APPENDIX.

APPENDIX

TO THE

CONGRESSIONAL RECORD.

American Ship-Building.

We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope!

—*Longfellow.*

SPEECH

OF

HON. W. E. ROBINSON,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, January 12, 1883.

The House, as in Committee of the Whole, having under consideration, under the five-minute rule, the bill (H. R. 7061) to remove certain burdens on the American merchant marine, to encourage the American foreign carrying trade, and to amend the laws relating to the shipment and discharge of seamen—

Mr. ROBINSON, of New York, said:

Mr. SPEAKER: We can easily imagine with what anxiety the patriotic prisoner on board the British man-of-war strained his eyes in the morning light to see if the Stars and Stripes still floated over Fort McHenry, then and through the "perilous night" under English fire, and with what joy his doubts were dissipated when through the lifting smoke and vanishing mists he saw still waving the "Star Spangled Banner" that gladdened his heart and inspired his muse.

It is with similar anxiety that the patriot now turns to the widowed sea and seeks for the sheen of that star-lit banner. That flag has gladdened the eye of every American, wherever he wandered, when he beheld its illuminated folds dancing in every breeze on every sea. It swept the Mediterranean under Preble; its vollied thunder rolled over the Pacific under Porter; the Lakes laughed in its sunlight under McDonough and Perry; and under Hull and Blakely, Decatur and Stewart, the Atlantic was lighted by its folds beneath which the English flag was struck to our Yankee sailors.

Is that flag forever folded, or shall it be again unfurled to greet the first beams of the morning sun? Are we now, after a century of success, to confess ourselves unable to contend with other nations and go begging to their doors for the privilege of buying their second-hand and second-class ships?

I contend that this surrender in the contest for maritime supremacy is unworthy of the American people. We can successfully compete with England in building iron steamships for ocean navigation. We taught England the way to cross the ocean by steam. The engine that carried the first ocean steamer across the Atlantic, the Savannah, was built in America, and so little did the English know of the science in which we were then giving her the first lesson that when they saw this American pioneer entering their harbor with dense smoke curling above her deck, they sent down an engine to extinguish the fire which they supposed had broken out in her cargo. We can still build ships and man them to compete with any nation on earth.

When England's coal beds and iron mines are played out, like her system of government, we shall still have our inexhaustible supply of both. We have all the materials for iron as well as wooden ship building in boundless abundance within our own territory, and we must not allow the humiliating confession to be made that we are unable to use them. I deny that it is necessary to go abroad to build or buy iron steamships. To-day an American ship-yard is in full and successful operation in a city on the Delaware which has been built up by the indomitable energy of John Roach. I would count myself unworthy of his friendship if I heard his name mentioned with disrespect and did not say a word in his defense. This present week an iron steamship was launched from his ship-yard at Chester, on the Delaware, for a new American line to Brazil, and within the last twelve months twelve or fifteen steamships have been built and launched by this same energetic American.

If he has made money I rejoice at it and wish it was doubled, as the reward of a grand American career. Born in poverty and growing up without the advantages of education; born in Ireland, in the empire county of Cork; in Ireland, the land of Curran and Grattan, of Emmet and Fitzgerald, of Burke and Sheridan, of Goldsmith and Swift, of Moore and O'Connell, of Wellington and Wolseley; in Ireland, the great producing country, the nursery of American brains and bravery; in Ireland, where the Creator seems to have established the principal factory of genuine American patriotism, which furnished the inexhaustible supply to the limitless demand for that material in the American market; which gave us for our Army Butler, Hand, Irvine, Knox, Lewis, Montgomery, Morgan, Maylan, Stark, Sullivan and Wayne, Brown, Andrew Jackson and Macomb, Corcoran, Meagher, Mulligan, Sheridan and Shields, Pat Cleburne, Stonewall Jackson, and Albert Sidney Johnston; which gave us for our Navy Barry and Porter, Blakeley and Decatur, Perry and McDonough, and Charles Stewart, the grandfather of Charles Stewart Parnell; which gave to our press James Gordon Bennett and Horace Greeley, Duane, Dunlap, and McMichael; which gave to the list of our inventors and discoverers Fulton, Morse, McCormick, and Kane; that gave us the ornaments of our judiciary, the eloquence of our bar, the founders of our colleges, the lights of our pulpit, the genius of our stage, and the foremost of our merchants, artists, and literary men, whose names even I have not time here to enumerate; that gave us the present Admiral and Vice-Admiral of our Navy, the present Lieutenant-General (soon to be the General) of our Army, and the majority of the distinguished officers of both Departments; that gave us by birth three of our present Senators and five of our present House of Representatives (and a dozen for the next House), with a majority of each House by descent; and that gave us the present President of the United States—John Roach, coming to this country half a century ago from his desolate home in Ireland, from which all his family had been carried to their graves, a lad of fourteen, with a full heart of hope and an empty purse, without a friend or a dollar in the world, and traveling on foot, after landing in New York, twenty-seven miles into New Jersey for the first meal which he enjoyed beneath that flag to which he has given a home on so many of his stately steamers, with a clear head, a sound body, and an indomitable love of American freedom, worked his way up from boyish poverty to manly affluence and to a knowledge of statesmanship in which he has few equals; and when the world seemed to yield to the opinion that American labor could not compete with English workmen; when the ship-yards of New York were turned into omnibus stables, beer gardens, and somewhat appropriate tombstone factories; when the man that built the Monitor that saved the Union at Norfolk had to seek for sustenance by driving a cart, John Roach kept the fires of American forges glowing through the night of despair and placed the proofs of his victory over prejudice on the Amazon and the Pacific, and if he had had fair play would have successfully contended for the mastery of the Atlantic. I am proud of him as an Irishman, prouder of him as an American, and when the future historian of America shall write the history of the jewels in the republican crown that shall be one of the brightest pages on which shall be written the name of John Roach, the American ship-builder. [Applause.]

[Here the hammer fell.]

Mr. ROBINSON, of New York. May I have a few minutes more?

Many MEMBERS. Go on! Go on!

The SPEAKER. The Chair hears no objection to the time of the gentleman being extended for five minutes more.

Mr. ROBINSON, of New York. I shall try to complete my remarks in five minutes, but if I should want seven I shall ask the Speaker to keep that hammer still.

I am opposed to any proposition to extinguish the few fires still glowing in American furnaces to rekindle them on the Clyde. There was much philosophy in old Dean Swift's advice to burn everything English but her coal. The time may be when Great Britain shall become an American coaling station for our leviathan steamers to Europe. Then and not till then shall I consent to build our shipping there. I shall never consent to acknowledge American inferiority and English supremacy. I protest, however, against being misunderstood. I am no monomaniac against Englishmen, and harbor no hatred toward them. I am, if you choose, a monomaniac for America and American workmen and American citizenship against the world. Against the English Government—not against the English people.

I cherish a pardonable dislike because it has crushed the hopes and hearts out of her own people as well as out of mine. Did any one ever hear in history the name of any nation save that of England where the elected representatives here, without any charge made against them, confined in prison while the tyrannical majority were pretending to legislate for the people that elected them? Born beneath her flag, I sought the free citizenship which this grand Republic offers to every oppressed son of despotic government. Before I could obtain that citizenship, twice upon the Holy Evangelists you compelled me, as you compel Englishmen and others, to take the oath that I foreswore all allegiance to all princes and potentates, and particularly to the brood of Great Britain. Do you blame me for keeping my oath? But this hatred of English government involves no personal enmity to her people, fellow sufferers with ourselves. Not even against the Queen or her representatives or any of her family do we harbor personal hostile designs, and I protest both as an American and an Irishman against the insult offered to the American people and to the children of Ireland in detailing a guard of American soldiers to protect these scions of royalty as they travel through this country. The Princess Louise may discharge her guard of American officers, relieving them of their English livery, and without protection travel over this broad land, and no American and above all no Irishman, would raise a hand except to protect her from harm. She may settle down as I see it stated that she intends to do for the winter at Charleston, in South Carolina, and in that grand old Irish city and State of the Irish Rutledges and Ramseys, Burkes and Irvines, Butlers and Prestons, Jacksons and Calhouns, she will find herself, without any attendance or guards, far safer than she would be at Balmoral, Buckingham, or Windsor.

The Queen herself might leave her English palaces, and dismiss her guards, and travel through Ireland from Cape Clear to the Giant's Causeway, and with no protection but her own womanhood, could pass unharmed through scenes where her Government has brought the people to starvation and despair, and she would find that she could trust to "Erin's honor and Erin's pride" for her personal safety. On this account I feel keenly the insult thus given to all our people, without stopping to inquire whether England ever did or ever will or ever would detail any officers of her army to protect American citizens traveling through her territory, except as a police force to drag from their peaceful beds at unseasonable hours American citizens, superior to most of her nobility, in character and genius and, accused of no crime, to lodge them in her filthy prisons beyond the reach of habeas corpus, and beyond the hope of trial and deliverance.

This idea that Irishmen harbor bloody designs against persons, however worthy of hatred, and that they encourage assassination, is but a part of the systematized conspiracy of the English press and its echoes here to impress the American mind with the idea that Ireland is full of crime, and that life is not secure among her people; this conspiracy is too successful, and we must expose it. I have a laborious correspondent who conceals his name, who for two years past has scraped up all the filthy Anglo-Saxon falsehoods which his brain could compass in congenial mud, and has sent them to me, when the names have an Irish signification, with expressive underscoring and other marks to attract attention. If he finds one homicide with an Irish name to the accused, he sends me that, but takes care to leave unnoticed the quadrupled cases of other nationalities. Now, to-day, with all her incentives and provocation to crime, there is no place on earth where life and property are so secure as in Ireland. The restraints of religion, the influence of her pious clergy, and the generous, noble, and benevolent impulses of the Irish heart secure for her this almost unrivaled character. I do not suppose that this English snob who keeps me posted on Irish infirmities would dare to assail the American character because crime is prevalent in our borders. Well, I find a statement in the Union Argus, the Republican paper published in my district in Brooklyn, on the 4th of the present month, and it gives the numbers of two murders and one suicide occurring in this country for every day in the previous year. Of seven hundred and twenty murders in the United States last year, one hundred and twenty-five were styled mysterious; three hundred and twenty-five mysterious murders were not telegraphed to Europe, but the one case of mysterious murder in Ireland committed in Phœnix Park, I do not think by Irishmen, has been telegraphed the world over and made the prolonged topic of a world's talk. In my own New York, beloved by all her sons, native or adopted, with a population about the same as in Ireland, there were one hundred and thirty-one murders. Ireland presents no such record as that.

The suicides in New York were three hundred and eighty-three. There have not been that many in Ireland in a century. And these murders and suicides are by no means all that occurred in this country during the past twelve months, for there were no scavengers of crime to hunt up and telegraph, as in the case of Ireland, all the failings of humanity. Indeed many of the men reported murdered in Ireland are still alive. I turn to the Washington Daily Republican of the 27th of last month, the second day after Christmas, 1882, and I find seventeen homicides committed in this country mentioned among the current news in that paper for that day. I know the answer which is ready in the mouth of English falsehood that the criminals must have been Irish. Not a man among them so far as appears from the record has even an Irish name. Here they are: Thomas Kerr, Samuel Rives, Jennie Griffen, George Felmar, Charles Branch, John Booth, Joe Styles, Charles Gilman, George Portwood, —— Ellis, Frank Shaw, Merriam A. Montgomery, Joseph Jarvis, Samuel Blackwood, and Hon. N. L. Dukes, the member of the Pennsylvania Legislature, who killed A. C. Nutt, the bank president of Uniontown, who ought to have been his father-in-law! In one case the assassin's name was not known. Poor Ireland! how the English press on both sides of the Atlantic would have denounced this "carnival of crime" if it had occurred among her people in a year instead of a day.

I have made this digression to show that my course here is not guided by hatred of England, and I have no great desire to twist either extremity of her beast, but I pity the American "with soul so dead" as to try to cover up his own cowardly neglect of his fellow-citizens traveling abroad, by turning into ridicule the honest efforts of those who would sustain and defend the dignity of American citizenship outraged in their persons.

It is not hatred of England, but love of America which makes me protest against the shutting up of American workshops and the quenching of American furnaces; to protest against the injury which this would inflict upon American workingmen, and to protest against giving despotic governments advantages over us in time of war. What would have been our fate had we been compelled to build the Monitor at Glasgow instead of at the city of Brooklyn? We might as well have employed English statesmen to build our "ship of state," the Constitution. And what do we gain, anyhow, for American commerce or the American marine, by buying worn-out steamships of slow speed from England, which we must man by mariners that are not American? English ships manned by Italians or Chinese, ridiculously called American!

Sir, if you cover the seas with English-built ships it matters little what rag you hang from their mizzen-peaks, you scratch the American paint from them, and they are still English vessels. I shall never consent to take any English ships and call them American, except we take them as Hull took the Guerriere, or Decatur the Macedonian, or Lawrence the Peacock, or Blakely the Reindeer!

When a beautiful child pines and dies in Ireland it is sometimes said by the poetical people of that country that the healthy infant has been stolen by the fairies and a sickly elf left in its place. This idea has been beautifully expressed in the exquisite poetry of Lover:

A mother came when stars [and stripes] were paling,
Wailing round a lonely spring.
Thus she cried, while tears were falling,
Calling on the Fairy King:
"Why with spells my child caressing,
Courting him with fairy joy,
Why destroy a mother's blessing,
Wherefore steal my baby boy?"
* * * *
"Give me back my baby boy!"

England is the fairy that stole our Navy. She would not give us now, but she would sell us back, the starvling elf which she has prepared for us, more despicable than the sickly fraud with which the fairies deluded the distracted Irish mother! If we take her ships and call them an American marine we shall manifest as little intelligence as the silly bird that hatches the cuckoo's egg and calls the young its own. The times demand a revival of American shipping, but running to England for aid will not help us out of our difficulty. English ships we want not, either as auxiliaries to our merchant marine or for defense as a navy.

Non tali auxilio, nec defensoribus istis
Tempus eget.

We want healthy American ships, "a Yankee ship and a Yankee crew." If we can not have them without begging or borrowing or buying from foreign nations let us do without them.

I hold in my hand the works of the American poet Longfellow. I turn to his magnificent description of "The Building of the Ship;" but it was the building of an American ship that he described, and not a hired or purchased hulk of foreign build:

"Build me straight, O worthy Master!
Stanch and strong, a goodly vessel,
That shall laugh at all disaster,
And with wave and whirlwind wrestle!"

And soon throughout the ship-yard's bounds
Were heard the intermingled sounds
Of axes and of mallets, plied
With vigorous arms on every side.

Day by day the vessel grew,
With timbers fashioned strong and true,
Stemson and keelson and sternson-knee,
Till, framed with perfect symmetry,
A skeleton ship rose up to view!
And around the bows and along the side
The heavy hammers and mallets plied,
Till after many a week, at length,
Wonderful for form and strength,
Sublime in its enormous bulk,
Loomed aloft the shadowy hulk!
And around it columns of smoke, upwreathing,
Rose from the boiling, bubbling, seething
Caldron, that glowed,
And overflowed
With the black tar, heated for the sheathing.
And amid the clamors
Of clattering hammers,
He who listened heard now and then
The song of the Master and his men.

Behold, at last,
Each tall and tapering mast
Is swung into its place;
Shroud and stays
Holding it firm and fast!

And everywhere
The slender, graceful spars
Poise aloft in the air,
And at the mast-head,
White, blue, and red,
A flag unrolls the stripes and stars.
Ah! when the wanderer, lonely, friendless,
In foreign harbors shall behold
That flag unrolled
'T will be as a friendly hand
Stretched out from his native land,
Filling his heart with memories sweet and endless!

The ocean old,
Centuries old,
Strong as youth, and as uncontrolled
Paces restless to and fro,
Up and down the sands of gold,
His beating heart is not at rest;
And far and wide,
With ceaseless flow,
His beard of snow
Heaves with the heaving of his breast.
He waits impatient for his bride.
There she stands,
With her foot upon the sands,
Decked with flags and streamers gay,
In honor of her marriage day,
Her snow-white signals fluttering, blending,
Round her like a veil descending,
Ready to be
The bride of the gray old sea.

Then the Master,
With a gesture of command,
Waved his hand;
And at the word,
Loud and sudden there was heard,
All around them and below,
The sound of hammers, blow on blow,
Knocking away the shores and spurs.
And see! she stirs!
She starts,—she moves,—she seems to feel
The thrill of life along her keel,
And, spurning with her foot the ground,
With one exulting, joyous bound,
She leaps into the ocean's arms!

