufactured but not made up into completed articles, from 10 to 15 per cent.; sawed boards, planks, etc., of mahogany and other cabinet woods, from about 2 to 20 per cent.; glucose, from 20 to 37 per cent.; leaf-tobacco for wrappers, from 71 to 85 per cent.; whale and other fish oil, from 25 to 30 per cent.; plaster of paris, ground, etc., from 20 to above 21 per cent.; wools and the hair of the goat and other animals, increased variously 5 to 16 per cent.; wood pulp, from 10 to 22 per cent.; leather and skins for morocco, increased 5 per cent. and upwards.

5. The following articles in the same category are transferred from the free to the dutiable list: Mica, at 35 per cent.; artificial indigo, at 20 per cent.; lead in silver ore, at 59 per cent.; gold size, at 40 per cent.; mother of pearl, when sawed or cut, at 40 per cent.; brier root, or brier wood, for pipes, etc., at 20 per cent.; reeds, at 10 per cent.; and chair cane, at 15 per cent.

6. The rates on merino and similar wool, the like of which are successfully grown here, are advanced about 5 per cent., while the rates on the yarn, cloths, and other manufactures made from them are increased all the way from about 5 up to near 200 per cent. At the same time, the rates on wools of class 3 (carpet wools), the like of which are either not produced here at all, or only in limited and diminishing quantity (and of which we must import some 80,000,000 pounds per annum) are advanced from about 26 to 43 per cent., while the rates on the carpets made from them are increased only 5 per cent.

7. The rate on wood pulp is advanced from 10 to above 22 per cent., while the rates on the papers made from it remains as at present.

If the domestic carpet manufacturers and paper makers have now, as they claim, only the protection they need, surely their industries must seriously suffer, if not utterly perish, if this bill shall become a law.

The existing inequalities in the schedule of manufactures of wool, particularly those which discriminate so severely against the consumers of the coarser and cheaper qualities of goods, have been the subject of universal complaint. Nevertheless this bill augments and aggravates these very inequalities.

8. According to the importations for the fiscal year 1887, woolen cloths valued at only 64 cents per pound paid customs tax equal in round numbers to 90 per cent. ad valorem. Cloths of the same value would, under the Senate bill, be taxed equal to 110, while woolen cloths of the value of $1.21 per pound, and now paying equal to 69 per cent., would be taxed 77 per cent., or 33 per cent. less than those costing only about half as much, the advance in one case being 20 per cent. and in the other only 8 per cent.

9. Worsted cloths valued at only 24 cents per pound paid tax equal to 76 per cent. Under this bill these same cloths would be taxed equal to 180 per cent. (an increase of 104 per cent.). Yet worsted cloths valued at $1.10 per pound, and taxed equal to 72 per cent. (in 1887), would be taxed equal to 80 per cent. (an increase of only 8 per cent.), or 100 per cent. less than the poor man's cloth, worth less than one-fourth as much.

10. Woolen shawls of the value of 65 cents per pound are now taxed equal to 88 per cent., while those valued at $1.51 per pound pay the equivalent only of 62 per cent. Under the Senate bill the cheap shawl would pay tax at 101 per cent., while the article worth more than twice as much would pay only 70 per cent.

11. Woolen and worsted yarns, valued at 29 cents per pound and at $1.22 per pound, pay substantially the same rate of customs tax, 69 per cent. But under this bill the former would be taxed equal to 143 per cent. while the latter would pay 71 per cent. Thus the cheap yarn would pay double the tax imposed on yarn costing more than four times as much.

12. Balmorals of the value of 37 cents per pound are now taxed at practically the same rates (equal to about 67 per cent.) as those valued at $1.33 per pound. Under this bill, however, the cheap article would pay tax equal to 130 per cent., while the one costing nearly four times as much would pay 74 per cent., the increase of tax in the one case amounting to 63 per cent. and in the other only to 7 per cent.

13. On flannels valued at 73 cents per pound the present rate of customs taxation is the equivalent of 68 per cent., and on the article valued at $1.06 per pound is equal to 73 per cent., whereas by the Senate bill the rate on the former would be 101 per cent. (an increase of 33 per cent.), and on the latter 82 per cent. (an increase of only 9 per cent).

14. The rates ad valorem on blankets, valued at 70 cents per pound and at $1.15 per pound, are now substantially the same (70 per cent). But under this bill the 70 cent blanket would be taxed equal to 104 per cent. and the higher priced ones at 79 per cent.

15. Wool hats of the value of 77 cents per pound pay tax now equal to 66 per cent., and those valued at $29 per pound pay 52 per cent. According to this bill, however, the coarse article would pay a tax at 98 per cent., an increase of 32 per cent., and the fine one at only 55 per cent., being an increase of only 3 per cent.

16. On women's and children's dress goods (woolen or worsted), valued at 15 cents per square yard, the tax collected in 1887 was equal to 68 per cent., and on such goods valued at 37 cents per square yard it was equal to 59 per cent. Under the Senate bill the rate on the cheap goods would be increased to 85 per cent., while on finer ones it would remain as now, 59 per cent.

17. Hosiery, underwear, and other knit goods of wool valued at 19 cents per pound, paid customs taxes in 1887 equal to 88 per cent.; those valued at 40 cents per pound paid 65 per cent.; those valued at 53 cents and at 69 cents paid equal to about 69 per cent., and those valued at $1.55 paid 63 per cent. Under the Senate bill these goods valued at only 19 cents per pound would be taxed equal to 285 per cent. ad valorem, an increase of 197 per cent; those valued at 40 cents per pound would pay 158 per cent., an increase of 93 per cent.; those valued at 53 cents per pound would pay 120 per cent., an increase of 51 per cent.; those valued at 69 cents per pound would pay 110 per cent., an increase of 41 per cent.; while those valued at $1.55 per pound would only pay 73 per cent., or an increase of only 10 per cent. Thus there is a marked and uniform decrease in taxation as the value advances, and an astounding multiplication and aggravation of existing inequalities in these articles so necessary to the comfort of the people. The poor man's underwear, costing only 19 cents per pound, is taxed at the rate of 285 per cent., while these goods worn by the wealthy, and worth eight times as much, pay only one-fourth as much tax.

18. Paragraph 324 of this bill imposes the enormous tax of 10 cents per square yard and 20 per cent. ad valorem on "plushes, velvets, velveteens, and all pile fabrics composed of cotton or other vegetable fiber." Common canton flannel, worth at wholesale, say, 5 cents per yard, would fall under this provision, being a "pile fabric."

19. The bill (paragraph 332) makes cables or cordage and twine, composed wholly of manilla or sisal grass, dutiable at 1½ cents per pound, or equal to, say, 15 per cent. ad valorem; whereas these same articles composed wholly or partly of hemp, flax, istle, jute, or other vegetable fiber would pay duty at 40 per cent.

20. The duty on raw cabbages is increased from 10 per cent. to about 40 per cent., while sauer-kraut made from cabbages is on the free-list.

21. Bologne sausages are on the free-list, but the duty is increased on live hogs and retained on dressed pork and other meats.

22. Artificial alizarine is on the free-list, while anthracine, caustic soda, and other materials from which it is made are dutiable at from 20 to upwards of 50 per cent.

23. The rate on ordinary lime (now 10 per cent.) is increased to 35 per cent., while chloride and citrate of lime are free.

24. All medals of copper are free, but the copper from which they are made is dutiable at 35 per cent.

25. Silk bolting-cloths are on the free-list, while thrown silk and yarns pay duty at 30 per cent.

26. Orange, lemon, and lime juice are free, yet oranges, lemons, and limes are dutiable at from 13 to 34 per cent.

27. Paper, ink, engravers' tools, and engraved, lithographed, and stereotype plates are dutiable at high rates, while fashion plates, colored or plain, are on the free-list.