"Take her, O bridegroom, old and gray,
Take her to thy protecting arms,
With all her youth and all her charms!

"How beautiful she is! How fair
She lies within those arms, that press
Her form with many a soft caress
Of tenderness and watchful care!
Sail forth into the sea, O! ship
Through wind and wave, right onward steer!"

We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope!
Fear not each sudden sound and shock,
'T is of the wave and not the rock;
'T is but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's war,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith, triumphant o'er our fears,
Are all with thee,—are all with thee!

Ah, sir, if you buy your Clyde-built ships you destroy all this picture of Yankee industry; you quench the song as well as the fires of the Yankee "master and his men," and you destroy the poetry. No white, blue, and red shall unfurl the flag of the Stripes and Stars; "no memories sweet and endless" shall fill the heart of the lonely American wanderer over distant seas, and gray old Ocean shall no more embrace his Yankee bride; the thrill of life along the keel shall not be the throb of Yankee pride. If built upon the Clyde no Yankee cares to know what master laid the keel or what workmen wrought the ribs of steel or made the mast or sail or rope.

I know not what relief this bill as it now stands may give to the revival of American commerce.

I wish I could contribute something to secure that desirable end. On the first day of the last session on which the presentation of bills were in order I introduced a bill relating to merchant-seamen, of which some of the provisions are embodied in this bill. It was intended to protect the rights of the seamen; to relieve them from many hardships to which they are exposed under the present law; to secure to them better treatment, better wages, and better fare on shipboard, and to subserve the interests of American commerce. It also provided for the payment of advance wages only to the seaman himself or to his wife or mother.

I do not pretend to understand this subject as well as many of my friends, and in differing or seeming to differ from them I fear I may be wrong, and if so I shall be glad to give up my own mistaken notions for their wisdom; but at present I can not see how we can revive American commerce by buying ships abroad or by transferring American ship-yards from the Delaware to the Clyde.

I think much might be done by a judicious arrangement for carrying the mail. A few days since a Cunard steamer took out from New York 250,000 American ordinary letters, 10,000 registered letters, and over a hundred sacks of newspapers. These letters, at a half ounce each, weighed about four tons. The amount of postage, without including the extra charge for registered letters, was $13,000. The Cunard steamers carry American grain for about three or four dollars a ton. If the postage had been but 1 cent on each letter, as I hope to see it both for foreign and domestic letters, this day's mail would have given a clear profit of over $2,000 for one trip one way over ordinary freight. I see no reason why a hundred million of letters may not pass yearly from the approaching hundred million Americans to their corresponding millions in Europe. This at 5 cents each would be $5,000,000 per annum for postage alone, while the reasonable freight on the same weight (about 1,500 tons) of grain would be only about $6,000. All this American postage traffic we are giving now to English ships. How long we shall continue to do so is beyond my ken.

I want to revive American commerce. I want to reanimate American, not English, shipping. I want to see American ship-yards thronged with American workmen. I can not consent to degrade American labor to the level of English operatives, as described in Parliamentary reports concerning the condition of humanity in her subterranean gloom. I want to see the American workingman better fed, better clothed, better housed, and better educated than English slaves are or can be. I want to see him with his happy home, his plenteous table, his smiling wife, his children returned, not from the factories but from school, awaiting his coming from honorable and paying toil. I want to see the American mechanic building American ships, on American soil, whose keels shall plow the waters of all seas and oceans, gladdening the hearts of all who wander over them. And wherever waves roll and winds blow I want the American wanderer to see the beloved and honored flag of his country so high above all rivals that he can proudly exclaim:

Hail, brightest banner, that floats on the gale!
Flag of the country of Washington, hail!
Red are thy stripes as the blood of the brave—
Bright are thy stars as the sun on the wave;
Wrapt in thy folds are the hopes of the free—
Banner of Washington, blessings on thee!

[Great applause.]

Power of a State to Regulate Railroad Charges.

SPEECH

OF

HON. JOHN A. ANDERSON,

OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, December 7, 1882.

The House being in Committee of the Whole, and having under consideration the bill (H. R. 6900) making appropriations for the expenses of the Indian Department for the year ending June 30, 1884, and for other purposes—

Mr. ANDERSON said:

Mr. CHAIRMAN: The paragraph to which I have offered a formal amendment appropriates to these tribes a certain sum "for their instruction in agricultural and mechanical pursuits." The aim of that general policy is to make the Indians self-supporting. This result can only be accomplished when the practice of agriculture or of a mechanical art is profitable.

But the profitableness of farming depends very largely upon the cost of transporting products to their final market. Taking the crops of the United States as a whole it will be found that more than one-half of the

sum paid for them by the consumer is absorbed by freight charges. So that in the absence of competition between railroads, which is now the general rule, the cost of transportation is the chief factor in the problem of profitable agriculture; and the question of controlling freight charges by law is the paramount one, not merely for the Indian, but for thirty-odd millions of our own people.

I desire to discuss one branch of it, namely, the legal power of a State to regulate the freight and passenger rates of the railroads within its jurisdiction, leaving for a later occasion the other branch, namely, that of Congressional regulation of interstate commerce.

All over the continent there is a resolute and growing determination to restrain the unbridled greed of the huge corporations which monopolize transportation. At the same time there is no general disposition to violate their legitimate rights.

A characteristic virtue of the average American is his willingness to act justly toward others while demanding full justice for himself. Whatever the legal or even equitable rights of the railroads may be he is ready to concede and observe them, and just whatever his own may be he will demand and enforce. While on the one hand he is opposed to communism, on the other he is opposed to being duped or fleeced. And probably his greatest perplexity in considering the transportation question arises from a genuine doubt as to what are the precise rights of the companies and what are the precise rights of the public. He is met at every turn by the countless attorneys of these corporations vociferating with characteristic assurance the State's inability to legislate because of "corporate powers," "unconstitutionality," "vested rights," "obligation of contracts," and kindred *dicta*. And his desire to remedy palpable and glaring outrages by these corporations is sometimes checked by a fear of violating established principles of justice in enforcing a remedy. I speak from experience, and trust that the following investigations of one who is not a lawyer may be of service to other laymen.

Let us start with the powers and duties of an individual as a member of organized society. With these we are familiar both by experience and observation, whether the individual stands related to other persons or to the State; and a controversy between two parties as to their respective rights would be quickly decided by the public. But the masses are not equally familiar with the powers and duties of a "corporation." That very idea is vague, if not mysterious, to the average citizen. He never sees a corporation—only its agents; and being absorbed in his own affairs rarely examines into its nature or functions.

WHAT IS A CORPORATION?

How is it created, and what are its powers? Chief-Justice Marshall defines it, in a general sense, as "an artificial being, invisible, intangible, and existing only in contemplation of law." Another celebrated authority says: "A corporation is a body consisting of one or more persons, established by law, and continued by a succession of members." A partnership must necessarily terminate with the lives of all the partners. Corporate association is only a more durable partnership, one living after generations of the associates may have passed away. Hence, as the first essential, a corporation can only be created by the authority of the sovereignty, either State or national. This authority, whether termed a charter or an act of incorporation, is simply a law which confers upon certain designated persons six powers, known to the legal profession as the "corporate faculties." They are: First, the right to act by a corporate name; second, to have succession; third, to use a common seal; fourth, to sue and be sued; fifth, to acquire and convey property; and sixth, to make rules for the conduct of the affairs of the company not in conflict with law or the established rights of others.

PROPERTY RIGHTS OF A CORPORATION.

These six faculties and no others constitute its powers; and there is nothing so mysterious after all about a mere corporation as such, since its rights are no greater or more perplexing than the rights of the same persons in a simple partnership, except as to succession and the use of a seal.

Suppose some man should build a hotel, both he and it would be subject to the laws. If, instead, a dozen men enter into partnership and build a similar hotel, both they and it are equally subject to the authority of State and city. And if in lieu of the partnership they are incorporated as a company through a general or special statute, that fact in no way changes the status of the hotel as subject to the law or the rights of the company, except in the use of a seal. And the incorporation of certain individuals as a railroad company, whether by State or national law, invests them with no powers or rights whatever save these six "corporate faculties."

It does not exempt them from the laws of the land; it does not elevate their right or property above that of other citizens, and most certainly it does not clothe them with a power greater than that of the Government. The charter of such a company consists of two, and only two, parts, namely: 1, a grant of the six corporate faculties; and 2, a grant of power to do certain specified acts which can not be lawfully performed without legislative authority. Chief-Justice Marshall says:

> The great object of an incorporation is to bestow the character and properties of individuality on a collected and changing body of men. Any privileges which may exempt it from the burdens common to individuals do not flow necessarily from the charter, but must be *expressed* in it or they do not exist.

WHAT IS THE LEGAL STATUS OF A RAILROAD?

Coming, then, to the second element of a charter, let us inquire what are the specific powers usually granted to a railroad company. They are all embraced in the general reply, the power to build and operate a railway. And that raises the question, What is a railway? In the modern sense it is a road formed of iron or steel rails, affording one or more distinct tracks. The common road presents a broad surface, over which any description of vehicle may pass. A railway presents a track along which only flanged wheels can run. And this fact, together with the superiority of a locomotive over other motors, practically excludes all vehicles except cars and engines. But what is its legal status? When completed is it the private property of the men who built it, and therefore to be used for their pecuniary profit, just as a coal mine is worked for the profit of its owners? or, on the other hand, is it exclusively owned by the state, and therefore to be used for the benefit of the public and under the regulation of law?

A RAILROAD IS A PUBLIC HIGHWAY.

That it is a public highway in precisely the same sense as is a county road is historically and judicially certain. Before men occupy territory the whole of it is an open highway for travel. With settlement and fences comes the necessity for public roads. But as these are for the accommodation of the community it is solely the prerogative of the community, through its government, to declare where public roads shall be, when they shall be built, to appropriate so much of the private land of individuals as may be required, to build the road either directly or by an agent, to pay for it, and to preserve it free from obstruction for the public use and good.

The better a road may be the greater is its benefit to the community; so that in time a turnpike or macadamized street supplants the original earth road. But this fact so far from rendering the street something other than a public highway makes it all the more a public highway. Then comes a railway as the greatest improvement over a turnpike which the genius of man has yet devised. It is the very perfection of roads; and this fact so far from stripping it of the character of a public highway rather intensifies that character.

The only instance to the contrary would be that of a railway built by a person on his own land and for his own use. It would be a private railway just as the drives through his fields would be private roads. But a railway which passes over the land of many different owners can only be built by the State and as a public highway, because no other authority may seize the private land needed for the road; nor may the State take the private property of one man and devote it to the private use of another man or a company; it can only be taken and used for the public good. It is for these reasons that, as far back as history goes, and under every code, highways have alone been built by the State, and when built have always been and always must be public property and public highways.

JUDICIAL AUTHORITIES.

These questions have been settled by our laws and courts beyond all possibility of doubt. The Constitution provides:

> ARTICLE IX.
>
> The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.
>
> ARTICLE X.
>
> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

Article 4 of the ordinance of 1787 provides:

> The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the said Territory as to the citizens of the United States and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

The right of "eminent domain," contradistinguished from that of public domain, is:

> The superior right possessed by the sovereign in all property of the citizen or subject, whether real or personal, and whether or not the title were originally derived from the sovereign. One of the chief occasions for the exercise of this right lies in creating the necessary facilities for intercommunication. This extends to the construction of highways, embracing railroads, turnpikes, canals, ferries, wharves, &c. (Redfield's Laws of Railways, I, 228. See also 3 Kent Com., 339; 3 Paige, 45, 73; 12 Pickering, 467; 23 *id.*, 327; 3 Selden, 314.)
>
> And it would seem that notwithstanding this right of sovereignty may reside in the United States as the paramount sovereign, so far as the Territories are concerned, in reference to internal communication by highways and railways; and notwithstanding the ownership of the soil of a portion of the lands by the United States in many of the States as well as Territories, still, when any of the Territories are admitted into the Union as independent States, the general rights of eminent domain are vested exclusively in the State sovereignty. (Redfield I, 230; 3 Howard (U. S.), 212; 9 How., 471; 13 How., 25; 6 McLean, 517.)
>
> All railways and other similar corporations in this country exist, or are presumed to have existed, by means of an express grant from the legislative power of the State or sovereignty. (Redfield I, 3.)
>
> That railways are but improved highways and are of such public use as to justify the exercise of the right of eminent domain, by the sovereign, in their construction, is now almost universally conceded. (18 Barb., 222, 246; State *v.* Rives, 5 Ired., 297, and many other cases.)
>
> It seems to be well settled that the Legislatures have no power to take the property of the citizens for any but a public use; but that a railway is such a use. (21 Conn., 294; 14 Ohio, 147; 3 Comst., 511.)
>
> The Legislature must decide, in the first instance, when the right of eminent domain may be exercised, but this is subject to the revision of the courts, so far as the uses to which the property is applied are concerned. (2 Kent Com., 340; Redfield I, 228.)

All railroads, or parts of railroads, which are now or hereafter may be in operation are established post-roads. (Sec. 3964 Revised Statutes.)

That a railway is a public highway, built, owned, and exclusively controlled by the State, is a fact universally recognized in American legislation and affirmed by all courts. But if this be true, how does it happen that private persons are willing to devote their private means and labor to the creation of property which can only be owned by the community? Do they not acquire certain rights in the road? If so, what are these rights, and in what way do they affect those of the people as to the use of the road?

THE STATE BUILDS THE RAILROAD.

There are two modes in which the State may build a public road: First, directly and by its ordinary officers; or, second, indirectly and by private citizens or corporations acting as its authorized agents. And there are two ways in which it may raise the money to pay for the construction of the road: First, by a direct tax upon all its subjects, collected as are its annual revenues; or, second, by a direct tax upon those only of its subjects who use the road, to be collected by other than its ordinary tax-gatherers.

In the construction of a railway the State generally adopts each of the latter methods: First, by constituting a designated company as its agent for building a specified line; and, second, by authorizing this agent to collect a tax from such persons as shall use that line. Each of these powers is an attribute of supreme sovereignty and resides therefore in the State alone; because the seizure of one man's land by other private citizens for their personal benefit is a recognized crime, and the levy of a tax by them for the use of a public highway is robbery on land and at sea piracy. But the power of the State to collect rents from persons who use public property is self-evident. When this power is delegated by the State to individuals it is termed "the franchise of charging tolls, namely, the right to exact a price for the use of property which belongs to the community."

THE RIGHT TO CHARGE TOLL A VALUABLE CONSIDERATION.

This franchise is among the most ancient and valuable items of public property, and has always been a source of vast revenue. It may be granted by the sovereign as a free gift, or as a substantial consideration for services rendered, and English history abounds with instances of both kinds.

Now, it is this franchise, and nothing else, which the State offers as a valuable consideration for the building of a railway. It is this franchise, and nothing else, which the company accepts as a full equivalent for its private means and work in constructing the road; and this franchise alone which it acquires by completing the road.

But the fact that the road is a public highway, and the consequent right of the people to use it, under such regulations as the State may prescribe, remain exactly the same whether the State builds it directly and pays for it out of its treasury, or builds it by an agent and pays that agent by granting him the franchise of collecting toll thereupon. In either case, when finished the road is the sole and exclusive property of the State. The company acquires no possible title of ownership in a rod, rail, or spike of it, a whit more than a contractor who builds a court-house for the county acquires the title thereto. And there is not a legislature in America, wild and reckless as some of them have been, which has ever pretended to grant the *ownership* of a railway to the company, because such a grant is beyond the power of any legislature, either State or national, *ultra vires*, and would be declared null and void by every supreme court.

The only powers which can legally be delegated to a company for the construction of a road are: First, the authority to build the line; second, the right of eminent domain; third, the franchise of collecting toll, or, fourth, if an additional consideration be necessary, public lands, credit, or money. But when built, and forever thereafter, that road is the sole property of the State, and is a public highway exactly as is a street or county road.

POWER OF THE STATE TO FIX THE RATE OF TOLL.

It is perfectly clear also that the franchise of charging toll when exercised by the company is qualified by all the limitations which govern it when exercised directly by the State itself. A fountain can not be higher than its source. The power of the State to determine the rate of charge is the most important of these limitations. This power remains in the State. It can not legally delegate the right to another nor divest itself of the obligation to exercise the right, because to part with this power would be to place its subjects at the sole mercy of the grantee, who by fixing extortionate charges might practically debar all other persons from the use of the road, and so convert a public highway into his own private property.

The sovereign itself, though supreme, is bound in its use of public property by principles of justice and supreme considerations of public policy, the chief of which is that it shall act for the public good. Hence it can not part with the right of declaring that tolls "shall be fair and reasonable," because this right resides in the people rather than in the sovereign, and is a limitation upon the very power of the sovereign. It is equally binding on the Government whether it collects toll directly or by an agent, and whether the franchise be granted to an agent as a free gift or for a valuable consideration. The power to declare what the rate of charge for the use of public property shall be, is wholly distinct from the power to declare what particular person shall collect the toll, or use the toll when collected. The first is an attribute of sovereignty of which even the State can not divest itself, because being itself the agent of the people it can not free itself from the obligations of public policy and the duty of protecting the people from extortion or oppression.

CORPORATIONS AT THE MERCY OF THE STATE.

If it be said that the existence of this inalienable power in the State leaves the company wholly at its mercy, and to such an extent that it may fix the tolls at merely nominal rates, and so destroy the value of the franchise, I admit the fact. There can be no doubt of that. But there was no possible doubt of it centuries before the companies accepted the franchise. They were bound to be aware of this inseparable limitation of the franchise, as imposed by the usages of governments and the decrees of courts since civilization began; and they were, in fact, fully aware of the qualification.

The abuse of the power by the sovereign is certainly proof of the existence of the power, whatever else it may be; and the company's sole security against such abuse rests only in the sovereign's sense of justice and observance of equity. There alone, at least in a republic, it must forever rest; otherwise a legislature, chosen by the people and acting for the people, might irrevocably confer upon a soulless corporation the authority to rob the people by extorting ruinous tolls on public highways. But be the reasons what they may, the fact is beyond question that in England and America the right of fixing rates of toll has always been exercised by the government and affirmed by the highest courts.

DUTY OF STATE TO FIX RATE OF TOLL.

While the legislature can not divest itself of the obligation to protect its subjects against extortionate tolls, it may delegate the function of fixing the precise rate of charge either to its own officers or to a company. But since this right inheres in the sovereign alone he may at any time resume its exercise. The determining of rates by the company is solely a ministerial and not at all an original act. The rates themselves have not the nature of a bargain between the company and its customers, but a wholly different nature, namely, that of a compensation paid by a traveler to the State for the use of a public road—a toll. This being the case, what should be the verdict as to the manner in which the companies discharge the trust of making and changing schedules? Is it not time that the sovereign resumed the exercise of his proper function, and high time that just principles shall govern the construction of railway tariffs?

If the State itself were determining the tolls on a turnpike, would it ever dream of the "competition" theory or of "competitive points?" Its chief object in building a highway being to accommodate the public rather than to fill its coffers, would it "charge the traffic all it will bear?" Whatever may be the answer given, there can be no difference of opinion as to the reprehensible conduct of the corporations in this matter. If, from this standpoint, anything can be more surprising than the very idea that railroad rates as at present framed and shifted are really tolls, it is the fact that the State ever permitted the function of fixing the rates to be assumed by a company which pockets them.

Thus far I have been speaking of a railroad as distinct from the company which builds it; of its character as a public highway, of the rights of the people to its use as such, of the nature and qualifications of the franchise of toll, and of the rights of the company and of the State in the exercise of this franchise.

COMBINATION OF FUNCTIONS BY RAILROAD COMPANIES.

But at this point let us examine another element of the problem, one which springs from the characteristic difference between a railroad and all other roads, namely, that only cars and locomotives can travel upon it. These are so costly, and useless for any other purpose, that but few persons can afford to own them.

As in the case of stage-coaches or steamboats, the general public finds it cheaper to hire from those who do own them. The first idea respecting the railway, both in England and America, was that the vehicles passing over it were to be owned by many different parties, and all of them distinct from the company having the franchise of collecting toll, just as in the case of a turnpike; and for years this was the practice. But in time it was found to be more economical, and therefore better, that the company holding the franchise should also furnish the engines and afterward the cars, though many of us remember freight-cars that were owned by private merchants.

The general practice to-day is that a railway company performs three different functions: First, that of a collector of tolls from vehicles or persons passing over a public highway; second, that of an owner of engines and cars, who is entitled to compensation for their use; and third, that of a common carrier who engages in the business of transporting freight and passengers. Each of these is a separate and distinct function; each has separate privileges and distinct obligations; but neither of them, nor all of them when combined, are freed from the restraints of established law or placed beyond the power of the State in prescribing and enforcing the respective rights of its subjects.

Perhaps no little of the confusion in the public mind as to the present rights of railroad companies arises from the failure to separate these three functions and to analyze the precise nature and obligations of each.

Yet we are familiar with the rights and duties of a person who has the franchise of collecting tolls on a bridge or turnpike; also with those of a liveryman; also with those of a stage or steamboat company which acts as a common carrier; and there need be no great perplexity because of the fact that the modern railway company combines all of these in its work, and often the additional service of a telegraph, express, or hotel company. The combination does not increase a single one of its privileges over those possessed by an individual engaged in the same line of business, nor affect by a hair's breadth a single one of its obligations and responsibilities to the public.

Because, the original and gleaming fact that a railway is a public highway, with all its consequences, remains wholly unaltered by the other fact that the toll-gatherer may also own and run a line of coaches over it. Any other person may legally do the same; but no person may own that highway, or use it except under such regulations as the State shall prescribe concerning the meeting and passing of vehicles, weight of load, rapidity of motion, or rate of toll. Whatever these regulations may be they rest equally upon all parties who move vehicles over the road, be they individuals or corporations, private travelers or common carriers. These laws grow out of the proprietary right of the State to declare the mode and conditions under which public property may be used, and are wholly different from another set of laws growing out of the wholly different power of the sovereign to so regulate the business of common carriers as to protect the public from injury or extortion. And this latter power and latter code are more ancient than the former.

LAWS GOVERNING COMMON CARRIERS.

A common or public carrier is one who carries for all who apply. (1 Salk., 249; 2 C. and P., 598; 1 Nev. and Per., 22.)

In an American case (Dwight *v.* Brewster, 1 Pick., 50) a common carrier is defined to be one who undertakes for hire or reward to transport from place to place the goods of such as employ him. The rule embraces the proprietors of stage-wagons and coaches, omnibuses, and railways. (Story, Bailm, § 496, and cases cited.) And in general the same rule is established here as in England, that those who are engaged in the business of carrying for all who apply indiscriminately upon a particular route, by whatever mode of transportation they conduct their business, must be regarded as common carriers. (Redfield, II, 1, 3.)

It was decided at an early day that persons assuming to carry goods upon railways for all who applied were to be held as common carriers, and indeed it is now regarded as an elementary principle in the law that all who carry goods in any mode for all who apply are common carriers. (7 Man. and W., 253; 8 M. and W., 421; 4 M. and W., 421, 749; 12 M. and W., 766; 6 Whart., 505; 19 Wend., 534; 13 *id.*, 611; Story on Bailm, § 500, &c.) In the case of Fuller (21 Conn., 570) it is said that in order to charge railways as common carriers it is not necessary to allege that they had power under their charter to become common carriers, but that having assumed the office and duties of common carriers of freight and passengers, they are thereby estopped to deny their obligations therefrom resulting by falling back upon any limited construction of their power under their charter. (Redfield, II, 12.)

That the State has the power to fix the charges and otherwise regulate the business of common carriers is a matter of history:

Whenever any person pursues a public calling and sustains such relations to the public that the people must of necessity deal with him, and are under moral duress to submit to his terms if unrestrained by law, then, in order to prevent extortion and an abuse of his position, the price he may charge for his services may be regulated by law. (98 Mass., 1; 5 Jones (N. C.) and 252; *id.*, 258; 18 How., 272; 10 M. and W., 415; 12 Wheat., 259; 4 Ill., 53; 13 Ill., 37.)

In the case of Munn *v.* Illinois, U. S. Reports 94, 123, Chief-Justice Waite, in delivering the opinion of the United States Supreme Court, which is an exhaustive discussion of this point, said:

When one becomes a member of society he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. "A body politic," as aptly defined in the preamble of the constitution of Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusively private; but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government, and has found expression in the maxim *sic utere tuo ut alienum non lædas*. From this source come the police powers, which * * * are nothing more nor less than the powers of government, that is to say, the power to govern men and things. Under these powers the Government regulates the conduct of its citizens one toward another, and the manner in which each shall use his own property, when such regulation becomes necessary for the public good. In their exercise in has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, &c., and in so doing to fix a maximum of charge to be made for services rendered.

* * * * * * *

Looking, then, to common law, from whence came the right which the Constitution protects, we find that when private property is "affected with a public interest it ceases to be *juris privati* only." This was said by Lord Chief-Justice Hale more than two hundred years ago, and has been accepted without objection as an essential element in the law of property ever since. Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he in effect grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest which he has thus created. He may withdraw his grant by discontinuing the use; but so long as he maintains the use he must submit to the control.

* * * * * * *

From the same source comes the power to regulate the charges of common carriers, which was done in England as long ago as the third year of the reign of William and Mary, and continued until within a comparatively recent period. And in the first statute we find the following suggestive preamble, to wit:

"And whereas divers wagoners and other carriers, by combination among themselves, have raised the prices of carriage of goods in many places to excessive rates, to the great injury of the trade, be it therefore enacted," &c.

Common carriers exercise a sort of public office and have duties to perform in which the public is interested (6 How., 382). Their business is therefore "affected with a public interest," within the meaning which Lord Hale has so forcibly stated.

It is insisted, however, that the owner of the property is entitled to a reasonable compensation for its use, even though it be clothed with a public interest, and that what is reasonable is a judicial and not a legislative question.

As has already been shown, the practice has been otherwise. In countries where the common law prevails, it has been customary from time immemorial for the legislature to declare what shall be a reasonable compensation under such circumstances, or perhaps more properly speaking, to fix a maximum beyond which any charge made would be unreasonable. Undoubtedly in mere private contracts relating to matters in which the public have no interest what is reasonable must be ascertained judicially. But this is because the legislature has no control over such a contract. So, too, in matters which do affect the public interest, and as to which legislative control may be exercised, if there are no statutory regulations upon the subject, the courts must determine what is reasonable. The controlling act is the power to regulate at all. If that exists, the right to establish the maximum of charge as one of the means of regulation is implied. In fact, the common-law rule, which requires the charge to be reasonable, is itself a regulation as to price. Without it the owner could make his rates at will and compel the public to yield to his terms or forego the use.

But a mere common-law regulation of trade or business may be changed by statute. A person has no property, no vested interest, in any rule of the common law. That is only one of the forms of municipal law, and is no more sacred than any other. Rights of property which have been created by the common law can not be taken away without due process, but the law itself, as a rule of conduct, may be changed at the will, or even at the whim, of the legislature, unless prevented by constitutional limitations. Indeed, the great office of statutes is to remedy defects in the common law as they are developed, and to adapt it to the changes of time and circumstances. To limit the rate of charge for services rendered in a public employment, or for the use of property in which the public has an interest, is only changing a regulation which existed before. It establishes no new principle in the law, but only gives a new effect to an old one. We know that this is a power which may be abused, but that is no argument against its existence. For protection against abuses by legislatures the people must resort to the polls, not to the courts.

POWER OF LEGISLATURE TO CHANGE A CHARTER.

With respect to the point so often made that the charter of a company is a contract, that the State can not "impair the obligation of contracts," and therefore that the legislature is barred from imposing new obligations or changing privileges already granted, it will be sufficient to recite a Supreme Court decision in the case of Peik, rendered by Chief-Justice Waite. It is rather a question as to the power of a legislature to modify its action than one involving the relation of the roads and the people:

The Chicago and Northwestern Railway Company was by its charter, and the charters of other companies consolidated with it, authorized "to demand and receive such sum or sums of money for the transportation of persons and property, and for the storage of property, as it shall deem reasonable." The Constitution of Wisconsin, in force when the charters were granted, provides that all acts for the creation of corporations within the State "may be altered or repealed by the Legislature at any time after their passage." Held, that the Legislature had power to prescribe a maximum of charges to be made by said company for transporting persons or property within the State, or taken up outside of the State and brought within it, or taken up inside and carried without. (94 U. S. Report, S. C., 165.)

An analysis of the exact functions performed by railway companies will satisfy any disinterested man as to the absolute right of a legislature to regulate their entire business by stringent laws inexorably enforced. If their true legal status be that of toll-gatherers on a public highway, then the proprietary right of the sovereign to fix the rate of toll is sufficient. But if they have an additional status as a renter of engines and cars, or as public carriers, then the police jurisdiction of the State and its inalienable obligation to protect its subjects covers the whole field; while the fact that these corporations embrace so many different functions, each of which is "affected with a public interest," is a cumulative authority as well as an imperative necessity for legislation. Taken together and as a combined whole, these powers conclusively and completely bring under the jurisdiction of a Legislature every such company transacting business upon its territory.

If the great principles which underlie the respective rights and obligations of the State, of the people, and of the corporations in the momentous service of transportation have been made the least clearer or more forceful to the average citizen, my purpose has been fully accomplished. Unfortunately the glaring proofs of the crying necessity for legislative enactment against the extortions daily practiced by the companies are as numberless as autumn leaves. I shall not recount them. Perhaps they may best be summarized and emphasized by presenting the view of the subject as taken by the corporations.

A RAILROAD ATTORNEY'S VIEW OF THE SUBJECT.

As seen by a railroad attorney, through the mellow sunshine of an invigorating salary, it is substantially this:

That a railway, having been built with the private capital of the shareholders (usually a quite different class—bondholders), is the sole and absolute property of the company; that it is to be used, like other private property, vigorously and exclusively for the pecuniary benefit of its corporate owners; that the function of establishing and changing rates is the sovereign prerogative of the company and is to be exercised with an eye single to extorting the last possible cent from the public; that the theory of legislative regulation of railway tariffs is bald communism, and its advocates demagogues; that as to the people—"Oh, the people be ——!" that when a rival company proposes to compete, neither it nor the community has any rights which their royal majesties are bound to respect, a new line being a ruthless invasion of their sacred "territory" and black rebellion against their imperial authority; that a railroad "war" (paid for by others) is a gallant vindication of their heroism and sovereignty; that the only thing necessary to bring

in the millenium is a universal "pool," enforced by national law, which shall wholly wipe out the evil of "competition" and permit the companies to give undivided attention to the great work of collecting "all the traffic will bear." That a corporation is the grandest invention of the age for escaping human and divine law. That having no material body to be kicked it can not be punished for swindling shareholders by watering stock, for defrauding bondholders by withholding dividends, for usurious extortions from shippers, for insults to passengers, for evasion of national and violation of State law; that having no soul to be damned, or none worth damning, it is free to corrupt conventions, bribe legislators, control Congressmen, own United States Senators, and perhaps weirdly modulate the opinions of a United States Supreme judge; that the responsibility of its agents, even for being an agent, is canceled by the power of the company; that it may with impunity habitually commit or cause to be committed series of crimes which if proven upon an individual would consign him to the penitentiary for life; and that it may do all these things with a brazen shamelessness and arrogance which incline the average American to turn for consolation to the doctrine of future punishment. I may not have quoted the precise language of corporation attorneys, but have gotten in most of the facts!

The contrast between these two views of the same subject is vivid and glaring. Which of the two is correct, and which shall prevail?

Paymaster's Department, United States Army.

SPEECH

OF

HON. COLUMBUS UPSON,

OF TEXAS,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, December 27, 1882,

On the following amendment, submitted by Mr. BROWNE, to the Army appropriation bill:

Add at the end of line 114:

"*And provided further*, That whenever a vacancy occurs in the office of Paymaster-General, assistant paymaster-general, deputy paymaster-general, or paymaster in the Army, by death, dismissal, resignation, retirement, or other cause, the same shall not be filled by appointment or otherwise; and whenever the force in the Pay Department shall not be sufficient for the due payment of the troops, the Secretary of War is authorized and required to detail, under such regulations as he may prescribe, an officer or officers in the Quartermaster's Department to supply the deficiency; and when the paymasters have all died, been dismissed, resigned, or been retired as hereinbefore stated, the payment of the Army shall be wholly transferred to the Quartermaster's Department, under such regulations as the Secretary of War may prescribe. Whenever, however, a vacancy occurs in the office of the Paymaster-General, the duties of that office shall devolve on the next officer in rank in the Pay Department."

Mr. UPSON said:

Mr. CHAIRMAN: The great importance of the radical change, namely, the merging of the Pay and Quartermaster's Departments of the Army, as proposed in the amendment to the Army bill, offered by Mr. BROWNE, of Indiana, induces me to add a few substantial reasons to those which I heretofore and but hurriedly suggested why that amendment, in the interest of economy and efficiency, should not be adopted.