28. Bulbs and bulbous roots are made free of duty, yet garden-seeds pay 20 per cent.

29. Dried currants are put upon the free-list, while fresh fish are transferred from the free to the dutiable list.

30. Brazil nuts and cream nuts are free, but maccaroni and vermicelli are made dutiable at about 36 per cent.

31. Straw and chip laces and ornaments are added to the free-list, while the rates on common woolen hosiery and other underwear are more than trebled.

32. Cloves and spices are free, yet common salt pays duty at 80 per cent.

33. Olives are on the free-list, while potatoes are dutiable at 40 per cent.

34. Oil of cinnamon and ottar of roses are free, but cod-liver oil and whale and other fish oils pay duty at about 30 per cent.

35. Diamonds and other precious stones, rough or uncut, are made free, while freestone, sandstone, marble, granite, and other building and monumental stone and grindstones in the rough pay duty at from 15 to 53 per cent.

36. The rate of pearls is reduced (from 50 per cent. as "beads," etc., or 25 per

cent. as "jewelry") to 10 per cent., while the rates on the coarse worsted cloth are more than doubled.

37. Chinese matting is put on the free-list, yet all other matting and mats are dutiable at 40 per cent. and upward.

38. The Christians' Bible pays duty at 25 per cent., while the joss-stick or joss light which the Chinaman burns before his idol is exempt from duty.

All these strange, grotesque, contradictory, and oppressive things distinguish this bill, prepared, it is said, "to remedy the defects, anomalies, and incongruites which have been from time to time discovered in the tariff schedules," * * * "to secure the proper readjustment and equalization of tariff rates," * * * and "to give relief and protection to many industries which are now suffering on account of the inadequate rates levied on competing products."

AMBIGUOUS AND CONFLICTING PROVISIONS.

Although its framers claim for it simplicity of construction and freedom from ambiguities and conflicting provisions, this bill retains many of these infirmities of the present law and has introduced many new ones. Here are a few examples:

1. There is an article much used in printing or drying cotton fabrics, which is variously known in the trade as alizarine assistant, or soluble oil, or oleate of soda, or Turkey red oil. Not being enumerated in the present law, it has been classified under section 2499 Revised Statutes as assimilating to castor oil at duty equal to 198 per cent., it being composed chiefly of that article. It is specifically provided for in this bill at the rate of 3 cents per pound, equal to perhaps 20 per cent., when "containing not more than 50 per cent. of castor oil." It is understood that the commercial article as bought, sold, and used contains from 65 to 75 per cent. of castor oil, and that if not containing more than 50 per cent. is unfit for the use intended, and is not in fact the article described. Such being the case is not the provision nugatory, and how shall the true article be classified? The question is now before the courts on appeal from its classification as castor oil. It is claimed that it should be classified as a chemical compound (at 25 per cent.), otherwise as a non-enumerated manufacture (at 20 per cent.).

2. Paragraph 176 (page 127) provides that silver ore containing lead shall pay duty on the lead therein contained "according to sample and assay at the port of entry." There are comparatively few ports of entry where the Government could have proper assays made. According to the terms of this provision it would not be competent to have the assay made elsewhere than at the "port of entry."

3. Paragraph 156 (page 123) provides that no allowance for damage on account of rust, etc., shall be made on iron or steel or manufactures thereof. Why this provision, when section 44 of the bill abolishes all allowances for damages?

4. Paragraph 158 (page 124) is a marvel in the way of ambiguity and faulty construction. "All articles not specially enumerated, etc., * * * shall not pay a lower rate of duty," etc. (?)

5. Paragraphs 180 and 181 (page 128) provide for muskets, sporting rifles, double and single barreled breech-loading shotguns, and for revolving pistols. There being no provisions made, however, for muzzle-loading shotguns, pistols other than revolving, and other fire-arms, how is it intended these articles shall be classified for duty?

6. Paragraph 198 imposes duty at 45 per cent. on all articles not especially enumerated in the act, composed wholly or in part of iron, steel, or other metal. This clause in the present law has been a constant source of vexation to Treasury officials and customs officers, and has been productive of numerous disputes, protests, appeals, and pending suits. Under it articles made of wood, and fairly dutiable at 35 per cent., or of paper, and properly dutiable at 25 per cent., if containing the least bit of metal—as, for example, a ferrule on a walking-stick, a strip of hoop-iron about a packing-box, or a simple wire-brace in a paper lamp-shade—would be subject to duty at 45 per cent. The question has also arisen, whether a few metal threads running through silk and woolen piece goods, or employed in embroidery on goods composed of wool or silk, would not subject these fabrics to duty as manufactures composed "in part of metal."

7. Paragraphs 199 and 200 (page 130) provide, respectively, for "timber, hewn and sawed, and timbers used for spars and in building wharves," at 20 per cent.; and for "timbers squared or sided," etc., at 1 cent per cubic foot, or equal to 10 per cent. Timbers squared or sided may be used, and is often used, "for spars in building wharves." Where an article like this is fitted for various uses, how is the customs officer to know its precise intended use or its possible ultimate use?

8. Paragraph 200 (page 132) imposes duty at 30 per cent. on house furniture not finished, and the next paragraph duty at 35 per cent. on house furniture finished. A bedstead, for example, packed in pieces, as is usual, and lacking only the castors, or perhaps a coat of varnish, would be entitled to admission at the lower rate.

9. Paragraph 209 also makes "reeds" dutiable at 10 per cent., whereas paragraph 731 (pages 195, 196) makes "reeds" free of duty.

10. The same paragraph (page 209) imposes duty at 15 per cent. on "chair cane," while paragraph 731 exempts the same material (bamboo and rattan) from duty.

11. Paragraph 353½ (page 157) provides for "woolen and worsted yarns, made wholly or in part of wool, worsted," etc. Would yarns be "woolen or worsted" if not made "wholly or in part of wool?" Yarns made from the hair of the Angora goat are not known as "woolen and worsted yarns," but are known as "mohair yarns," while those made from the hair of the alpaca, the common goat, the camel, the cow, or other animals are not "woolen and worsted" yarns. How, therefore, would these hair yarns be classified for duty?

12. Note the faulty phraseology in the first three lines of paragraph 355 (page 158), namely, "flannels, blankets, and hats of wool, composed wholly or in part of wool, the hair of the goat, alpaca, or other animals."

13. Also note the obscure, ambiguous, and conflicting clause in paragraph 356, namely, "but all the above-named goods which are composed in part of silk, or which contain an admixture of silk, and in which silk is not the component material of chief value," etc. Would the kinds of goods described in the paragraph, "composed in part of wool," etc., but in which silk is "the component material of chief value," be dutiable at the rates therein prescribed, or at the rates prescribed in "Schedule L" for silk piece-goods?

14. Observe the clause in paragraph 357 (page 160), which reads: "And all such goods with selvedges, made wholly or in part of other materials, and all such goods in which threads, made wholly or in part of other materials, have been introduced in the warp or in the filling for the purpose of changing the classification for duty," etc. How shall it be determined whether the "selvedges" were put on, or threads introduced in good faith or "for the purpose of changing the classification for duty?" The similar clause in the present law has been the subject of vexatious disputes ever since it took effect. The Treasury officials have held that the mere introduction of a few threads of cotton or other material, or the admixture of a small percentage of such materials, with the wool, etc., would not relieve the goods from classification under this provision, as if "composed wholly of wool," etc. Suits have in consequence been brought involving vast sums of money.