If that amendment should become a law it would destroy a system of payment in the United States Army which dates back to the reorganization of our Army in 1821, and has stood the test of practical experience, both in peace and in war, for the past sixty-one years, meeting during that period with the very general approval of the highest military authorities.

I feel fully warranted in saying that no other system of army payment has been devised or suggested which equally, with the present one, combines the advantages of prompt payment, safety of the public money, accurate and prompt accountability, with the least expense and liability to embezzlement and corrupt defalcation. A few prominent facts disclosed by the official records of the Army as to the long-exploded system of regimental, battalion, post, or company paymasters, contrasted with the workings of the present system, constitute an indisputable argument in favor of the latter.

The following appears in an official letter of Paymaster-General Towson, dated April 24, 1839, namely:

First. From 1808 to 1811, before the war "of 1812," the average annual loss by the defalcation of regimental and battalion paymasters amounted to 1.58 per cent. on the amount disbursed, and the annual average expenses for paying the Army to 3.10 per cent.

Second. From the beginning of the war of 1812 to 1816, under the same system, these averages were: Defalcations, 2.98 per cent., and the expenses, 4.36.

Third. From the date of the reorganization, in 1821, on the new plan (the present one), to 1823, the average defalcations were .22, little more, it will be perceived, than the one-fifth of 1 per cent., which was finally paid into the Treasury; expenses for the same period, 2.13 per cent.

(The results during the Mexican war were better still, as not one dollar was lost by defalcation and the average expenses reduced.)

Fourth. From 1825, after the new system had been well established, not one dollar of defalcation, and the total average expenses reduced to 1¼ per cent.

General B. W. Brice, in his annual report for the fiscal year ending June 30, 1866, uses the following language:

I am enabled to reiterate the unprecedented result that since July, 1861, in the expenditure of $1,083,000,000, disbursed by this Department in minute sums, and surrounded by difficulties and hazards, the total cost to the Government, in expenses and losses of every character, can not in the worst possible event exceed three-fourths of 1 per cent.

Is there an instance on record of public disbursement so cheaply performed? and this, too, under the present organization and system of Army payments.

It will be found upon an examination of the actual disbursements and expenses of the Paymaster's Department that the estimate as to those items of the gentleman from Indiana [Mr. BROWNE] are far from being accurate, when he says:

While I do not pretend to be precisely accurate, I think I am safe in asserting that the Pay Department in fact disburses only from $10,000,000 to $11,000,000 per annum; so we pay 4 per cent. for the mere disbursement of the money for the payment of the troops.

The actual cost of paying the Army for the fiscal year ending June 30, 1882, was 2½ per cent. instead of 4 per cent., and the amount disbursed $13,613,257.41, instead of $10,000,000, or $11,000,000, as stated by Mr. BROWNE, as will appear from the following statement taken from the records of the Pay Department, namely:

Expenses of Pay Department, United States Army, for fiscal year ending June 30, 1882.

Pay of officers		$180,274 56
Pay of clerks		64,800 00
Pay of messengers		14,426 66
		259,501 22
Commutation of quarters to officers		22,034 80
		281,536 02
Mileage of officers	$16,136 95	
Actual expenses of clerks	21,128 31	
		37,265 26
Total expenses		318,801 28
Total disbursements		13,613,257 41
Percentage of expenses to disbursements		.02½

Lest it might be inferred by the attempt to merge the Pay Department into the Quartermaster's Department, under the popular and at present contagious cry of "economy" and "reduction of expenditures," that the Pay Department was extravagantly administered as compared with the expenses of the Quartermaster's Department, I will say that I find the expenses of the Quartermaster's Department, not including mileage and clerks' traveling expenses, to be $710,284.16; amount of disbursements, $12,446,242.22; percentage of expenses to disbursements, 5.7 per cent., while the average expenses of the Pay Department for several years past is but about 2½ per cent.*

The Pay Department system, for the preservation of which I am contending, has not only withstood the test of time and experience, of peace and war, but of thorough investigations before Congress.

The question of consolidating the Pay, Quartermaster, and Subsistence Departments was made the subject of careful investigation by the Military Committee of the House at the third session of the Fortieth Congress, the first session of the Forty-fourth Congress, and the second session of the Forty-fifth Congress. The weight of testimony was strongly against the merging of the Pay Department with the Quartermaster and Subsistence Departments, or with either of them; and special attention is called to what was said by a few of the many officers who gave testimony on that subject:

General SHERMAN: A staff system that has admitted of an increase of the line of the Army from the mere nucleus of 1860 to a million of men, and its reduction back to the present standard, without confusion, and with the most perfect accountability as to property and money, at all times providing for the Army abundantly, is entitled to our respect.

Lieutenant-General SHERIDAN: Of course they can be consolidated; but I doubt whether you can get as good a result as you have now. I do not believe in tearing things down, especially when they have done well. They have certainly done well as they are, and I do not know that any great saving is to be made by consolidation. I am not prepared to recommend anything of the kind.

Major-General HANCOCK: It would be "practicable" to consolidate the Quartermaster's, Commissary, and Pay Departments into one corps, but the operation would be difficult and attended with no great advantage or economy. All or most of the persons who now constitute the separate corps would appear in the consolidated corps, and they certainly would not act any more efficiently or economically on account of the consolidation.

A careful examination of all the views expressed will not only show that the weight of evidence is against the consolidation of these corps, but that the opposition to it has decidedly increased, and that while some who at first favored

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* It is but proper to note that the expenses of the Quartermaster's Department includes the care, purchase, &c., of property, besides other expenses; and it is believed that that Department is at present economically and efficiently administered.

Mr. UPSON's proposed substitute for Mr. BROWNE's amendment:

Provided further, That the President of the United States shall, at the earliest period practicable, retire, under and in accordance with the provisions of chapter 2 of the Revised Statutes of the United States, all paymasters, or officers in the Pay Department of the United States Army, incapable of performing the duties of his or their office or incapacitated for active service; and such retirement shall not be prevented, limited, or restricted by any act of Congress in force at the date of the approval of this act.

And provided further, That there shall be no more appointments to the grade of major in the Pay Department of the Army until the number of majors in that department shall have been reduced by death, retirement, resignation, dismissal, or other cause below forty.

And provided further, That in future appointments in the grade of major and paymaster shall be made from the captains in the line of the Army.

it now either oppose or do not support it, there are no changes of opinion in the other direction.

General HOWARD: But careful inquiry will, I am confident, discover grave difficulties in the way of such consolidation. Our Army, though now not very large, is very widely scattered. There would be a liability of overtaxing a single officer at Washington; and confusion in accounts would be inevitable, unless a clear distinction was kept up in all papers and books and reports, corresponding almost exactly with that now kept by the Quartermaster, Commissary, and Pay Departments.

General MCCLELLAN: You ask my opinion as to the proposed consolidation of the three corps (Quartermaster, Commissary, and Pay) into one. I don't like the idea at all, and had I the power would prevent it.

If this consolidation scheme is carried out, experience will prove that some individual interest was at the bottom of it, and that no real benefit inured to the service; and before long the old order of things will be restored.

It seems almost superfluous for me to say that our peace organization should be such as to enable us to increase the Army rapidly in time of war. Any disinterested soldier knows what this means with regard to the number of staff and line officers in peace.

Major-General MEADE: I can not say that, after reading all that has been written and said, I am prepared to advocate consolidation. I have had a fair opportunity to observe the workings of the present system, both in time of war and peace. It has always worked well.

Major-General THOMAS: I do not think it would be advisable to unite them, either one with another or to unite the whole three together. Their duties are separate, and I think they are very wisely divided as they are.

General FOSTER: The paymasters have, again, an entirely different duty to perform, in which great care and responsibility are required. At many posts the officers who perform the quartermaster's duties could not furnish the requisite bonds for the security of the public money now furnished by every paymaster.

The public money for the payment of the Army is safer in the hands of the paymasters than in the hands of quartermasters, who have to follow the movement of troops, and thus, to a certain degree, endanger its safety, especially in time of war.

General LONGSTREET: The duties of the Quartermaster's, Commissary, Pay, and Medical Departments are sufficiently burdensome and complicated when kept as separate departments. Consolidated, an officer of higher grade would be chief, while the organizations would virtually remain as before. The only good reason that I can give in favor of consolidation is that a place may be made for some distinguished and meritorious officer.

General TOWNSEND: The question of paying troops is a very difficult one. Payment by company commanders would involve the frequent changing of funds from hand to hand, great multiplication of accounts, and corresponding increase in clerical force of the Treasury to settle them; and more than all, frequent and serious losses to the Government from want of secure places of deposit at most of the military stations. Large supplies of funds must be sent to the officers in the fall before communication is cut off with many posts. Agents, whose expenses must be paid, must carry them, for there are no banking facilities at hand. At the posts, a safe, a trunk, or a chest will be the well-known deposit, inviting to frequent robberies. The officers would not be under bonds, and might often be defaulters; or from want of capacity for keeping such intricate accounts might often make serious mispayments. Suppose the remedy be applied of requiring bonds. Not many officers could get bondsmen without leaving their post, if they could at all. Moreover, where a man is required to give bonds for any duty, he should have the liberty of accepting or declining the duty rather than give the bond.

Another objection would be a removal of check against paying wrong accounts, for the officer who made up the soldier's statements would likewise pay him. Now, the paymaster first examines and corrects the accounts before he pays them, and he is charged with mistakes if the soldier can not be reached to rectify them. Then, after all, provision must be made for payments of soldiers discharged away from their commands, and of officers at posts. The opinion is deliberately entertained that any other mode of payment than the present must necessarily be more complicated, and subject the Government to immensely greater risk of loss.

General McDowell says:

I do not recommend the consolidation of the Pay Department with the ordinary supply departments. On the contrary, I would increase it and keep it utterly distinct from them, and favor the plan of extending its payments to include that of all money due on contracts for either material or services, in all branches of the service; making it the military chest, the cashier of the Army, having nothing whatever to do with the creating of obligations, but confined to the duty of discharging them, as is now done in the case of the muster and pay rolls of the troops and officers' accounts for pay, and, recently, for traveling expenses, where the account or demand is made by one set of officers and discharged by another. I think this division, when once under way, would tend to afford additional guarantees to the Treasury and much simplify the business of the Army.

There seems to be much force and sound reason in the suggestion of General McDowell to extend the duties of the Pay Department so as to include the payment of all money due on contracts in all branches of the service, "having nothing whatever to do with the creating of obligations but confined to the duty of discharging them." This change, in the language of General McDowell, we submit, "would tend to afford additional guarantees to the Treasury, and much simplify the business of the Army."

General Terry says:

I think that to consolidate the Quartermaster's, the Subsistence, and the Pay Departments into one corps would be to disregard a principle which underlies all modern progress—the principle that the best results are obtained by the division of labor; that the best work is done by specialists—a principle that is of quite as much importance in military organizations as it is in civil life. The Quartermaster's Department is already loaded down by the multiplicity of subjects over which it has control; to add to its duties would, I think, impair its efficiency.

That the Pay Department should not be consolidated with the other two, or with either of them, seems to me to be shown by the fact that paymasters must travel from post to post, paying troops, while the duties of quartermasters and commissaries require them to remain stationary. Should a legal union of these departments be effected it would not be a union in practice. The officers of the new organization would, of necessity, be assigned to special duties, some to the duty now performed by quartermasters, some to that which is now performed by paymasters, &c. I think that the change suggested would be merely nominal; that it would lead to no economy.

General Grover says:

I do not think it would be advisable to consolidate the Quartermaster's, Commissary's, and Pay Departments in one.

General Getty says:

It would be practicable; but to consolidate the three corps into one would not, in my opinion, be for the best interest of the service.

General Dodge says:

I think it will be a very great mistake to consolidate the Quartermaster's, Commissary's, and Pay Departments.

General HARDIE: A paymaster requires a knowledge of the list of regulations and precedents and decisions affecting pay and bounty, and a familiarity with various acts of Congress and decisions of accounting officers, which can hardly be expected of line officers * * * and you would find constant mistakes in the disbursements made by them. * * * I have an experience * * * of nearly twenty-six years in the service, and I am bound to say that the present system, the system on which the Pay Department is worked, has supplied the Army admirably.

Particular attention is called to the special knowledge which should be possessed by paymasters, referred to by General Hardie.

General Augur, in speaking of the consolidation of the Quartermaster's, Commissary's, and Pay Departments, said:

Practicable, undoubtedly, but in my opinion not advisable; experience has shown that our staff organization is efficient for field service on the largest scale. It should be preserved, but reduced or extended to meet the requirements of the service.

General Ord says:

I think the present system is as good a one as we could have. I know of no better. It has stood the test of experience very well.

General Kelton says:

The Pay Corps can not be incorporated with the Supply Corps for the reasons—
First. Their duties and accounts are utterly dissimilar.
Second. Their duties require them to be absent from any one station the greater part of every two months.

General Marcy says:

For the reason that each of the departments named in question 8, has all the work it can efficiently perform now, and as the chiefs of those departments have abundant occupation in properly administering the affairs of their separate departments, I think the consolidation indicated would diminish their efficiency.

The statements above quoted from such an array of distinguished officers, life-schooled and practically experienced in military science, both in "piping peace" and in "grim war," should have great weight and influence.

To abandon the present system, and call in officers of the Quartermaster's Department to make payments to the Army, would be practically a return to the old system, so long tried and found wanting, for at almost all the military posts in this country a lieutenant of the line is detailed to do the duty of both quartermaster and commissary. These officers are not under bonds, and the questions arise, Could they get bondsmen? If they could, would they; or should they be required do so?

Most of the bonded officers of the Quartermaster's Department are stationed and remain at the headquarters of the divisions, departments, and depots, their property responsibility being such as to confine them to their stations. They are not subject to the provision of law which requires paymasters to renew their bonds every four years. This provision preserves an active, reliable bond as to paymasters, upon which recovery may be had.

If you pay through the post quartermaster and the quartermaster of each detachment and detail of troops, funds must be conveyed to them, and the expense thereof must be paid. As it is now, a paymaster who is familiar with the laws and regulations and decisions governing payments carries funds to the place of payment, settles on the spot all questions, places the money in the hands of the soldier, receives such sums as may be deposited by them, returns to his post, and places his surplus funds in a United States depository. If the practice exists of leaving funds in the hands of any officer at a post for the payment of troops absent from the pay-table when the paymaster pays, as was asserted by Mr. BROWNE, of Indiana, it must prevail to a very limited extent, as such payment is illegal and the paymaster would be responsible for any loss resulting therefrom.

As I understand, no such practice is authorized or permitted in the Pay Department.

As the law is now construed, it requires the express authority of the Secretary of War to enable any officer of the Pay Department to hold funds in his personal possession at places on the frontier distant from designated depositories. This authority is personal to the officer and has to be renewed whenever he may change his station.

It is believed that the author of this amendment falls into a grave error of fact when he states—

Besides that, take for illustration the case where a paymaster is called upon to make payment at a post where he expects to find, say, five hundred men. In point of fact he may find only a few at the post, the larger number being on detached service, some at one point and some at another, ten, fifteen, or twenty-five miles distant. The result is that he pays as many as he finds at the post and then leaves sufficient money on deposit to pay the rest when they come in from time to time. He leaves his vouchers at the post with either the commissary of subsistence or the quartermaster or other officer, who pays the money out as the detachments of troops drop in, and takes their receipts on the pay-rolls for it. Thus practically you do at times what this amendment contemplates shall be uniformly done.

We would regard such conduct as not only unauthorized but reprehensible, and warranting a dishonorable dismissal from the Army. In ruling upon this question the Paymaster-General used the following language, namely:

While this practice may exist to some extent there is no authority for it, and should the money fail to reach the hands of the soldier he would have a just claim for it and the paymaster would be responsible.

If the duties of paymasters were conferred upon acting assistant quartermasters stationed at posts, who are generally lieutenants, subject to

frequent changes, it would cause frequent removals or transfers of the public funds in their charge and tend to interrupt and postpone the regular and prompt payment of the troops. There are at this time two hundred acting assistant quartermasters, stationed from the Atlantic to the Pacific Ocean, including all of the Territories and more than twenty States.

It is not believed that any one officer could perform the duties, make all the returns now required by law and the regulations of the Pay and Quartermaster's Departments, and do it satisfactorily. The performance of this duty under widely different systems would produce confusion in the disbursements, and would inevitably tend to inaccuracy, as past experience has demonstrated.

Another serious objection to the amendment proposed is that, should it become a law, it would take from the President the authority, very wisely and properly conferred, of selecting a suitable officer for the supervision of the Pay Department of the Army. The last clause of the amendment provides:

Whenever, however, a vacancy occurs in the office of the Paymaster-General the duties of that office shall devolve on the next officer in rank in the Pay Department.

In such an event the duties of Paymaster-General might devolve upon a defaulting, incompetent, or otherwise unworthy officer. This appears to me to be a very objectionable and dangerous feature of the amendment.

In my judgment the proposed amendment would be detrimental to the military service, and should not be adopted.

The Tariff.

SPEECH

OF

HON. JOHN G. CARLISLE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 27, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. CARLISLE said:

Mr. CHAIRMAN: It is not my purpose to discuss to-day the questions of free trade, or protection, or tariff for revenue, except, perhaps, incidentally in the course of my comments upon the provisions of the pending bill. While these questions are interesting and important, it is evident that any attempt to discuss them within the limited time allotted to me in this debate would necessarily exclude other matters to which, in my opinion, the attention of the committee ought to be called. When we shall come to the consideration of the bill by clauses the high-protective theory upon which it is based will doubtless be frequently challenged, and then ample opportunity will be offered to every gentleman to declare by his speeches and votes whether he is in favor of a constitutional tariff to raise revenue for public purposes, or a scheme of taxation such as this is, having for its principal object the protection of private capital engaged in particular industries. As these opportunities occur I shall not hesitate to express my opinions and to give my votes in accordance with them. While, therefore, I shall postpone until that time a discussion of the general questions involved in all such legislation as this, there was a proposition made this morning by the distinguished gentleman from Ohio on my left which, I think, ought not to go to the country without some notice.

The gentleman from Ohio [Mr. CONVERSE], while denying that there was any power conferred upon Congress to impose protective duties, or duties merely for the purpose of protection, by that clause of the Constitution which authorizes it to impose duties upon imports, &c., yet claimed that this power existed under the clause of the Constitution conferring upon Congress the power to regulate commerce. This was, to say the least of it, a novel doctrine, and the gentleman himself conceded, in response to an interrogatory propounded by me, that so far as he knew it had not received the sanction of any judicial tribunal in the country.

Mr. Chairman, that provision of the Constitution upon which the gentleman relies will be found in the section which enumerates the powers delegated to Congress, and is in these words:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

It will be observed that the power to regulate commerce with foreign nations is precisely of the same nature and extent and is conferred in precisely the same language as the power to regulate commerce among the several States. If, therefore, the proposition made by the gentleman from Ohio is correct, that Congress in the exercise of the power to regulate commerce with foreign nations may impose protective or prohibitory duties, then the conclusion is inevitable that Congress possesses the same power in regulating commerce between the several States and may impose protective or prohibitory duties upon merchandise brought for sale from one State of the Union into another.

If Congress in the exercise of the power to regulate commerce may, by the imposition of a tax or duty, prohibit in time of peace the importation of goods from Great Britain, it may, in the exercise of the same power, conferred in the same language by the same clause of the Constitution, prohibit the importation of articles of merchandise from the State of Pennsylvania into the State of Ohio; and I submit to the gentleman from Ohio, who is an able constitutional lawyer, whether he would, upon mature reflection, undertake to maintain a construction leading to such a conclusion. I believe such a doctrine has never been advanced heretofore in Congressional debates, in commentaries on the Constitution, or in the decisions of our courts. The laws to which the gentleman alluded prohibiting the sale of certain articles to the Indians are not in fact and were not intended to be commercial regulations. They are mere police regulations enacted for the purpose of protecting the morals and preserving the peace of these uncivilized people, who as a general thing inhabit the Territories and are under the guardianship and tutelage of the General Government.

With this brief statement I must pass from the question raised by the gentleman from Ohio and proceed to the discussion of the bill under consideration.

The measure presented by the Committee on Ways and Means owes its origin to an almost universal demand from all classes and conditions of our people for a real substantial reduction of taxation and for a simplification of the laws imposing duties upon imported goods. A large part of the people and a great many of their Representatives here believed that it was the duty of this Congress immediately after its organization to proceed to make that reduction and simplification. The majority, however, thought otherwise, and the result was the appointment of a commission to investigate the whole subject and report a plan of revision to Congress. While this was not of itself a measure of relief, it was an acknowledgment that relief was demanded and ought to be granted. That commission was appointed. It has performed its labor, and on the first day of the present session its report was referred to the Committee on Ways and Means, and the Committee of the Whole now has before it the result of all the investigations made under that reference.

In order to show, Mr. Chairman, what the opinion of that tribunal was as to the demands of the country upon this subject I ask the Clerk to read a brief extract from its report.

The Clerk read as follows:

While giving all the consideration implied in the foregoing statement to the interests affected by revision, in determining the rates to be recommended the commission has been governed solely by its own views of justice, expediency, and a regard for the interests of consumers and the public sentiment of the country. Early in its deliberations the commission became convinced that a substantial reduction of tariff duties is demanded, not by a mere indiscriminate popular clamor, but by the best conservative opinion of the country, including that which has in former times been most strenuous for the preservation of our national industrial defenses. Such a reduction of the existing tariff the commission regards not only as a due recognition of public sentiment and a measure of justice to consumers, but one conducive to the general industrial prosperity, and which, though it may be temporarily inconvenient, will be ultimately beneficial to the special interests affected by such reduction. No rates of defensive duties, except for the establishment of new industries, which more than equalize the conditions of labor and capital with those of foreign competitors can be justified. Excessive duties, or those above such standard of equalization, are positively injurious to the interest which they are supposed to benefit. They encourage the investment of capital in manufacturing enterprise by rash and unskilled speculators, to be followed by disaster to the adventurers and their employés, and a plethora of commodities which deranges the operations of skilled and prudent enterprise. Numerous examples of such disasters and derangements occurred during and shortly after the excessively protective period of the late war, when tariff duties were enhanced by the rates of foreign exchange and premiums upon gold.

Mr. CARLISLE. Will the Clerk now pass to what I have marked on the next page?

The Clerk read as follows:

Entertaining these views, the commission has sought to present a scheme of tariff duties in which substantial reduction should be the distinguishing feature. The average reduction in rates, including that from the enlargement of the free-list and the abolition of the duties on charges and commissions, at which the commission has aimed, is not less on the average than 20 per cent., and it is the opinion of the commission that the reduction will reach 25 per cent.

Mr. CARLISLE. I think it is not uncharitable to say that the gentleman that wrote that report did not prepare the schedules which accompany it or even know what they contained; for if he did prepare the schedules or know what they contained the statement in the report that the reduction was equal to 20 or perhaps 25 per cent. is simply inexcusable. The report, however, does contain an express admission that the public sentiment of the country and the interests of our various industries demand a reduction of taxation to the extent of from 20 to 25 per cent. And now I call upon gentlemen on the other side of the House to give us that reduction. If they refuse to do it the storm which swept the majority from this body last November will prove to be but a gentle breeze in comparison with the hurricane of 1884. If that commission had prepared and reported a bill, or if the Committee on Ways and Means had prepared and reported a bill making an average reduction of even 20 per cent. in the rates, justly and equitably apportioned among all the articles subject to duty so as to make an actual reduction of taxation to that extent, I would have given it my support; and I be-

lieve it is safe to say that every advocate of revenue reform on this side of the House would have done the same thing. While such a measure would not have accomplished all that ought to be done ultimately by any means, it would have been a long step in the right direction and I should have accepted it as such.

But instead of such a measure they have presented for our consideration a proposition which makes an apparent reduction of even less than $21,000,000 from a customs revenue of over $216,000,000, which is less than 10 per cent. on the present rate of duty; and I do not hesitate to say that it is more protective in its general plan and structure, more grinding and oppressive upon the people, and more injurious to the trade and commerce of the country than any tariff scheme ever before presented to Congress.

Mr. CHACE. Will the gentleman permit me to interrupt him?

Mr. CARLISLE. Certainly.

Mr. CHACE. Do I understand the gentleman to say that the proposed reduction was less than 10 per cent. of the present average rate of duty?

Mr. CARLISLE. That is what I said.

Mr. CHACE. What do you understand to be the average rate of duty?

Mr. CARLISLE. Under the present law the average rate of duty is 42.51 per cent.; under the proposed law it will be 38.40 per cent.

Mr. CHACE. But there is a reduction of 10 per cent. of the whole amount of revenue.

Mr. CARLISLE. There is not.

Mr. CHACE. I understand the gentleman to say it is $20,000,000 on $200,000,000.

Mr. CARLISLE. I did not say on $200,000,000. It is $20,000,000 on $216,000,000; which is less than 10 per cent.

Mr. CHACE. Is not the reduced rate 20 per cent. off the 40 per cent. rate?

Mr. CARLISLE. It is not. The rates of duty are proposed to be reduced less than 10 per cent.; and even assuming that the reduction of rates will in every instance result in a reduction of taxation, which I deny, the proposed bill will diminish the burdens of the people less than 10 per cent., as any gentleman can ascertain by making a simple calculation.

The apparent reduction claimed by the friends of this bill is something over $20,000,000; but more than half of that is taken off the single article of sugar. The apparent reduction upon sugar is $11,249,625, leaving the reduction upon all the other schedules in the bill $9,606,000, which is less than 4½ per cent. of the present revenue.

Mr. HAMMOND, of Georgia. How much is taken off the single article of tin-plate?

Mr. CARLISLE. The Committee on Ways and Means has reported a reduction of nearly $5,000,000 on tin-plates below the recommendations of the Tariff Commission, but notwithstanding this the bill proposes to leave the duties on that article just as they are in the present law. The apparent reduction upon one of the most important schedules, that of iron and steel, is in round numbers only $1,809,000, which is less than 6 per cent. reduction on the existing tariff rate. By this I do not mean 6 cents subtracted from the average rate of duties, but 6 per cent. of the average rate of duty, which is quite a different thing; that is to say, the average rate of duty on the metal schedule under the present law is 40.79 per cent., while under the pending bill it will be 38.34 per cent.

The apparent reduction on wools and woolen goods is $3,061,000, which is a little over 10 per cent. And just here, allow me to say in response to what was said this morning by the gentleman from Massachusetts [Mr. RUSSELL] that the rate of reduction on wools, the raw material of the woolen manufacturer, is just about double the rate of reduction on the article manufactured from it. That is to say, the bill proposes to reduce the rate of duty on the raw material just about twice as much as it proposes to reduce the rate of duty on woolen clothing which the people are compelled to buy and wear.

Mr. RUSSELL. Before the gentleman passes from that point I would like to ask him what he estimates to be the reduction on the raw material, the wool?

Mr. CARLISLE. I can tell the gentleman in a minute.

Mr. RANDALL. It is 18 per cent.

Mr. CARLISLE. I think it is about 18 per cent.

Mr. RUSSELL. It is not that.

Mr. CARLISLE. Not that much on wools?

Mr. RUSSELL. No, sir.

Mr. CARLISLE. On wools, not woolen goods, the reduction is 18 per cent., and only 9 per cent. on woolen goods.

Mr. RUSSELL. It is apparently 18 or 20 per cent., but from a change of classification, of the dividing line between the value of wools, carrying it from 32 to 30, the rate of reduction is reduced to about 10 or 12 per cent.

Mr. CARLISLE. I do not know by what method of calculation the gentleman can arrive at that result, as we do not know how much wool valued between 30 and 32 cents per pound is now imported. I am stating the plain facts as they appear from the figures furnished us by the experts.

Mr. RUSSELL. But they do not appear plainly.

Mr. CARLISLE. I will not consume further time in regard to the amount of the reduction, except to say that in my opinion it will be shown during the progress of this discussion that in a great many cases where there is an apparent reduction the simple effect will be to reduce the nominal rates of duty but continue the full amount of taxation upon the people.

The gentleman from Ohio [Mr. MCKINLEY] and other gentlemen who have spoken in support of this measure have attached a very great importance to the fact that the bill proposes the abolition of the duties on commissions, charges, &c. And it was said by one gentleman at least that in his opinion this would amount to a reduction of at least 10 per cent. of the duty. In response to that gentleman, I expressed the opinion yesterday, which I believe a careful examination of the subject will sustain, that the average reduction to be effected by the repeal of that clause of the statutes will not exceed 3 per cent.

The article of earthen-ware is the one most affected by the repeal of those charges. As to cotton goods, woolen goods, and articles of that character, the cost of the packages, of course, is comparatively very little. The greatest reduction in such cases is the abolition of the duty on the 2½ per cent. commission.

The gentleman from Ohio who has just taken his seat [Mr. MCKINLEY] undertook to show to the House, from what he said was an actual invoice of earthen-ware, that the decrease of duties resulting from the abolition of the duties on commissions and charges would be very large. The Tariff Commission took the same view of the subject, and in its report the following statement is given:

> To illustrate, taking the "calculations on one hundred crates of earthen-ware, being a fair average of the goods as imported," in the statement of the president of the Pottery Dealers' Association, the original cost is given at $3,019, on which the duty at 50 per cent. would be $1,509.50, while the dutiable basis on the same importation under the present tariff, with dutiable charges and commissions added, is $3,763 which at 40 per cent. gives $1,505.20 as the amount of duty; so that the duty under the proposed rates is substantially only 5 per cent. higher than those under the present tariff, because of the proposed abolition of the duty on charges and commissions.

Now, I would like some friend of the commission to inform us why it is that this calculation is made upon the basis of a duty of 50 per cent. ad valorem when the Tariff Commission proposes no such rate of duty on any class or grade of earthen-ware in its schedule. The duty imposed by the present law on this common earthen and stone ware, painted or printed [exhibiting a piece], is 40 per cent. ad valorem; the Tariff Commission proposed to increase it to 55 per cent., but the Committee on Ways and Means proposes in the bill now before the House to increase the duty on this common stuff to 65 per cent. ad valorem.

Mr. BREWER. Does the gentleman know that such ware as he now holds in his hand has not been used in the United States for the past twenty years?

Mr. CARLISLE. Why?

Mr. BREWER. It has not been in fashion; it has not been sold at all.

Mr. CARLISLE. You as a manufacturer want to make it, do you not?

Mr. BREWER. I do not know that we do.

Mr. CARLISLE. Why, then, do you want the duty increased from 40 to 65 per cent.?

Mr. BREWER. I will answer the gentleman by saying that the term "painted goods" refers to a different grade of goods, and a very much higher grade than the one the gentleman has exhibited; but this happens to come under that classification.

Mr. CARLISLE. But this bill proposes to put the duty upon this particular article at 65 per cent., does it not?

Mr. BREWER. It does.

Mr. CARLISLE. I am glad that point, at least, is settled.

Mr. BREWER. But it is not used in this country, and has not been for many years.

Mr. CARLISLE. The gentleman from Ohio speaks about the skill required in the manufacture of this kind of ware. Why, sir, unless I am misinformed, that ware is made simply by taking a piece of paper with the figure, flower, animal, or whatever it may be, printed upon it, putting that paper upon the clay and burning it off in the furnace, thus transferring the decoration to the finished earthen-ware. It requires no skill whatever. It is the cheapest and most common class of earthen-ware used by the poorest people of the country who are not able to buy the higher grades of decorated ware, but who nevertheless desire to use an article a little more attractive than the plain white-ware. This bill proposes to place this cheap common ware in the same class with the most costly and beautiful china, porcelain, parian, and bisque ware and impose upon all the same rate of duty, and the gentleman from Ohio, who advocates protection in the interest of the laboring man, justifies this classification.

Now, Mr. Chairman, taking the Tariff Commission's own figures as to the cost abroad of one hundred crates of earthen-ware, let us see how the duties are affected by this bill notwithstanding the abolition of duties on commissions and charges. I use my own calculations based upon their figures, and any gentleman can easily test the accuracy of the results. The cost of one hundred crates, with all commissions and

charges added, under the present law is $3,763, according to the report just read. The present duty of 40 per cent. upon the whole cost, including all commissions and charges, is $1,505.20. The cost of the same one hundred crates of earthen-ware without commissions is $3,019, according to the report. The duty at 55 per cent., the rate proposed by the Tariff Commission on this kind of ware, is $1,660, an increase of 10 per cent. But a duty of 65 per cent., as proposed by this bill, on the same one hundred crates costing $3,019 amounts to $1,962.35—an increase of over 30 per cent.