Meanwhile these goods have been sold to the people at prices based upon the rates of duty exacted, and the domestic manufacturers of similar goods have made their business arrangements as if they were securely "protected" under the higher rate. Within the past few days, however, a suit involving this question was decided in the United States court for the southern district of New York in favor of the importer. Therefore, if this decision is sustained the consumers of the goods will have suffered, the domestic manufacturers will have been deceived and injured, the Government will have been put to much expense and trouble, and nobody will have been benefited except the venturesome importers and their attorneys and customs-house brokers, with whom it would almost seem that the real authors of the provision in question were in league.

15. Paragraphs 358 and 359 provide for the same class of articles at the same rate of duty. The first paragraph would cover all.

16. There are two provisions in the free-list for bulbs and bulbous roots (paragraphs 493 and 535). Also for "peltries and other proper goods and effects of Indians." (See paragraph 651 and section 2512, pages 189 and 208.)

AD VALOREM AND SPECIFIC DUTIES.

Notwithstanding the pronounced declaration against ad valorem duties and strong arguments in favor of specific rates contained in the report of the Senate Committee on Finance, the bill has substituted purely specific for ad valorem duties on few articles compared with the number on which it has actually increased existing high ad valorem rates. At the same time it has vastly extended that most vicious and mischievous system known to customs taxation, namely, specific duty dependent upon values. A system apparently devised to invite evasions and encourage frauds, and which almost invariably imposes the higher rate on the cheaper quality of goods of each particular class.

Take for example cotton hosiery provided for in paragraph 321 (page 151). If a dozen pairs of hose worth 75 cents should be invoiced and admitted at 60 cents or less the revenue would lose, and the defrauder gain, 41 cents, or 9 cents more than the amount collected; whereas if the rate of duty was simply 55 per cent. ad valorem the loss to the revenue and gain to the defrauder would only be a fraction over 8 cents.

On the other hand, hose valued at 75 cents per dozen pairs would under this bill pay duty equal to 95 per cent. (or 40 per cent. more than if this duty were 55 per cent. ad valorem); while if valued at $2 per dozen pairs it would only equal 55 per cent., and if valued at $8 per dozen pairs it would only equal 45 per cent., or 50 per cent. less than on the 75-cent goods.

Take also cotton thread and yarn, embraced in paragraph 313. Should 100 pounds of the yarn worth $30 be invoiced and admitted at a valuation of $23, the revenue would thereby suffer a loss and a dishonest importer secure a gain of $8. If, however, duty was 40 per cent. ad valorem, the revenue would only lose and the importer gain $2 by such an undervaluation. At the same time yarns correctly invoiced at a valuation of 30 cents per pound would under this bill pay duty equal to 60 per cent., while if valued at 40 cents per pound the duty would be equal to 45 per cent.

There are two classes of men who favor this system of duty, also very high ad valorem rates pure and simple. These are unscrupulous importers who are sure to, and crafty manufacturers who hope to, secure undue advantage therefrom. And it is a notable fact that in most cases these beneficiaries are adventurous aliens who have established themselves here temporarily for this purpose only.

The advocacy of specific duties by our Government is warranted not only by our experience but by the abandonment of ad valorem rates and the adoption of this system by the principal manufacturing and commercial nations of continental Europe. It is true that the rates of duty imposed by those countries are, as a rule, but trifling compared with ours, and that for this reason it is practicable to levy specific rates there without discriminating against articles of cheaper quality to a degree so seriously hurtful as would apparently be the case here, under our exceptional system of high customs taxation. Yet my experience since coming to this Department has taught me that it is practically impossible to apply such high ad valorem rates as have come down to us from our late war period without such attendant inequalties, injustice, fraud, immorality, and scandal as has hitherto disgraced the Government and as still prevails. This condition of affairs is in my opinion more injurious to us as a people than would be the inequalities likely to result from the substitution of specific for ad valorem duties. Let it be understood that I am considering a choice between two evils. No form of taxation has ever been devised that has operated with strict fairness and equality. Certainly this is impossible under our system, born of war and as cruel as war.

If, therefore, it shall be the policy of the Government to continue and to aggravate, as is proposed, this merciless system of customs taxation, it would be better, I think, that the barbarism be made complete by the adoption of specific rates than that the present carnival of fraud and deceit shall continue. If the people are to be forever tortured by taxation, then "call in the Cossacks," lay on the knout, put on the manacles, and apply the thumb-screws in an earnest, orderly, and straightforward way. The resolute purpose to obstruct our commercial intercourse with other countries by restricting and prohibiting importations, which is so manifest in the several schedules of the bill, is also adhered to in certain of its administrative sections. I shall content myself with merely pointing out such of these as impress me as being particularly objectionable.

Section 2900, Revised Statutes, imposes an additional duty of 20 per cent. upon all merchandise which, upon appraisal, is found to have been entered 10 per cent. or more below its true market value. The framers of this law clearly had in mind cases where, from various reasons, goods might be fairly invoiced and honestly but erroneously entered below their actual market value at the period of exportation to this country. Therefore the imposition of the additional duty was for the purpose of inflicting such punishment only upon the importer as would cause him to be careful in entering his goods in all cases at their proper value, and was not intended as a penalty for a willful attempt to defraud the revenue.

Section 30 of the bill substitutes for this provision in section 2900, Revised Statutes, a penal duty of 2 per cent. for each 1 per cent. of the increased valuation ascertained by the appraiser in excess of 5 per cent. of the entered value. And furthermore, if the appraised value exceeds the entered value more than 20 per cent. the entries shall be held to be presumptively fraudulent, and the goods shall be seized and proceeded against for forfeiture. It is scarcely necessary for me to call attention to the fact that it is practically impossible for the most accomplished experts to determine within 5 per cent. the actual foreign market value of many classes and qualities of imported goods. In fact, it frequently occurs that our customs examiners, as well as experts in the trade, differ more than 10 per cent. with respect to the foreign value of imported articles. You will readily see, therefore, that this amendment is a radical change of the present law, and that the hardships it would cause would necessarily restrict regular importations by our merchants, and would be prohibitive of consignments here on foreign account.

Section 31 provides, in effect, that in all cases where merchandise is consigned to the United States for sale on account of the manufacturer thereof, there shall be presented on entry, in addition to the certified or consular invoice, etc., a statement signed by such manufacturer showing in detail the cost of production of the merchandise, or if consigned for sale on account of a person other than the manufacturer, there shall be presented as a part of the entry a statement declaring that the merchandise was actually purchased by him or for his account, and showing the time, place, and from whom purchased, and in detail the price paid therefor.

It is plain that a bona fide and actual compliance with these requirements would be practically impossible as a rule. Consequently, the result would be either the presentation of false and misleading statements or that the goods

would be falsely invoiced and entered as having been actually purchased for the account of the consignee. So that the effect would be not only to increase the volume of custom-house frauds, but to drive the more honest men from the consignment business, and at the same time to restrict importations, and to injuriously affect our commercial relations with foreign countries. When the Government has been furnished an invoice duly authenticated by one of its own consular officers, together with the consignee's entry under oath, and also has the importer's goods in its own hands for examination and appraisal, it would certainly seem to be in position to collect its duties.

The clause in section 41 (page 231, lines 13 to 17) providing for the addition to the dutiable value of "the cost of transportation, shipment, and transshipment, with all the expenses," etc., would so largely increase the customs taxes on such articles as earthenware, tiles, bricks, roofing slate, machinery, and other heavy and bulky goods subject to ad valorem rates, as to measurably, at least, prohibit their importation. Unlike coverings, packing charges, etc., these additions to the dutiable value are not necessary to prevent frauds or abuses, nor to secure fair and uniform appraisements, and were manifestly made for the express purpose of so increasing the domestic manufacturer's "protection" as to relieve him entirely, at the expense of the consumers, from foreign competition.