I might go through the entire schedule relating to earthen and stone ware and show that the claim set up by the Tariff Commission and by the advocates of the bill here on the floor that there is not a very large increase of duties is unfounded in fact. With the permission of the committee I will append to my remarks several statements made from actual invoices, showing the increase on the several grades of these goods.

Every gentleman knows that the provision of the law in relation to the duties upon commissions, charges, and packages applies only to those articles which are subject to purely ad valorem rates, or to different specific rates based upon value. As to large classes of articles enumerated in the law the provision has and can have no application. As I said yesterday the principal importations under the metal schedule are pig-iron, wrought and cast scrap-iron, tin-plates, and iron and steel rails, the duties upon all of which are purely specific. The duties upon sugar are all purely specific, because the 25 per cent. additional is reckoned upon the duty and not upon the value of the article itself.

I affirm that when the calculation is accurately made, if it ever can be accurately made, it will appear that this abolition of duties upon charges will not affect the revenue to the extent of 3 per cent.

It is true, as stated by the gentleman from Ohio [Mr. McKINLEY], that the Committee on Ways and Means have, in many instances, reduced the duties recommended by the Tariff Commission—principally, however, I must be permitted to repeat, on the article of tin-plates, upon which the reduction amounts to nearly $5,000,000, and on the raw sugars, upon which it will be some $7,000,000 or $8,000,000 more than the Tariff Commission recommended. Out of sixteen schedules more than half the reduction proposed by this bill is made on a single one—the sugar schedule; and in my judgment, while this reduction will affect the revenues of the Government it will not affect the taxation imposed upon the people. These reductions are made in the lower or non-consumable grades of sugar, while the duties upon the higher or consumable grades are left by this bill absolutely prohibitory, so that not a pound of imported sugar can pass into consumption among our people until it has first been manipulated by the refiner.

After the majority had adopted the amendments reducing the lower grades of sugars to the rates recommended by this bill we undertook to follow that up by making precisely the same rate of reductions on the higher grades of sugar, but we were defeated in every instance.

Mr. BERRY. In whose interest was that?

Mr. CARLISLE. In the interest of the refiners and against the interests of the people and the consumers. But, sir, in the woolen schedule and in the cotton schedule the Committee on Ways and Means made large increases in the rates of duty, not only over the recommendations of the Tariff Commission, but in many important instances large increases over the present law. There is a new clause inserted in the schedule of woolen goods which embraces what is known as "all-wool dress goods," which now come into this country under our present law at 6 cents a square yard and 35 per cent. ad valorem, or at 8 cents a square yard and 40 per cent. ad valorem, the rate of duty being dependent upon the question whether the goods are valued at more or less than 20 cents per square yard. A new clause is inserted by which all that class of goods, which constitute the great bulk of the importation of dress goods, and is the common holiday wear of the laboring people of this country, has increased duties imposed upon it ranging from 75 to 125 per cent. ad valorem. Here are the goods, which gentlemen can look at for themselves. The duty upon that class of goods [indicating a particular kind of woolen goods] under the present law is 66⅔ per cent., but under the bill proposed by the committee the duty will be equal to 103½ per cent. ad valorem. The duty upon this under the present law [indicating another article of dress goods] which is purchased by the laboring people for dresses for their wives and children, is equivalent to 80 per cent., which is certainly enough for the poor man to be compelled to pay in addition to the actual value of the goods; but by this proposed revision it is made to bear a duty of 101 per cent. ad valorem. And on many other grades of these goods—for instance, an article worth 15 cents per yard—the duty proposed by this bill is 125 per cent. ad valorem.

Mr. ELLIS. All in the "interest of labor."

Mr. CARLISLE. All in the interest of labor, as suggested by my friend from Louisiana.

I suppose, Mr. Chairman, that I should here make some reference at least to the remarks made by my friend from Ohio [Mr. McKINLEY], who has just preceded me, to the effect that the increase of duty on earthen-ware is in the interest of the American laborer. It is said in the report of the Tariff Commission that wages in this country in that industry are 113 per cent. higher than abroad. For myself, I do not believe it. I admit that wages are considerably lower in Europe than here, but in my opinion that is a very exaggerated statement.

But assume that there is such a difference. The Tariff Commission furnishes the statistics showing exactly the capital invested, the total cost of material, total amount of wages paid, and the value of the products in the manufacture of earthen-ware. From this statement, which gentlemen will find in that report, it appears that the whole wages paid in this country in that industry in the year 1881 amounted to $3,279,335, and the value of the product was $7,943,229. The Tariff Commission proposes to give a protection of 55 per cent. and 65 per cent. ad valorem upon the product of this industry. If you reckon it at 55 per cent. ad valorem, the duty proposed is equivalent to a protection of $4,368,771, or $1,089,000 more than our domestic manufacturers paid for all the labor in that industry. And I desire to say here what no gentleman can successfully controvert, that while, according to the census reports, there were in round numbers 2,700,000 people engaged in the various manufacturing and mechanical industries in this country in 1880, there were only about 700,000 in round numbers engaged in the manufacture of steel and iron, the various textile fabrics, glass and earthen ware, and chemicals, the highly-protected articles under our tariff. And I affirm that these statistics show that the 700,000 men and women who were engaged in these protected industries which I have named received annually in wages 10 per cent. less than the average earnings of the laborers engaged in the other occupations. That is what protection has done and is doing for them, according to the statistics furnished by the manufacturers themselves.

Mr. Chairman, this change of the law in relation to the woolen goods to which I have just alluded will decrease the revenue of the Government by prohibiting the importation of that class of goods, but it will add to the taxation imposed upon the people nearly $2,000,000. I am informed by reliable and intelligent gentlemen who know the facts that at least 75 per cent. of the dress goods now imported into this country will be embraced in the new clause and will be subject to the increased duty by this provision; and yet in the statement which has been submitted to the committee by the gentleman from Pennsylvania no account whatever is taken of that fact and the calculations are based upon the assumption that the rates of duty are actually diminished. This is not the fault of the gentleman who made up the statement, but results necessarily from the fact that the official statistics from which his calculations were made do not separate the all-wool dress goods from those having a cotton or linen woof. This is one of the cases alluded to by me where the revenue is largely diminished and the taxes largely increased, and the sole purpose of the provision is to compel the purchasers of these goods to pay exorbitant prices for their woolen clothing, while domestic manufacturers are making experiments to see whether they can produce them in this country.

Mr. RUSSELL. Before the gentleman passes from the woolen schedule, let me ask if he does not admit, in the compound duty fixed upon woolen goods, which makes the high ad valorem duty, that a good part is included in the compensatory duty on wool?

Mr. CARLISLE. I admit that upon my theory as an advocate of a tariff for revenue when you impose a duty upon the raw material or partly raw material you must impose compensatory duties upon the finished product made from it, because the duty on the raw material increases its cost to the manufacturer. But the gentleman's theory is that the imposition of a duty upon an article invariably reduces its cost; and of course if this is correct, there is no justification for what is called a compensatory duty. If the duty on the raw material makes it cheaper than it would be without the duty, as the gentleman contends, the duty on the manufactured product made from it ought to be reduced on that account——

Mr. RUSSELL. Unless to bring into life a manufacturing interest here which competes with other manufacturing interests, and on the whole reduces the rate.

Mr. CARLISLE. How long will it be before we reach that point?

Mr. RUSSELL. We have reached it already.

Mr. BLOUNT. Then why increase the rate?

Mr. CARLISLE. The gentleman speaks of the duty on wool. We hear constantly from his side of the House that the great purpose of the advocates of protection is to increase, or at least to maintain the present rates of wages paid to American laborers; in other words, that the sole justification for the imposition of protective duties is the fact that such duties enable producers of protected articles to pay high wages; and yet it is now proposed to impose a duty of over 30 per cent. on wool, and a duty of only 15½ per cent. on hemp—I speak of that article only because it occurs to me at the moment—when everybody knows that it requires at least ten times the amount of labor to produce a ton of hemp that it does to produce a ton of wool. When we tried, as the gentleman very well knows, to reduce the duties on wool, in order that we might also reduce the duties upon the manufactured goods made from it, and thus at last reach the consumers and benefit the people at large, we were defeated by the votes of gentlemen who now insist that the manufacturers must be protected against the duties on their raw material. If the duties upon their raw materials are burdensome to them, why do they persistently oppose all our efforts to reduce or repeal them?

When we come to the cotton schedule, a schedule embracing a series

of articles which the people are compelled to use and which in my judgment need less protection than almost any articles that could be named, we find very large increases in the rates of duty. The cotton, the raw material of the manufacturers of these articles, is absolutely free, and they possess an advantage over their competitors abroad to the extent of one-half or three-quarters of a cent per pound on account of their proximity to the sources of supply. They have the best machinery in the world, and their labor is more skillful and productive than that of the oldest establishments in Europe. The only tax upon their material is the duty upon dyes and colors, which affects only the manufactures of printed or colored goods, and the moderate duties imposed upon the inconsiderable quantities of oil used in making the cloth.

Mr. RUSSELL. And the additional cost of plant.

Mr. CARLISLE. Yes, the additional cost of plant, caused by the tax on machinery, which I hope the gentleman will help us to reduce when we come to that part of the bill.

Mr. RUSSELL. I am for maintaining all interests.

Mr. CARLISLE. All interests except the interests of the consumer, who at last pays all the duties, whether they be imposed upon the machinery, or the raw material, or only upon the finished product. The manufacturer really pays none of them. He merely advances them in the first instance, and then adds them to the price of his goods.

In this bill the duties on cotton goods in common use among the people are increased in some cases from 35 per cent. to 40 per cent., and in other cases from 35 per cent. to 45 per cent. ad valorem.

Mr. RUSSELL. But does not the gentleman from Kentucky know that we have reduced the rates from the commission's report on the low grades of cotton goods and increased them on some of the finer goods where there is required a great deal of labor?

Mr. CARLISLE. That is another instance—and I am glad the gentleman has reminded me of it—of a reduction of the rates of duty without reducing the burdens of taxation. The duties are decreased on the low grades of cotton, but the reduction is wholly immaterial; it relieves nobody, because we are actually exporting that class of goods. We send considerable quantities of these coarse cotton fabrics to China and other countries, and we could send much more than we now do if our manufacturers could be induced to relinquish the idea of monopolizing the home market in lines of goods which they can not profitably produce at reasonable prices, and devote their capital and skill to the grades for which their machinery and labor are adapted. While the decrease to which the gentleman alludes assists in bringing down the apparent average rate of duty in the cotton schedule it relieves no human being from any burden now resting upon him. To offset that the committee has put the duty up from 35 per cent. to 45 per cent. on the articles which the people can purchase abroad at lower prices than they can be produced for at home, and which are being imported in large quantities every year.

Mr. RUSSELL. Does the gentleman not know there is not a single schedule here enumerated that there are not imports under?

Mr. CARLISLE. Take the article of hosiery.

Mr. RUSSELL. I am speaking of the cheap goods.

Mr. CARLISLE. Take your hosiery. It is at 35 per cent. ad valorem and you leave it at 35 per cent.; but there was only $23,000 worth of it imported during the whole fiscal year. Take the next item, where nearly $8,000,000 worth are imported, and you increase the duty from 35 to 45 per cent., making an enormous addition to the charges upon the people.

Mr. RUSSELL. For the reason that we want to manufacture it in this country.

Mr. HASKELL. Where did the gentleman from Kentucky get that first item of information as to the importation of hosiery amounting to $23,000?

Mr. CARLISLE. I refer the gentleman to the statement he has on his desk.

Mr. HASKELL. What statement?

Mr. CARLISLE. The statement made by order of the Ways and Means Committee.

Mr. CHACE. The gentleman is mistaken. It is not so in that statement. He has made an error.

Mr. CARLISLE. I am not mistaken; I read from that statement the following:

> On stockings, hose, half-hose, shirts, and drawers, and all goods made on knitting-machines or frames, composed wholly of cotton, and not herein otherwise provided for, 35 per cent.; importation, $23,087.42.

[Applause.]

Mr. Chairman, I wish the time allotted to me would permit me to discuss this metal schedule. [Cries of "Go on!"] I care no more about the duty on cotton-ties than I do about the duties on barrel-hoops, wire and wire rods, chains, or any of the other forms of iron or steel, but in my opinion justice and sound policy require us to so legislate on this subject as to permit all the people of this country who are compelled to use these articles in their various industries to procure them as cheaply as they can. This bill not only increases the duty on cotton-ties, four-fifths of which are exported, without the allowance of any drawback, but it proposes to increase the duty on hoops for barrels and casks, on rods for the manufacture of wire fences, and many other necessary articles. This wire for fencing has become an article of absolute necessity to the farmers of the West and Northwest, where timber is scarce and dear. The burdens borne by the agriculturists of the country are already sufficiently onerous, but this bill proposes to increase them in many ways besides the imposition of a tax on fertilizers, about which the gentleman from Alabama spoke this morning.

The gentleman from Pennsylvania [Mr. KELLEY] said that one of the rules or principles adopted by the committee was to impose a higher rate of duty on the finished product than upon the materials from which it was made. Now I desire to call his attention to the article of wire rods just mentioned. The committee proposes to put a duty of at least 175 per cent. ad valorem upon the steel billet from which the wire rod is made, the raw material of the manufacturers who make the fencing wire for sale to the farmers.

There were consumed in this country during the last year 75,000 tons of these wire rods in manufacturing barbed wire for use in the West, and 75,000 tons more for telegraph purposes. Now, this bill proposes to increase the duty on those rods from $11.75 per ton, which is the equivalent of 30 per cent., the present rate of duty, to $16.80 per ton, which is equivalent to 43 per cent. This will add at least $750,000 per annum to the taxes imposed upon the consumers of these articles.

Then it is proposed by a most remarkable clause in the bill, in relation to steel ingots, blooms, slabs, and billets, to put a duty equal to 224 per cent. ad valorem upon certain forms of Bessemer-steel blooms, of 222 per cent. ad valorem upon all Bessemer-steel slabs of a certain size, and 175 per cent. ad valorem upon the billets which the wire-rod makers must use in making this barbed wire for the farmer.

This bill proposes that if Bessemer blooms or slabs are imported into this country in forms weighing five hundred pounds or over, and measuring five or more inches square, they shall be admitted at a duty of six-tenths of a cent per pound; but if they weigh less than five hundred pounds or measure less than five inches square, the very lowest rate of duty to be imposed upon them by this bill is 2 cents per pound, or $44.80 per ton, which is equivalent to the ad valorem rates first stated.

Now, what will be the effect of this duty? Owners of the large steel-mills in this country, the manufacturers of steel rails, can import these large bloooms, weighing from five hundred to a thousand pounds each, at six-tenths of a cent per pound duty; and they can handle them, because they have the heavy machinery necessary for that purpose. But the man who wants to make a wire rod out of identically the same kind of steel must pay 175 per cent. duty on the imported billet, or he must go to the Bessemer-steel-rail makers and buy it from them at whatever price they may see proper to charge him.

Mr. KELLEY. I do not desire to interrupt the gentleman, but I wish to ask him whether on these smaller blooms or billets there is not a reduction of one-fourth of a cent?

Mr. CARLISLE. No, sir.

Mr. KELLEY. And whether the difference is not made between crucible steel and Bessemer steel?

Mr. CARLISLE. No, sir. Instead of making a reduction you propose to make an increase. They are admitted now as a manufacture of steel "not otherwise provided for" at 45 per cent. ad valorem.

Mr. KELLEY. Without taking up your time now I will answer you hereafter.

Mr. CARLISLE. I will meet the gentleman whenever he is ready for the discussion. The effect of this discrimination in the rates of duties against these slabs and billets and blooms of small sizes and in favor of those of large sizes is simply this: the owners of the large mills in Pennsylvania and elsewhere who have the machinery for using that material will bring in the large sizes at the low rate of duty, and then cut them up into the small sizes suitable for use in manufacturing agricultural implements, wire rods, and other articles, and sell them at whatever price they may choose to ask.

Mr. ANDERSON. Will the gentleman permit me to ask him a question?

Mr. CARLISLE. Certainly.

Mr. ANDERSON. I have been informed that the reason for that was because it was impossible to distinguish the crucible steel from the Bessemer steel, and that this classification was necessary on that account. Is there anything in that statement?

Mr. CARLISLE. If it weighs less than five hundred pounds?

Mr. ANDERSON. I have been so informed.

Mr. CARLISLE. If it weighs over five hundred pounds there seems to be no apprehension of difficulty about distinguishing the one from the other. The difficulty seems to arise the moment you cross the line between five hundred pounds and four hundred and ninety-nine pounds in a piece of steel. [Laughter and applause.] Upon that subject Mr. Oliver was asked a question before the Senate Committee on Finance a few days ago.