There is obscurity as to the intent and meaning of the words "additional duty shall be levied," etc., in the clause providing for the imposition of duty on such coverings of "imported merchandise, whether dutiable or free," as are of unusual character and "designed for use otherwise than in the bona fide transportation of merchandise to the United States." The purpose of the section is to include "the value of all cartons, cases, crates, boxes, sacks," etc., in determining the dutiable value of goods subject to ad valorem rates only. Clearly, it was not intended to assess duty upon the usual and necessary coverings, etc., of free goods or goods subject to purely specific rates. How, therefore, are the words "additional duty," as applied to such goods, to be understood?

With the exception of these two objectionable clauses, this section (41) is substantially as originally prepared and recommended by this Department.

Respectfully, yours,

CHARLES S. FAIRCHILD.

Hon. R. Q. MILLS,
House of Representatives.

Repeal of the Tobacco Tax—Blair Educational Bill.

SPEECH

OF

HON. WILLIAM E. GAINES,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, March 4, 1889.

Mr. GAINES said:

Mr. SPEAKER: Almost three years have elapsed since I accepted a nomination to a seat in this body. My formal acceptance of the honor carried with it a pledge to support two great measures in which the people of my State felt more real concern than in all other measures then likely to be considered by the Fiftieth Congress. That interest has not abated but intensified. Virginia earnestly desires the repeal of an unjust, un-American, unequal, and unnecessary tax upon her main farm product—tobacco. In her poverty she favors help from the General Government in her most commendable undertaking to educate her thousands of illiterate children. I have before me the last census showing in round numbers three hundred and forty thousand children in Virginia of school age who never saw the inside of a primer. It is strange that this grand old Commonwealth should invoke the aid of the Federal Government to assist her in raising the pall that rests upon her. Is it not natural that she should demand that tobacco, her great farm product, should be as free as the farm products of other States of the Union? Why should the tobacco raisers of a few States of the Union submit to having the product of their farms taxed $54,000,000 annually while other agricultural products are as free as the air we breathe?

Mr. Speaker, tobacco has contributed its share of the tribute to the necessity that imposed this un-American tax upon a farm product. The raiser, the dealer, manufacturer, and consumer are united in an effort to free this industry of the espionage and restraining burdens to which it has been so unjustly subjected for so many years. Upon this staple depends a large section of the State which I have the honor in part to represent on this floor. Its growth and manufacture enter very largely into the trade, commerce, and wealth of Virginia. It should be remembered that 18 per cent. of all persons engaged in agriculture in Virginia are employed in raising tobacco, in round numbers 49,000 farmers, while there are nearly 600,000 taxed dealers engaged in the trade in the United States; nearly 8,000 establishments, employing $41,000,000, giving employment to 90,000 persons, whose wages aggregate $26,000,000 annually. Tobacco represents fully 71 per cent. of the merchandise balance exported by the United States, bringing in return $32,000,000 in gold.

It is an industry of no mean importance in nineteen States of the Union. There exists no longer a pretext that tobacco is a luxury which should be subjected to proscriptive legislation. It is used in one form and another in all parts of the civilized world. This universal use forbids any such classification. It is estimated that the world uses 70 ounces per capita. Coffee and tea are not classed as necessaries of life. The consumption of coffee per capita is almost double that of tobacco, while that of tea is about one-fifth. These articles are not more essential to man's comfort, yet they pay no internal tax. If tobacco is a luxury, why burden its production and the trade resulting from it, thus keeping it beyond the reach of the masses? It is conceded by all political parties that the money derived from the internal tax is no longer a necessity for maintenance of Government. Nothing is more distasteful than this system of taxation. Nothing is more unjust. The fields of agriculture should be relieved of this burden.

The people of every State of the Union are educated to the belief that this Congress would reduce the surplus in the Treasury by an outright reduction of taxes. They are weary of the promise of a reduction of burdens so long endured. They will hold to account the party responsible for the retirement to the Treasury, to lie in idleness, the currency needed for circulation.

Mr. Speaker, there can be no tariff legislation by this Congress; it would at this moment be a grand and patriotic act to relieve the agricultural interest of this hinderance. Why, sir, the tobacco crop of 1888 is now being marketed at an average of 50 per cent. less than the cost of production, a sum per hundred less than one-half that collected by the Government as a tax thereon.

Mr. Speaker, we are about quitting this Hall. In a short period the sands of time will announce the dissolution of the Fiftieth Congress. Who is responsible for the failure to repeal the tax on tobacco? Can it be charged to this side of the House? I am sure it can not. The Democratic party of this House through its Speaker and Committee on Ways and Means have persistently fought every measure looking to this repeal. With a dozen or more bills introduced at the commencement of the first session of this Congress in the hands of the Committee on Ways and Means; with resolution after resolution from the Republican side of this House; with petitions and delegations from farmers, manufacturers, and dealers, this august committee has maintained the silence of a stone in utter contempt of the will of the people. That committee has so far forgotten its own functions as to fight with relentless hand all effort on the part of the distinguished chairman of the Committee on Appropriations to whom had been referred what is known as the Cowles bill. For the past ten days that grand old commoner, Mr. RANDALL, of Pennsylvania, has been watched and dogged by his party friends on this floor and in caucus—every effort known to modern legislation has been resorted to by an almost undivided Democratic party to prevent recognition of him by the Chair. On this floor it is openly threatened that no man who will join the Republicans to repeal this tax will be countenanced by his party again. The fight waxes warm; the Virginia farmer remains at home, too poor to subscribe to a newspaper which would correctly chronicle events here. Democracy thus holds clutched in the vice of death the liberties of my people. The question is asked, why can not the Virginia farmers be instructed as to the position of the two parties on these questions in which they are so much interested. I answer, Mr. Speaker, that I have never seen as many as a dozen Virginia Democratic farmers who have read Cleveland's message to this Congress in which he so plainly defined the position of the Democratic party on the question of the repeal of the tobacco tax. From it I read as follows:

> It must be conceded that none of the things subjected to internal-revenue taxation are, strictly speaking, necessaries. There appears to be no just complaint of this taxation by the consumers of these articles, and there seems to be nothing so well able to bear the burden without hardship to any portion of the people.

I am not sure, Mr. Speaker, that this message was ever published in the Democratic newspapers of my State. None but Democratic journals can live there. It was necessary to Democratic success in that State that the farmers be kept in ignorance of the position of the Democratic party on the repeal of the tobacco tax and the Blair educational bill. No party can live in Virginia in opposition to these measures, hence the necessity for the suppression of that message as well as the action of this Congress.

I do not wish to be understood as imputing ignorance on general subjects to the Virginia farmer; to the contrary, no State can furnish his superior intellectually. Yet, Mr. Speaker, no sane man can believe that this class of Virginia people would have voted the Democratic ticket last fall had they read the tobacco clause of Cleveland's message, or known that the Blair educational bill, donating the magnificent sum of $76,000,000 for public education, had been three times defeated in as many years by the Democrats sent here to represent them. Nor did they understand that their forests and vegetables had been put on the free-list. I am unprepared to believe that Virginia farmers will knowingly persist in the support of a party when it is understood they starve themselves and forever keep their children in ignorance by so doing.

It is reckoned admissible for the clergy of Virginia to vote twice a year to keep three hundred and forty thousand Virginia children in ignorance, thereby entailing crime and shame. They forget the heathen at home on election day, while on every other day of the week they invoke aid for the foreign heathen. Such is the state of politics in the old Dominion that one needs be a Democrat to have listened to the gospel; but few Republican divines make bread in that State. The farmers' Democracy, however, leads him in another direction. Mr. Speaker, I have not been deceived by the failure of the majority party of this House to repeal the tax on tobacco. In fact, I have never for a moment thought they would do so. But, thanks to the will of the

American people, the Republican party will be seated in this Hall on the 1st of December next, clothed with power and disposition to grant to the people of this Union Federal aid to public education, protection to American industries, protection to American agriculture, protection to North and South alike, protection to Americans at home and abroad.

Here is the platform of God's people as relates to Virginia tobacco raisers and her three hundred and forty thousand illiterate and indigent children.

Mr. Speaker, the verdict must come sooner or later. The truth can not always remain suppressed. How stands it with my Democratic colleagues from Virginia? Allow me to say to you that the part you have played in this great drama was correctly portrayed when three years ago it was charged upon you that you would by your action on the first day of the first session of the Fiftieth Congress betray the trust imposed on you by voting for the present Speaker of this House. You did not thus defeat Virginia's hopes without warning and full knowledge of the effect of your action.

One or more of you must have known from experience in the Forty-ninth Congress that to make Mr. CARLISLE Speaker meant to perpetuate the tobacco tax, to the repeal of which you were solemnly sworn. You lent your vote to the election of the distinguished chairman of the Committee on Ways and Means with the full knowledge that he had abused and vilified Virginia Democracy for adopting a platform favoring the repeal of the tax on tabacco and the passage of the Blair educational bill. I will remind you and instruct the House by reading the language of Mr. MILLS upon reading the last platform adopted by Virginia Democrats. Here it is:

CONGRESSMAN MILLS, OF TEXAS, ON VIRGINIA DEMOCRATS.

That platform adopted by the so-called Democratic party of Virginia was something extraordinary. It must disgust every Democrat both in and out of the State. The present leaders of the Democratic party in Virginia are the queerest set of imbeciles that ever ruined a State.

The present Speaker of this House said of that platform: "The Virginia Democrats have adopted a Republican and not a Democratic platform."

Again, the Courier-Journal, the mouthpiece of Mr. CARLISLE, said of that platform: "If a set of political pirates ever deserved defeat for cowardly utterances, these so-called Virginia Democrats certainly do. The platform is an outrage upon Democratic principles and a fraud upon the Democracy of that State. It is a lie and a cheat from the beginning to the end."

Now, Mr. Speaker, I would ask if the support given to Messrs. Mills, Carlisle & Co. on this floor by Virginia Democrats is not an acknowledgment on their part that the State platform upon which my colleagues were elected was all that was ever claimed for it by Messrs. MILLS and CARLISLE.

That it was a lie, a fraud, and a cheat no one ever doubted in Virginia, since it claimed to favor principles which would not last to cross the Potomac, and which were known to be in direct opposition to the platform of the national Democratic party in this, that the one demanded the repeal of the internal-revenue laws and favored aid to public education, while the other reads that this tax shall be continued for the payment of pensions to United States soldiers, and that it was opposed to collecting taxes of the people to be distributed among the States for educational purposes.

Mr. Speaker, national Democracy and Virginia Democracy did not come out of the same box. The latter is the Republican platform as enunciated by Virginia Republicans and afterwards adopted by Virginia Democrats without the dotting of an "i" or the crossing of a "t." As degrading as this may appear it is nevertheless so, and no attempt was ever made to conceal the fact. In contrast with this humiliating spectacle, Mr. Speaker, I thank God that when a Virginia Republican proclaims in favor of a repeal of the tobacco tax and the passage of a bill giving Federal aid to public education he can go and open the national Republican platform upon which Benjamin Harrison was elected President of these United States and find his faith confirmed in the following language. I read from the Republican platform:

The Republican party would effect all needed reduction of national revenue by repealing the taxes on tobacco, which are an annoyance and burden to agriculture.

EDUCATIONAL.

In a republic like ours, where the citizen is the sovereign and the official the servant, where no power is exercised except by the will of the people, it is important that the sovereign, the people, should possess intelligence. The free school is the promoter of that intelligence which is to preserve us as a free nation. Therefore the State or nation or both combined should support free institutions of learning sufficient to afford every child growing up in the land the opportunity of a good common-school education.

In addition to the above, Mr. Speaker, the world can judge of our sincerity by our actions. Three times has our Republican Senate echoed the language of the above platform by passing the Blair educational bill. And with a full knowledge of the language I employ and in contradiction of the statement made by one of my colleagues in a newspaper interview in the city of Richmond, Va., a few days since, I defy any member of this House to name a Republican member of the Fiftieth Congress who is not honestly and earnestly in favor of the repeal of the tax on tobacco.

I extend my challenge further. I defy the production of a dozen Democrats in this House who favor either the educational bill or the repeal of the tobacco tax.

Mr. Speaker, Virginia Democracy upheld by Northern Copperheads reminds one to exclaim "The voice is Jacob's voice, but the hands are the hands of Esau." In the Pilgrim's Progress it plays the part of the gentleman who followed Christiana so devoutly for her silver slippers.

Direct Taxes.

SPEECH

OF

HON. WILLIAM ELLIOTT,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, December 11, 1888.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (S. 139) to credit and pay to the several States and Territories and the District of Columbia all moneys collected under the direct tax levied by the act of Congress approved August 5, 1861—

Mr. ELLIOTT said:

Mr. CHAIRMAN: On the 5th August, 1861, Congress passed an act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes." Section 8 provides:

That a direct tax of $20,000,000 be, and is hereby, annually laid upon the United States, and the same shall be, and is hereby, apportioned to the States, respectively, in the manner following.

Then follows the apportionment, which will be hereafter given. Section 53 provides that any State or Territory may assume the payment of its quota, and thus relieve its citizens from the payment of the amounts charged against their lands, and that any State so paying should be entitled to a deduction of 15 per cent. of the sum apportioned to it.

All the Northern States, excepting Delaware, assumed and paid their quotas. Delaware's quota was collected directly from her citizens by the machinery provided by the act. In the Southern States no collections were made under this act, nor until after the passage of "An act for the collection of direct taxes in insurrectionary districts, and for other purposes," approved June 7, 1862. Under this the President was authorized to appoint for those States three tax commissioners for the purpose of collecting the tax to be assessed against each lot of land therein, and in case of sale the certificate of the commissioners could—

Only be affected as evidence of the regularity and validity of sale by establishing the fact that said property was not subject to taxes, or that the taxes had been paid previous to sale, or that the property had been redeemed according to the provisions of this act.