Mr. ANDERSON. I was asking for information.

Mr. CARLISLE. Mr. Oliver was the gentleman who knew more about the iron and steel industries of the country and more about the qualities and characteristics of those metals than any other member of that body. He was asked this question by a Senator and member of the Committee on Finance:

> As I understand from many sources that it is impossible to detect the crucible steel from the other and coarser grades of steel, what is there to prevent all or a majority of the crucible steel coming in under that six-tenths of 1 cent per pound duty instead of the other rate?

Mr. OLIVER. It is not impossible to detect it. An analysis or fracture to any expert should show.

So I submit to my friend from Kansas [Mr. ANDERSON] that according to the testimony of a member of the Tariff Commission who is especially acquainted with this industry there is no difficulty in distinguishing between Bessemer steel and crucible steel.

Mr. ANDERSON. That is what I wanted to know.

Mr. CARLISLE. Then, Mr. Chairman, there is another most remarkable provision in this bill to which I must call attention before my time expires, if possible.

Mr. ANDERSON. Take all the time you want.

Mr. CARLISLE. Here is a provision entirely new in the tariff legislation of this country, and I suppose entirely new in the tariff legislation of any country:

On all iron or steel, and on all manufactures, wares, utensils, vessels, and articles of iron or steel, or of which such metals or either of them shall be the component part of chief value, whether wholly or partly manufactured, there shall be levied, collected, and paid no less rate of duty than the highest duty or rate of duty imposed upon any part of said goods in any of the forms in which it or they existed prior to or during their passage into the form or article on which the duty is to be levied: *Provided*, That this shall not apply to nor in any manner affect the articles specially enumerated or provided for in this act, but shall apply to all other manufactures of iron or steel, or of which iron or steel shall be the component material or part of chief value.

Machinery which the gentleman from Massachusetts mentioned a while ago as one of the articles taxed and used by his constituents, engaged in the manufacture of wool, is not an enumerated article in this tariff bill. In machinery iron or steel will in every instance constitute the component part of chief value, so that it is one of the articles embraced by the provision just read. What is the result? We are to have 2 cents a pound upon Bessemer steel in the form of piston-rods and various other forms, which I can not now stop to enumerate; but if cold-rolled or hammered or polished in any way whatever, it must pay 1 cent a pound in addition. Suppose a piece of machinery has a piston-rod or some other part which is polished, cold-rolled, or hammered, the entire article must pay 3 cents a pound at the very lowest rate, and may pay 4½ cents per pound. Suppose it has some copper in it, copper being taxed at 4 cents a pound; then the whole article, according to the proviso, must pay the duty imposed upon that part of it—the highest duty imposed upon any part. Thus the duty will be 4 cents a pound upon the whole machine—iron, steel, copper, and all.

Mr. TOWNSHEND, of Illinois. Suppose that copper is only one-tenth of it?

Mr. CARLISLE. That makes no difference. The first question to be determined is, whether the article is not enumerated; secondly, whether it is an article of which iron or steel constitutes the material of chief value. These questions being answered in the affirmative, the article must pay the highest rate of duty imposed upon any of its component parts whether that part be iron or steel or copper.

Mr. TOWNSHEND, of Illinois. No matter how small the part may be?

Mr. CARLISLE. No matter how small. In the Committee on Ways and Means we tried, as gentlemen know—because the proceedings of the committee were public, and I am divulging no secrets—we tried to make this clause so read that this non-enumerative article should pay the rate of duty imposed upon the material of chief value. But we were not able to accomplish that; and this shows that the advocates of the bill understand distinctly what they are doing. [Laughter.] Now I hope my friend from Massachusetts [Mr. RUSSELL], who would like to have cheaper machinery, will help us correct that provision when we reach it in the course of our deliberations.

Mr. RUSSELL. Will the gentleman allow me to correct a statement which he made here in regard to stockings and hose? The gentleman referred to the importation of $23,087.49 of shirts and drawers.

Mr. CARLISLE. There I say you did not change the duty at all, because none comes in.

Mr. RUSSELL. That is the amount imported under that classification; it has nothing whatever to do with hosiery; it has no reference to that at all.

Mr. CARLISLE. I may have used the word hosiery inadvertently for "hose and other articles." But that was the item about which I was speaking, and my reference to the figures showed it.

Mr. RUSSELL. Well, that has nothing to do with this importation.

Mr. CARLISLE. Certainly not; therefore the committee did not raise the duty on it, but when it came to a class that did have something to do with importations you raised the duties from 35 to 45 per cent. ad valorem.

Mr. RUSSELL. Ah, but the gentleman does not state it fairly.

Mr. CARLISLE. Let us see.

Mr. RUSSELL. No one knows the proportion of the low and high priced hosiery imported under this clause, amounting to eight or nine million dollars.

Mr. CARLISLE. Does the gentleman know Mr. Charles L. Spencer, who represents the Philadelphia Association of Hosiery and Knit Goods Manufacturers?

Mr. RUSSELL. I do not.

Mr. CARLISLE. Here is his testimony before the Tariff Commission, in which he says—I can not read it all—that we have imported of all, but principally of the third class, the class on which you have raised the duty, during the fiscal year ending June 30, goods to the amount of $8,299,234.

Mr. RUSSELL. He is talking about hosiery, and you about shirts and drawers.

Mr. CARLISLE. He is talking about the item on which you have raised the duty.

[Here the hammer fell.]

Many MEMBERS. Go on!

Mr. SPRINGER. I ask unanimous consent that the time of the gentleman from Kentucky [Mr. CARLISLE] be extended.

Mr. CARLISLE. I am very much obliged to gentlemen who desire to grant me an extension of time, but under the arrangement which has been made I do not think it proper to hold the floor longer.

The CHAIRMAN. The gentleman from Kentucky [Mr. TURNER] asks unanimous consent that the time of his colleague be extended.

Mr. CARLISLE. I am very much obliged to my colleague, but the understanding was that the general debate should close at 5 o'clock, and as the gentleman from Kansas [Mr. HASKELL] must follow me, I do not feel like trespassing longer upon the time of the committee. I hope to have ample opportunity under the five-minute debate to discuss these various questions in a more satisfactory manner than it is possible to do now.

Penny Postage.

Postage is a tax not only on the business of the country but upon the intelligence, knowledge, and the exercise of the friendly and social feelings, and is the opinion of the undersigned should be reduced to the lowest point which would enable the Department to sustain itself. That principle has been uniformly acted on in the United States as the true standard for the regulation of postage, and the cheaper it can be made, consistently with that rule, the better.—*Postmaster-General Cave Johnson.*

SPEECH

OF

HON. WILLIAM E. ROBINSON,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, December 21, 1882,

On the bill (H. R. 7049) making appropropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1884, and for other purposes, including a clause reducing the rate of postage on single letters from 3 to 2 cents.

INJUSTICE OF A TWO-CENT RATE—LOWEST-PAYING RATES THE RULE—CHEAP EDUCATION FOR THE PEOPLE—CONVEYANCE OF PRINTED MATTER—FRANKING INIQUITY—PUBLIC DOCUMENTS—ISSACHAR'S BURDENS—OPPOSED TO TWO-CENT RATE—BEHIND ENGLAND—LENGTH OF ROUTE AND WEIGHT OF MATTER—FALSE PROPHECIES—HISTORY OF TWENTY-EIGHTH CONGRESS—LOW RATES AND HIGH INCOME—HIGH POSTAGE IMMORAL—POSTAL HISTORY—BIBLICAL AND CHINESE—ENGLISH POSTAL HISTORY—THE MAIL-COACH—HISTORY OF AMERICAN POSTAL SERVICE—OCEAN PENNY POSTAGE—THE MEAN POSTAL-CARD—POSTAL FIGURES.

Mr. ROBINSON, of New York, said:

Mr. SPEAKER: The most unjust and offensive tax on the people now inflicted and barely tolerated under our system of government is the present tax of 3 cents each on single letters. Scarcely more grievous, however, than the proposed tax of 2 cents, designed to perpetuate the iniquity of compelling the private correspondence of a free people to pay for the support of wealthy publishers and merchants and franked matter.

No man dares, and no man does, deny that the sealed postal matter known as first-class matter would more than pay for itself at 1 cent. per half ounce. I do not think there would be much difficulty in finding plenty of responsible contractors who would engage to convey all our first-class matter as fully and as efficiently as now conveyed for 1 cent on each half ounce or under, and pay the Government millions of dollars a year for the privilege.

This being so, every cent collected on letters to make up the losses on other matter of the second, third, or fourth class, which does not come legitimately under the head of postal matter, is an oppressive tax on the people using the mails for their legitimate purposes.

I have two years more before me to serve in Congress, if I live, and I shall make it the chief effort of my service here to oppose and abolish the iniquity of inflicting a 2-cent tax on single letters where 1 cent would more than pay.

Is there no way by which we can compel the tinkers in postal reform to come into the forum of reason and argue this question in the light of common sense?

LOWEST PAYING RATES THE RULE.

It is an axiom in American statesmanship, formulated by Cave Johnson, Postmaster-General in President Pierce's Cabinet, who opposed the reduction of postage in 1845, but became a convert in 1847, in the extract from one of his annual reports, which I shall put as a text at the head of these remarks, and invoke attention to it as the true stand-

ard of American doctrine on this subject. I think I can demonstrate beyond contradiction that letters are now taxed double their cost. We are now imposing an unjust and oppressive tax of millions of dollars yearly upon the people who write letters, in favor of the few wealthy publishers and merchants; and in this proposed reduction to 2 cents we propose to continue the injustice and oppression. Could I state it more pointedly in any denunciatory language which I could use than in simply stating the fact, that for wealthy publishers we convey their mail at 2 cents a pound and charge the poor people who write letters to absent friends or otherwise, even under this proposed reduction, 64 cents a pound?

I may be answered that it is for the benefit of the people to send public documents free and newspapers at 2 cents a pound. But would it not be also for the benefit of the people if they were allowed to convey their own correspondence free or at 2 cents a pound? Has the millionaire Jay Gould any right to convey his correspondence at 2 cents a pound, when you deny to John Smith and James Brown and other plain people the privilege of sending their correspondence at 2 cents an ounce?

I do not discuss the question whether Jay Gould's editorials or the people's own current thoughts would be most desirable for partially or wholly free circulation. But if the spread of Jay Gould's ideas be so desirable for popular education in Republican circles, let Jay Gould or the General Government pay for their conveyance and not tax others who have no great admiration for his teachings.

This plain proposition is undeniable, that if the letter correspondence of the country will pay expenses at 1 cent per single letter it should not be taxed twice that sum for the benefit of a privileged class; and I challenge, I defy the advocates of a 2-cent postage on letters to come into debate and show that a 1-cent postage will not pay. We are inflicting an unjust tax of many millions annually on the people's correspondence to add to the wealth of millionaires and monopolists who seem at a loss with what follies and extravagances to get rid of their increasing wealth.

CHEAP EDUCATION FOR THE PEOPLE.

If you want to educate the people of the United States by passing newspapers free through the mail or by sending free the Agricultural Reports, the CONGRESSIONAL RECORD, the Census reports, and other public documents, do so, but charge the expenses to the general Treasury and not inflict a prohibitory tax upon knowledge and social communication. There is one way in which you can educate the people more thoroughly and at less expense than in any other manner. Open the post-office to every man, woman, and child in the United States that they may write to every other man, woman, and child in the Union for 1 cent on each letter, and you will give a greater impulse to education among the masses than was ever given before.

It seems almost incredible that of the thirty-six or seven millions of Americans of 10 years of age and upward one-sixth are unable to read and write. You tell me that this illiteracy arises from the foreign-born element, as many ignorant persons undoubtedly believe. But such is not the fact. Some of the States having the fewest foreign-born have the largest number of illiterates.

Taking the population of the following States, 10 years of age and upward, and we have the following results:

States.	Population.	Illiterate.	Foreign-born.	Foreign illiterate.
Alabama	851,780	433,447	9,395	727
Georgia	1,043,840	520,416	10,208	572
Louisiana	649,070	318,380	52,317	5,690
North Carolina	959,951	463,975	3,502	119
Rhode Island	220,461	24,793	70,562	19,283
South Carolina	667,456	369,848	7,350	362
Tennessee	1,062,130	420,722	16,333	1,233
Virginia	1,059,034	430,352	14,270	777

In the District of Columbia over 18 per cent. of the entire population can neither read nor write, while of the foreign-born only 12 per cent. are illiterate.

States.	Illiterate.	
	White native-born.	Foreign-born.
Colorado	8,373	1,533
District of Columbia	75,025	2,038
Illinois	132,420	43,907
Indiana	87,780	12,612
Kansas	17,825	7,063
Missouri	137,949	14,561
New Mexico	46,329	8,208
Ohio	83,183	32,308
West Virginia	72,830	2,411

You may tell me that these illiterates are principally colored people. That is true, but my Republican friends must not allow the figures to show that they are in such a hopeless minority among the intelligent people of the United States. In the whole country there are 6,239,958, or 17 per cent., illiterate, while there are only 763,620 foreign-born, or only 12 per cent., unable to read and write.

Now, if you want to set the whole country, black and white, to mastering the mysteries of reading and writing, give them 1-cent postage, and my Republican friends will adopt the surest means of making their voters as intelligent as the Democrats. Set the boys and girls to writing letters to each other on New Year's, Valentine's day, Easter, the Fourth of July, and Christmas, and intermediate days, by lowering the postage to 1 cent, and "many shall run to and fro, and knowledge shall be increased."

POSTING PRINTED MATTER.

The conveyance of regular newspapers and publications costs the Government about 40 per cent. of the entire expenditures of the postal service, while it does not pay 4 per cent. of the cost. Mr. Jay Gould appears at the post-office of New York with a package of one hundred pounds to be conveyed to Oregon or Arizona, and the United States takes it to be so conveyed for $2. Immediately beside him a mechanic presents himself with a package of sealed circulars of the same weight precisely, which he wishes to send to Brooklyn or Newark, and the postmaster, even at this reduced rate of 2 cents for half-ounce letters, refuses to convey the mechanic's parcel for less than $64. Is this just or even tolerable in republican government?

The newspaper proprietors pay carriers for delivering their papers to their readers. The small fraction which they throw off to the dealers and carriers is more than they now pay for transportation through the mails—half to three-quarters of a cent on each paper is allowed to the carriers and dealers. But by the mails they only pay the eighth of a cent. They can not desire more. Besides, the extra trains that are run, and which increase the cost of mail transportation, are run for the benefit of the papers. The extra train from New York to Albany, at a cost of $25,000 a year, is run for the benefit of newspapers and paid by the surplus on letters. Of this I do not complain. We are a newspaper people and I would not curtail their circulation. But this and other extra trains start at an hour when there is little letter mails and fewer passengers. A man could carry in his carpet-bag all the letters that go out by them. They are run for the benefit of the press.

The train called the fast train, which leaves New York for Albany at 4.35 o'clock in the morning, is a part of this expedited mail system for which a former Congress appropriated $600,000. It seems not enough burden upon the people that they should be overtaxed in favor of the large newspapers, which pay only about 4 per cent. of the revenue from the Post-Office, while they cost the Government 40 per cent. of the expenses, but this expedited mail, which adds another $600,000 to the last, is almost exclusively for the New York city papers. There are practically no letters mailed between the departure of the last evening mail, about 9 o'clock, and this early morning train; but the printing and mailing of newspapers are done in that time, and the morning newspapers go to press about fifty minutes or an hour before this train leaves. It is loaded with newspapers, and these are thrown off at some thirty or forty stations between New York and Albany. It goes through on fast time, arriving in Albany about 8.20. This fast train is not for the benefit of the people nor for that of the business men, but every man, woman, and child in the United States is taxed for it on his 2-cent letter. The United States become the carriers of the morning papers and unjustly inflict the cost as a tax upon the whole people to the tune of $600,000, which is taken from every breakfast table in the land in single pennies overcharged on letters to enrich the already overwealthy.

But you tell me we should tax the letter-writers to convey the newspapers free because they spread intelligence among the people. A reduction on newspaper postage would not result in an increased spread of intelligence so much as a reduction of letter postage. Treble the number of letters sent by the people to one another and you do more to spread intelligence and educate the masses than you can do in any other way. The sentiments of some of these large newspapers are not deemed by many desirable for circulation among a republican people. The representatives of monarchy at this capital have been sending some of them home to show their leanings toward despotism.