Under this act, during the war and after its close, collections were made in all of the Southern States either by voluntary payment or by sales of property, so that to-day the account of each State and Territory stands as follows:

State.	Quota charged.	Amount credited.	Amount due.
Alabama	$529,313.33	$18,285.03	$511,028.30
Arkansas	261,886.00	154,701.18	107,184.82
California	254,538.67	254,538.67	
Colorado	22,905.33	22,189.96	715.37
Connecticut	338,214.00	338,214.00	
Dakota	3,241.33	3,241.33	
Delaware	74,683.33	74,683.33	
District of Columbia	49,437.33	49,437.33	
Florida	77,522.67	4,760.30	72,762.37
Georgia	584,367.33	117,982.89	466,384.44
Illinois	1,146,551.33	1,146,551.33	
Indiana	904,875.33	904,875.33	
Iowa	452,088.00	452,088.00	
Kansas	71,743.33	71,743.33	
Kentucky	713,605.33	713,605.33	
Louisiana	385,886.67	314,500.84	71,385.83
Maine	420,826.00	420,826.00	
Maryland	436,823.33	436,823.33	
Massachusetts	824,581.33	824,581.33	
Michigan	501,763.33	501,763.33	
Minnesota	108,524.00	108,524.00	
Mississippi	413,084.67	111,038.46	302,046.21
Missouri	761,127.33	761,127.33	
Nebraska	19,312.00	19,312.00	
Nevada	4,592.67	4,592.67	
New Hampshire	218,406.67	218,406.67	
New Jersey	450,134.00	450,134.00	
New Mexico	62,648.00	62,648.00	
New York	2,603,918.67	2,603,918.67	
North Carolina	576,194.67	377,452.61	198,742.06
Ohio	1,567,089.33	1,567,089.33	
Oregon	35,140.67	35,140.67	
Pennsylvania	1,946,719.33	1,946,719.33	
Rhode Island	116,963.67	116,963.67	
South Carolina	363,570.67	222,396.36	141,174.31
Tennessee	669,498.00	392,004.48	277,493.52
Texas	355,106.67	180,841.51	174,265.16
Utah	26,982.00		26,982.00
Vermont	211,068.00	211,068.00	
Virginia	729,071.02	442,408.09	286,662.93
West Virginia	208,479.65	208,479.65	
Washington	7,755.33	4,268.16	3,487.17
Wisconsin	519,688.67	519,688.67	
Total	20,000,000.00	17,359,685.51	2,640,314.49

Quota	$20,000,000.00
Paid or credited	17,359,685.51
Amount due	2,640,314.49

The second column includes taxes collected, amount of 15 per cent. deduction, and credits allowed.

In South Carolina the amounts collected in the several parishes and districts are as follows:

Collection of direct taxes, interest, and penalties in South Carolina, by parishes.

Parishes.	Direct taxes.	Interest.	Penalties.
St. Philip and St. Michael	$168,350.53	$25,327.04	$132.76
Prince William's	2,048.25	398.81	
St. John's and St. Andrew's	6,963.73	1,304.53	
St. James, Santee, and St. Andrew's	946.77		
St. Stephen's	662.71		
Marion district	2,492.40		
Prince George	1,216.01		
St. Peter's	2,398.25		
St. Paul, St. Thomas, and St. Denis	6,551.26		
Horry district	691.10		
St. John's	3,881.85	3.41	
Goose Creek and Williamsburgh	4,151.18		
St. George	1,556.74		
St Bartholomew	4,393.00		
All Saints	233.07		
Christ's Church	2,936.90		
St. Luke's	793.05	251.20	
St. Helena	513.52		
Total tax	210,789.32	27,284.99	132.76
Tax collected by sale of land	11,855.04		
	222,644.36		
Deduct duplicate entry	248.00		
Total tax collected exclusive of penalties and interest	222,396.36		
Interest collected	27,284.99		
Penalties collected	132.76		

Except in the parishes of St. Helena and St. Luke's, in Beaufort district, these collections were all made by voluntary payments shortly after the close of the war. In St. Helena and St. Luke's parishes, excepting $513.52 in the former and $793.05 in the latter, paid by landowners resident at the North, the collections amounting to $11,855.04 were made by sale of lands during the war. This sum of $11,855.04 is the entire tax charged against the lands and town lots in these two parishes which were sold by the commissioners in the manner hereinafter described.

Although the act of 1861 provided for an annual direct tax of $20,000,000, yet no effort has ever been made to collect the tax for any but the first year; nor have any collections been made for twenty years past on account of the uncollected balances of the first year's tax.

The present bill proposes to repay to the States and Territories the entire amount collected and to release whatever is still due, and the payments are to be made to the States and Territories directly, whether the tax was paid by them to the United States, as in the North, or was collected from the people, as in the South—the latter States being made trustees for their citizens from whom the tax was collected.

I do not propose to discuss the general features of this bill, which have been so ably presented by gentlemen who have preceded me, but to call the attention of the committee to a case of special hardship arising out of the enforcement of the law in the parishes of St. Helena and St. Luke's in South Carolina.

After the capture of Port Royal in 1861, and after the passage of the supplementary act for the collection of this tax in the insurrectionary districts, some time in the year 1862, commissioners were appointed and sent into that section of the State, and as the result of their operations 110,000 acres of land in these parishes and the entire town of Beaufort, consisting of some 500 lots containing valuable improvements, were sold.

There has been no reversal of these acts, and, except in cases where the owners have redeemed their property from the Government under the redemption act, passed in 1872, or have repurchased it, the entire property is held by the tax purchasers and those claiming under them.

I will propose by an amendment to the bill, which the Judiciary Committee have instructed their chairman to accept, some provisions calculated to undo the great injustice which has fallen upon these people far in excess of anything suffered by the people in other sections of the country.

All the facts cited in support of any amendment are based upon the official publications of the Government, most of which are included in the report of the Judiciary Committee on this bill. By a careful examination of that report it will be seen that the grossest irregularities were committed by the commissioners intrusted with the execution of the law.

ASSESSMENT AND TAXATION.

At the very outset in assessing the property and fixing the rate of taxation upon it the commissioners acted in a most extraordinary manner, as will appear by the following extracts from a report made in 1886 by a commission appointed by the Secretary of the Treasury, and included in the committee's report:

For taxation the State was divided under State laws into the "upper division" and the "lower division," in the latter of which alone was the direct tax attempted to be levied and collected.

The commissioners fixed the entire taxable property of the State at $30,833,322.10⅞, and still imposed upon the several parishes and districts constituting the "lower division" of the State for taxation an aggregate assessed valuation of $33,750,000, or nearly $3,000,000 more than the entire estimate for the State, leaving unassessed the "upper division," which, under the State law, constituted more than one-fourth the taxable value of lands in the State and about three-fourths the State's area.

The commissioners imposed upon farming lands—all property not in towns, etc.—a tax of "$2 ad valorem for each $100 valuation," and "upon the city, town, village, and borough lots the sum of 80 cents ad valorem on each $100 valuation." This has very recently been the subject of judicial inquiry before the Court of Claims, where it has been held that the assessment should have been the same for all classes of property, and that any assessment in excess of such a levy is erroneous, and the amounts collected thereunder in excess of the proper sums should be refunded to the landowners paying the same.

Further on the report proceeds:

The report of the comptroller-general of South Carolina for 1860, adding thereto the assessment for Union County for the next fiscal year, which is substantially correct, as no return for this county seems to have been received or incorporated in the first of the said reports, shows as taxable real estate in the entire State $41,924,074, of which $30,090,507 was in the "lower division." Then, if $41,924,074 should pay $363,570.67, the quota of the State, $30,090,507 should pay $260,948.53. But upon this lower division the commissioners levied $348,283.34, $87,334.81 more than its proportion. Should the rate of taxation have been uniform, each land-owner has been compelled to pay 33.8 per cent. more than could be imposed under the law.

The same figures will show that the assessment for this State should have been 80 cents (about) on each $100 valuation. Town property has, then, paid 6 cents too little and country property $1.14 too much on each $100 valuation.

It is probable that there will yet be presented numerous claims for refunding amounts erroneously collected, both here and in other States. Each sum refunded, and which was heretofore credited to the State on account of tax, will necessarily affect the amount due from the State. And hence the necessity of the observations upon this point.

Thus it appears that the commissioners assessed the "lower division" alone at nearly $3,000,000 above the entire assessment for the whole State, and that they made a distinction in the mode of levying the tax between town property and planted lands, whereby they taxed the plantation lands $2 for every $100, being, as against town property, 6 cents too little, and as against county property $1.14 too much on the $100.

ADVERTISEMENT.

Next, as to the advertisement. For a hundred years the lots in Beaufort had been designated on the town plat by numbers, from 1 up to about 500, without reference to blocks. Although the commissioners found this plat, they nevertheless made a new one, conforming in general to the old subdivision but changing entirely the designation—numbering the blocks and lettering the lots in each block. Thus, for instance, a lot which under the old plat might be known as No. 10 became under the new lot A in block 4. It is impossible to conceive of a more radical change. No owner could by any possibility have recognized his property by the description. And the change was as needless as it was illegal. No good reason for it can be imagined. Its only object was to obliterate landmarks as well as titles, and yet luckily it may prove a blessing to its victims by helping to redress a great wrong.

GENERAL HUNTER STOPS THE SALE.

A few days before the day fixed for the sale Major-General Hunter, then commanding the Department of the South, ordered the commissioners not to proceed with it. They, nevertheless, commenced the sale, and the minutes of the commissioners show that the following orders were then issued:

HEADQUARTERS UNITED STATES FORCES, PORT ROYAL ISLAND,
Beaufort, S. C., February 12, 1863.

SIR: I am instructed by the colonel commanding these forces to inform you that if you attempt to continue the sale of land, or sell another lot, without orders from the department headquarters, to arrest you and send you there under guard.

I am, sir, very respectfully, etc.,

S. S. STEPHENS,
Lieutenant Sixth Connecticut Volunteers, A. A. A. G.

Mr. A. D. SMITH,
Direct-Tax Commissioner.

Brig. Gen. R. Saxton this day transmitted to this commission the following order, to wit:

"HEADQUARTERS DEPARTMENT OF THE SOUTH,
"*Hilton Head, Port Royal, S. C., March* 1, 1863.

"Brig. Gen. RUFUS SAXTON,
Commanding post, Beaufort, S. C.:

"GENERAL: All sales of land for non-payment of taxes having been suspended in this department by general orders from these headquarters, until the pleasure of the Government in the premises should be made known; and the direct-tax commissioners themselves having decided that such suspension vitiated the original four weeks' advertising prescribed by law, you will take immediate measures to secure that no further sales of land in this department shall be either publicly or privately made until previous advertising for 'four weeks next preceding the day of sale' shall have been had, the advertising heretofore had of these lands having been vitiated by the prohibition of sales. And you will notify the commissioners of taxes that any sales of land they may have made since the issuing of the general orders from these headquarters prohibiting such sales shall be held null and void, and are so declared to be; and that no purchaser shall be allowed to claim benefit under the same. And you will further notify the commissioners that any further attempt on their part to contravene these orders until the new four weeks' advertising shall have been had, and until the reservations prescribed by Government have been made, will be severely visited.

"This order you will communicate by certified copy or otherwise to the tax commissioners without delay; and you will be kind enough to apprise me of your action in the matter and of its results. All this by command of Maj. Gen. David Hunter.

"Very respectfully, General, your most obedient servant,

"CHAS. G. HALPINE,
"*Asst. Adjt. Gen., Dept. of the South and Tenth Army Corps.*"

W. E. WORDING,
WM. HENRY BRISBANE,
Commissioners.

JNO. C. ALEXANDER, *Clerk.*

These orders disclose a strange condition of things. First, an officer of the Army undertakes to control and direct the sale of lands under an act of Congress—purely a civil proceeding; and, in the second place, the terms of the orders show very clearly that General Hunter not only had good reasons for suspecting that his orders had been disobeyed (perhaps properly), but that the commissioners had been selling property "privately," that they intended to sell the remainder without proper advertisement, and that the Government intended to "reserve" some of the lands.

THE GOVERNMENT "SELECTS" PROPERTY.

Subsequently a board of selection, as it was called, was appointed, consisting of two generals and the direct-tax commissioners, who were directed to select, for purposes of the United States Government, certain property, and they selected about 60,000 acres of land, and with the exception of four unimportant lots, which were owned by colored people who were present at the sale and purchased them, the entire town of Beaufort, consisting, as I have said, of about five hundred lots, with improvements, and valued by the commissioners themselves for purposes of taxation at $515,700. The following extract from the report of the board of selection fully explains what was done:

The report of the board of selection of lands for war, military, naval, revenue, charitable, educational, and police purposes, etc., is herewith communicated marked C.

From this it will be seen (that for these purposes, on which the Government should bid), that there were selected, as necessary for Government use, for the purposes aforesaid, as follows:

Lands selected by the board of selection to be bid in for war, naval, military, revenue, charitable, educational, and police purposes, acres	39,706
The assessed value of which is	$115,492.00
Bid in for the sum of	13,565.00
Average price paid per acre	.34

Upon the sale of these lands the Government became, of course, a common purchaser with others at the tax sale and bid in competition with individuals.

Besides the lands selected for the use of the Government, there were purchased by the commissioners for the United States, under the amendment authorizing the commissioners to bid for the Government up to two-thirds of the appraised value, 19,619 acres, the assessed value of which is $78,476 for the sum of $10,950, averaging nearly 56 cents per acre. * * *

In addition to the plantation lands selected for Government use, the board of selection deemed the situation of the town of Beaufort so important for military operations as to require the absolute control of the Government. It was bid in accordingly, except two or three small tenements previously sold to residents thereon, and a few unimportant lots, the assessed value being $515,700, for the sum of $17,512.

There were bid in by the United States plantation lands, in all 57,322 acres, at a cost of	$24,455.00
The town of Beaufort	17,512.00
Total cost	41,967.00

So the entire town, with the exceptions I have named, passed into the hands of the United States Government at a most insignificant cost, the entire property valued at over a half a million of dollars having been purchased for $17,512, or about one-thirtieth of its assessed valuation for taxation. They also selected for Government purposes over 39,000 acres of land, bidding it in at a nominal figure, the average price being 34 cents an acre; and also 19,000 other acres of land which they bid in at an average price of 56 cents an acre, all of this land having been worth in 1861 from $20 to $40 an acre.

The following extract from the minutes of the commissioners throws addi. onal light upon their manner of conducting these sales:

BEAUFORT, S. C., *March* 21, 1863.

A meeting was held this day, all the commissioners present. The motion of Commissioner Wording, which was recorded on the 19th instant, was reconsidered and indefinitely postponed, and Commissioner Brisbane offered the following, which was agreed to:

"Whereas the advertisement for the tax sales on Hilton Head and Pinckney Islands appears with the names of only two of the commissioners signed thereto, and it being questionable whether the withdrawal of a name while the advertisement is under publication may not shake the confidence of the community in the validity of the sales: Therefore,

"*Resolved*, That the sales of the land on Hilton Head and Pinckney Islands be postponed until a more favorable time, or until the pleasure of the Government in the premises be communicated to the commissioners, and that the notice of sales be for the present withdrawn from publication."

The meeting was then adjourned.

W. E. WORDING,
WM. HENRY BRISBANE,
Commissioners.

So far as regards the withdrawal of the advertisement is concerned, I concur. The reasons therefor stated above are, as I am informed, stated under a misapprehension of the facts. It is understood that General Hunter had ordered the discontinuance of the advertisement before the above resolution was passed. I did not sign my name to the original advertisement. Was absent in Washington when it was done, and on the reappearance of the advertisement in the New South I directed the publishers to omit my name, placed there without authority, but was informed that the commanding general had already given orders to suspend the publication. Pinckney Island being more a "debatable ground" than a proper field for civil operations, I declined the use of my name in the matter of publication.

I make this statement, lest it may be thought that I concur with the preamble as well as the resolution.

A. D. SMITH.

It does not require a moment's reflection to see that this interference by the military with the civil authorities, the postponement of the sales, the peculiar methods of the commissioners, as disclosed in General Hunter's orders, the "selection" and "reservation" by the Government of more than one-half the property—all done in the midst of war—must have exercised a very chilling effect upon the sales. The result has been especially injurious to the land-owners, because in the Taylor case, which came to the Supreme Court from Missouri, it was decided that the owners were entitled to recover from the United States the surplus arising from the sales over and above the tax, costs, and penalties, and the Secretary of the Treasury has for years been paying these balances. Where private parties were the purchasers the former owners have, in some instances, recovered amounts compensating them to some extent for their losses, but in hardly any case where the Government "selected" the property has the surplus been large enough to make it worth while to apply for it.

Another harsh feature in the enforcement of this law was the selling of each piece of property for the tax imposed upon it, regardless of the fact that the owner was possessed of other pieces, either one of which was more than amply sufficient to pay the tax upon all.

Thus in one case where a party owned 2,550 acres of land, divided into four tracts, and a house and lot in the town of Beaufort, valued at $8,500, the whole of it being worth $72,250, all of it was sold for the purpose of collecting a tax of only $296.

I have endeavored, Mr. Chairman, in the short time allowed me, to state the most striking features of the enforcement of this law in South Carolina. Harsh as they were, there may have been some compensation to the sufferers if the sacrifice of their property had brought relief to the rest of the State, but it was not so to be. This ancient town and these 110,000 acres, worth, at a reasonable valuation, $2,500,000—these homes of an entire community—were all sacrificed to raise the pitiful sum of $11,855.

RESALES.

Subsequently many plans for disposing of the Government property were carried out. In the year 1864 the Government, under the same act—the thirteenth section—resold much of the property, and thus gave to the soldiers and sailors of the United States, many of whom were then in and around the town of Beaufort, special terms of purchase, to wit, one-fourth cash and the balance in three years. When the three years expired many of the purchasers, being unable to pay the three-fourths of the purchase money still remaining due, the property was retaken by the Government, without legal proceedings, and has since been sold again, realizing another profit. The soldiers and sailors lost the entire amount of cash paid for the property. The amendment provides that the amount so paid, $47,000, should be repaid to them. If the entire amount of tax collected is to be returned to the States, and everything that has been done is to be undone, it seems but just to refund this amount also.

SALES TO FREEDMEN.

By the amendment of 1866 to the Freedman's Bureau act Congress further legislated relative to this matter, and directed that a large amount of the lands which were held by the Government should be cut up into small parcels and sold to freedmen, who were not allowed to pay more than $1.50 per acre, and no person of any other race was allowed to purchase at any price. I mention this for the purpose of showing that not only did the Government at the outset select this property at merely nominal prices, but that subsequently it disposed of it far below its market value in undertaking to carry out a certain policy of its own. The land was never allowed to bring anything like its full market value. By the provisions of the same act certain portions of the land which had been reserved for the purpose of establishing schools were ordered to be sold for not less than $10 an acre, and many of them were sold for more than that price. This shows the value of the land at that time.

PROFIT BY THE GOVERNMENT.

Although the Government substantially gave away much of the land, yet by the army and navy sales, sales to heads of families, by rents, sales of school farms, sales to loyal citizens, and other transactions, it made a profit of $418,414.93. This will appear by the following figures, taken from pages 28 and 29 of the committee's report:

Total collections by—		
Commissioners		$764,937.27
W. R. Gloutman		53,511.33
A. I. Ransier		2,934.29
		821,382.89
Deduct—		
States' quota	$363,570.67	
Penalties	132.76	
Interest	27,284.99	
Sale of maps	24.00	
Certificate fees	4,465.50	
Miscellaneous collections	365.15	
Balance	248.00	
Cash from predecessors	3,444.45	
Miscellaneous sales	604.30	
Cash from predecessor	2,514.71	
Miscellaneous collections	52.25	
Due collector	255.18	
Miscellaneous sales	6.00	
		402,967.96
		418,414.93

And the Government has had the use of nearly the whole of this amount for a quarter of a century.

I know of no case in history, Mr. Chairman, parallel to this. Shall

this be allowed to stand as the sole exception to the generous policy pursued by the Government since the war? Gentlemen must realize that it demands a remedy. No remedy can be given except of the kind provided by this amendment. The lands can not be recovered, because the Supreme Court has decided, in the case of De Treville against Smalls (98 U. S., 513), that the direct-tax acts were constitutional and that the courts can consider no other points than those allowed by the acts, to wit, that the land was never liable to taxation, or that the tax had been paid, or that the land had been redeemed since sale.

While this has been decided, yet the Supreme Court have rendered several decisions subjecting the Government to claims of various kinds because of the manner in which the law was enforced. Thus, in the Taylor case, already mentioned, it was held that the Government must refund to the owner the surplus proceeds arising from the tax sale, over and above the tax and charges. Also, it has been decided in subsequent cases that in South Carolina the assessment and rate of taxation were illegal, and that the commissioners made illegal charges of interest, and that the Government was liable to the land-owners therefor, and the Treasury Department is constantly engaged in paying such claims. So it will go on year after year, the Government harassed by multiplicity of suits and the claimants deriving no substantial benefits from them. This amendment proposes to settle these claims once for all and to redress, as far as may be, the hardships which these people have suffered.

The argument presented for the appropriation of the many millions of dollars covered by this bill is that the tax was collected from some States and people and not from others, and this inequality must be corrected by a return of all the money collected, and a large majority of both Houses of Congress favor the passage of the bill upon that ground. Can any gentleman who favors the bill refuse to vote for the amendment? You propose to refund to the Empire State her two and a half millions, and to the great State of Pennsylvania her nearly two millions, and to the rich State of Ohio her million and a half, and yet hesitate to give back to these impoverished people, whom I have the honor to represent, a mere pittance of what has been taken from them! Why return to the citizens of the Southern States the taxes paid by them and refuse to the people of Beaufort any compensation for the loss of their entire property? That property, sacrificed by the tax-gatherers to collect something over $11,000, would have sufficed to have paid the taxes of the wealthy State of New York!

The profit made by the Government by its purchase of these lands exceeds the tax quotas of twenty-four out of the forty-three States and Territories; and it has been in the Treasury for a quarter of a century! If you pass the bill and reject the amendment what reason can be assigned for the glaring inconsistency? The question is, gentlemen, not whether the American Congress can afford to redress this wrong; it is whether we can afford to leave it unredressed.

The details of the amendment are few and simple. The value of each class of property is fixed by the amendment so that each member can readily understand its scope; and, moreover, there will be no opportunity for making exorbitant claims against the Government based upon extravagant values. The lots in the town of Beaufort are valued at the rates placed upon them by the commissioners themselves for taxation. Planting lands of the best class are valued at $10 per acre—not one-half their former value. All other lands are rated at $1 per acre. Each person receiving payment for their lands is required to execute a release to the Government and to the holders under the tax titles of all claims of every kind and description whatever arising out of the enforcement of these acts.

Mr. Chairman, there is hardly a State in this Union that does not shelter some of these unfortunate people. Many have passed away in strange lands yearning for their beautiful homes, others linger on the stage oppressed with poverty and borne down with increasing years. Soon they will all cease to wonder at the strange fate that made them wanderers without homes—they of all others whose homes were their world. A few years more and they will all be alike, beyond the greedy grasp of the tax-gatherer and the kindly help of the American Congress. While there is yet time let us, the representatives of a generous people, see to it that no possible reproach attaches to their name by giving millions to wealthy States and yet refusing all aid to the only people in this broad land whom the law has made homeless.

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TO THE

APPENDIX TO THE CONGRESSIONAL RECORD.