The vilest stuff that pollutes our mails and calls for the scrutinizing attention of Anthony Comstock to prevent its circulation is not so deleterious to our national vitality as the treasonable trumpetings of monarchy and snobbery with which some of these leading papers are filled for whose circulation we tax the intellect of the country. In place of economizing or facilitating their circulation they should be excluded from the mails as disgraceful matter and dangerous to free institutions.

FRANKING INIQUITY.

Another iniquity in our postal system is the franking privilege, which loads the mails with matter that should pay its own way. This system of franking and penalty envelopes and all free-matter conveyance should be abolished. Why oppress the Post-Office Department for the millions of dollars spent in forwarding the three-fourths useless matter sent through it for the State, Treasury, War, Navy, Interior, and Justice Departments, and for Congress? "Let every tub stand on its own bottom," and let these Departments and Congress pay their postage as

others do, or look to the Treasury for a general appropriation if they must have privileges.

The gentleman from New Jersey [Mr. HULL], in a speech delivered in this House April 11, 1882, stated that four tons of free mail matter were daily sent from Washington, in addition to that arriving free. This, if paid at the rate of letter postage, would amount to $7,680 a day. The same gentleman, in that same speech, says that the stage-routes on the plains could not carry the mails on account of the weight of this useless matter, and frequently bags of mail matter were thrown into the mud-holes for the stage to pass over. The great loss in that matter was in the waste of the bags. Their contents were useless.

PUBLIC DOCUMENTS.

Take the history of the Patent Office reports.

When I first came to Washington, in 1843, forty years ago, the first regular standard Patent Office report was published in an edition of 3,000 sets. In 1845–'46, 7,000 sets were published; in 1847, 30,000; in 1848, 45,000; in 1849, 65,000; in 1852, 77,000. All these in one volume each. In 1854 it was published in two volumes, and 90,000 sets were printed, at a cost of over $100,000; in 1856 it was printed in three volumes, and 90,000 sets were issued, at a cost of over $160,000. The number of volumes printed in nineteen years, 1851–'69, was 2,000,000 volumes, at a cost of over $2,000,000, the weight over 6,000,000 pounds or 3,000 tons, and all conveyed free by an unjust tax levied upon the writers of letters.

Since 1872 those Patent Office reports are continued in the Official Gazette, published every Tuesday, of over eighty pages, thousands of which are sent free through the mails, while the Agricultural Report, which used to be a part of the Patent Office report, is circulated by the hundred thousand, all free, and the expense charged to the poor letter-writers. We have ordered 300,000 copies of the pending report of the Agricultural Department. These will average about three pounds a volume, or in round numbers 1,000,000 pounds. This if conveyed at the proposed reduced postage of 2 cents to the letter of half an ounce would be $640,000 for this single publication.

ISSACHAR'S BURDENS.

The Scriptures tell us that Issachar was an ass bending between two burdens. Our Issachar is the letter-writing class bending between the two burdens of wealthy publishers and mercantile millionaires, and this letter-writing class are bound hopelessly under the burden. They can not lighten the load by getting outward help. Merchants may send their wares by mail at 1 cent an ounce, or by express at lower rates; publishers theirs by the mail at an eighth of a cent an ounce, or cheaper by express; but the law compels the letter-writer to send his at 4 or 6 cents an ounce, and prohibits him from sending them, as he could, by express at the tenth of a cent an ounce or less under pain of fine and imprisonment.

The poor letter-writers, for the privilege of corresponding with each other, which they could do with large profit to the Government at 1 cent the single letter, are compelled to pay 3 or 2 cents for each single letter for the purpose of allowing others to send their wares almost free and the tons of Congressional and Department letters entirely so. And yet after doing all that there is to be a surplus of six or seven millions for 1884.

But Issachar will resume his manhood and throw off the burdens of others, and carry only his own. The day is fast approaching when the people will not tolerate their representatives here in making them pay a tax upon every letter which they write to convey other matter free to a few privileged classes which they consider injurious to the well-being of the country.

OPPOSED TO TWO-CENT RATES.

I am therefore utterly opposed to the adoption of this clause in its present shape. It will only delay the reform in our postage laws which the people demand and will have. I am opposed to passing general laws as riders on appropriation bills. And the reduction of letter postage is not the only thing the people demand, and the reduction which they have a right to expect is not the partial and imperfect one from 3 to 2 cents, but from 3 to 1. That reduction must come and will come speedily. Before the date fixed for this reduction to take place, January 1, 1884, the demand for a uniform 1-cent postage will be so stern and commanding that the people's Representatives will gladly obey their constituencies by amending this provision to 1 cent before it can take effect as 2. The people also demand reform in the Post-Office laws respecting franking abuses, and a readjustment of the rates of postage on second, third, and fourth class matter.

This committee reporting this bill owed it to the people to digest and report a well-considered bill after mature deliberation, and opportunity given to have parties heard who believed in 1-cent postage and contend for reform of franking abuses and other postal obliquities. This incongruous clause should be stricken from this bill and recommitted to the committee with instructions to prepare a bill remedying all the evils complained of in the postal service, with a reduction of letter postage to 1 cent, and I hope if this be not done in the House it may be done in the Senate, and that we may have a postal reform worthy of statesmen rather than the devices of tinkers. We want no local and partial patching up of a defective law, but a new one, perfect in all its parts as far as human effort can attain perfection.

The people of these United States are now oppressed with the most unjust tax existing in the world. And this unjust and oppressive tax is little less flagrant at 2 cents than at 3. We can demonstrate—the proof is overwhelming—that the first-class matter is more than paying its expenses; that its expenses would be amply paid at 1 cent, and it is unjust and oppressive to make those who pay the tax on their letters pay also the great deficiencies in the other three classes of postal matter and the oppressive burden of free matter. We are inflicting an unjust tax of ten to twenty millions a year on the masses of the people who write letters to fill the already plethoric purses of wealthy publishers and princely merchants. For every letter that a poor woman writes to her absent daughter or husband or mother, she has to take 2 cents from the loaf of bread which she places on her table, to pay the transportation of Jay Gould's newspaper or some other monopolist's wares at the rate of 2 cents a pound—while we charge 64 cents a pound on letters even at the proposed reduction to 2 cents.

The people of the United States are now writing a thousand millions of letters each year at 3 cents. The revenue from that is $30,000,000 a year. Make the postage 1 penny and in less than twelve months five letters at least will be posted for every one sent now. That would bring in a revenue of fifty millions a year. This will suffice to pay for the countless tons of free matter, the immense loss on the conveyance of newspapers as now forwarded, but with a proper reduction of expenditures in the Department, a restriction on the franking privilege, and a proper readjustment of rates on third and fourth class matter, the expenses will be very much lessened and the revenue doubled.

This idea of a 2-cent postage is antiquated and behind the age. It was discussed forty years ago and rejected by men of intelligence. A committee of Boston gentlemen, among whom were Edward Brooks, Joshua Leavitt, Dr. S. G. Howe, and Moses Kimball, reported on its absurdity in 1848 by showing that a Boston parcels express company delivered parcels in neighboring towns and villages at the following rates compared with similar parcels at 2 cents postage:

	Number of letters.	Postage.
Parcels less than 1 pound carried at 3 cents	32	$0 64
Parcels less than 3 pounds carried at 5 cents	96	1 92
Parcels less than 10 pounds carried at 7 cents	320	6 40
Parcels less than 25 pounds carried at 10 cents	800	16 00
Parcels less than 50 pounds carried at 12½ cents	1,600	32 00
Parcels less than 100 pounds carried at 25 cents	3,200	64 00

Sixty-four dollars for carrying a parcel of one hundred weight across a ferry or over a bridge, a distance over which you could have a barrel of flour weighing two hundred pounds conveyed for 25 cents or less. With what cheek can we face our constituents to justify charging under this pseudonymous reform, for carrying a parcel for our tax-payers and charging $64, while one business man would charge another for conveying the same parcel only 25 cents? The Cunard steamers would convey a ton of freight from New York to Liverpool for $4, while we charge $64 for carrying the twentieth part of that weight from New York to Brooklyn.

One-penny postage is too much. If we had a smaller coin, a farthing, for instance, and reduce it to that, it would pay and leave a surplus. Our difficulty in two or three years will be to know what to do with that increasing surplus. We can afford to double the weight and vastly increase the efficiency of the service and yet have a troublesome surplus in two or three years after we grant this just demand of the people.

BEHIND ENGLAND.

Is it not a shame that we should be crawling with such snail's pace after England in conferring benefits on the people. Forty years ago she conferred upon her people postal facilities at one penny a letter. Her rate is half a penny or one cent per half ounce—and we now in this year of 1883 are talking of a charge twice as large as hers as a "reform!" Four cents an ounce you call a reduction of postage, while you convey a pound of newspapers for half the price and talk of reducing even that. At the rate of one cent on the half ounce her postal system pays all the expenses and leaves a surplus of about ten millions of dollars a year and upward.

The objections in the British Parliament to the proposed reduction of postage to 1 penny were the same as we have now in our own Congress. Violent protests were made against so great a reduction, and then as now short-sighted statesmen were found to prophesy that it would not pay and that they should make a gradual decrease commencing with a reduction to 2 pence; but Mr. Goulbourn contended that if the experiment was to be tried at all it would be best to take penny postage. He declared that a postage of 2 pence would fail, but a penny might succeed. Sir Robert Peel advocated it as a boon to the lower classes. Daniel O'Connell advocated it as the most valuable legislative relief ever given to the people, and even if it did not pay the reduction should be made. Lord Ashburton declared that he had been in favor of 2-pence postage, but had changed his mind in favor of coming to 1-penny postage at once. The cheap postage of Great Britain was passed

in deference to the will of the people and not on the ground of producing revenue, and this deference to the public good demanded the cheap postage even if a new tax were necessary to make up the deficiency. But there was no permanent deficiency under the 1-penny postage; there would have been under the 2.

The English ministry showed more deference to popular opinion than our Government has shown. In 1837 Rowland Hill published his pamphlet ignoring a 2-penny rate and advocating penny postage. A select committee was appointed, which sat sixty-three days, examined over a hundred witnesses, including the postmaster-general and his secretaries. Their report filled three folio volumes. In our committee I do not think penny postage was even mentioned. No reform in franking or relating to second, third, and fourth class matter is recommended, and the reduction comes in as a rider on an appropriation bill.

Reduce your postage to 1 cent. Let the country get prepared for this great boon, and the day the measure takes effect double the number of letters will be mailed that were ever mailed before, and the vast increase will roll like a swelling wave through the entire mail service, and all our citizens, wherever resident, shall enjoy the benefits of a uniform, speedy, and cheap transportation of social intelligence and business messages.

LENGTH OF ROUTE AND WEIGHT OF MATTER.

The great argument for keeping up high postage in this country is the extent and length of the mail-routes. The expense of the Post-Office is practically the same whether letters are conveyed one or one hundred miles. Rowland Hill estimated the cost of transportation of a letter from London to Edinborough (three hundred and ninety-seven miles) as one thirty-sixth of a penny. The weight of letters is of very little consideration. Ten thousand letters on the average would not weigh more than a barrel of flour. It is very little difference in weight whether you carry one or ten letters; and as for distance, if you have a contract for carrying the mails from Boston to New York, and another contract to carry them from New York to Philadelphia, what difference will it make whether you convey by the same routes the letters that go from Boston to Philadelphia?

Our letters are taxed unjustly for the conveyance of millions of free letters by the several Departments, for the distribution of the immense tonnage of Congressional and public documents, for the conveyance of regular newspapers at 2 cents a pound, which does not pay but a small fraction of the cost of their conveyance, for the extension of star and other routes in new or thinly settled parts of the country which do not pay expenses. Why should these burdens be inflicted as a tax upon correspondence? These non-paying routes are necessary, and should be supported not by a tax upon the writers of letters, but upon the general Treasury, which is amply remunerated by the sale of public lands and the advanced prosperity of the whole country.

There is nothing in our Constitution or form of government to demand that the Post-Office Department should pay its expenses. It is more of a necessity than the Army or Navy, yet these Departments are in no sense self-sustaining.

FALSE PROPHETS.

There never was a prophecy of falling off of the revenues on reduction of postage that was not proved false. There never was a prophecy of increased revenue from reduced rates of postage that was not more than fulfilled.

Some of the gloomy forebodings of the wiseacres on the passage of the bill of July, 1845, reducing postage on single letters to 5 and 10 cents furnish amusing reading now. The Boston Post and New Hampshire Patriot, leading Democratic papers, saw a fearful deficiency to be made up by additional tariff duties upon articles which poor farmers were compelled to buy. The Philadelphia North American, a Whig paper, edited by Morton McMichael, was of the same opinion. The Madisonian, of Washington, prophesied that the Southern planters and Western grain-growers would be taxed enormously to gratify the avarice and cupidity of sharpers and speculators. George McDuffie, then Senator from South Carolina, opposed the passage of the law and prophesied that in less than six months one-fourth of the offices would be discontinued for want of business, and in less than twelve months the country would demand its repeal. He advised the Department and the postmasters to hold on to their old books, as Congress would in two weeks after its next assembling repeal the law.

Mr. David S. Reid, then a member of this House from North Carolina and afterward governor of and United States Senator from that State, said in a formal letter to his constituents, as those opposed to penny postage now say, that the reduction was too great, and that the tax taken off the mail correspondence must be collected on salt, iron, sugar, and blankets, and that he opposed its passage. The Postmaster-General, Cave Johnson, of Tennessee, in his annual report six months after the law went into operation, foretold a frightful decrease in revenue unless the law was amended. But no amendment was made. The actual deficiency the first year was only half a million. For the second year it was less than $34,000 and this same Postmaster-General in his report of December, 1847, estimated an actual surplus for that current year of nearly a quarter of a million of dollars. I was then in Washington and pretty intimately acquainted with all these great prophets of evil, and was then as now for cheap postage, and foretold the failure of these prophesies. The stubborn character of these old statesmen in opposition to all reforms and progress is exemplified in this same Cave Johnson, who two years previously was a member of this House and when an appropriation was proposed of $30,000 to enable Professor Morse to carry out his invention in telegraphy, proposed as an amendment to give $30,000 to develop animal magnetism, on which some mountebank was then lecturing in Washington.

But telegraphy and cheap postage succeeded in spite of the bitter ridicule of these great statesmen, and so it will be in the future, when in the light of history the whole nation will wonder why we hesitated in this year of 1882 to adopt penny postage.

I may also mention as a remarkable fact that this same Postmaster-General Johnson in less than two years after his prophecy of failure from low rates of postage actually suggested a still further reduction, which he did not urge for the simple reason that we were then engaged in war with Mexico, which imposed heavy burdens upon the Treasury. Indeed, the success of the law of 1845 made a model cheap-postage advocate out of Cave Johnson.

HISTORY OF THE TWENTY-EIGHTH CONGRESS.

During these discussions on the introduction of telegraphy and cheap postage I was an interested and pen-holding spectator.

"*Ehcu! fugaces anni.*"

It was forty years ago! The venerable Tyler (in whose Cabinet Webster had lingered) and his accomplished young wife, with his Cabinet, John C. Calhoun, George M. Bibb, William Wilkins, John Y. Mason, Charles A. Wickliffe, and John Nelson, at the head of their several Departments, were surrendering the White House and public affairs into the hands of James K. Polk and his excellent wife, with his Cabinet, James Buchanan, Robert J. Walker, William L. Marcy, George Bancroft, Cave Johnson, and John Y. Mason. I recall their venerable and majestic forms through the mist of years. I see the thunder-cloud of Webster's eye-brows, fringed with foam of fire from the orbs below; the consuming fire of Calhoun's eye; the quaint cut of Bibb's knee-breeches, and the curious twist of his queue; the white neck-tie and inclining head of Buchanan; the slender body but towering intellect of Walker; the ponderous nationality of Marcy. All gone, save the two worthy women mentioned, and the now venerable Bancroft, who, by his own right and by the dignity and worth of his own great name, is among all mankind alone entitled to the privileges of the grandest representative body in the world, the Senate of the United States. "*Serus in cœlum redeat.*" At the head of the Supreme Court sat the incorruptible and illustrious Taney, surrounded by those venerable jurists, Joseph Story, John McLean, James M. Wayne, and Samuel Nelson.

It was the Twenty-eighth Congress, and strange to say that Calhoun and Clay and Webster were not among the Senators; the first had accepted the State Department for a year in Tyler's Cabinet, in which Webster had lingered to complete the negotiations of the Washington treaty, and Mr. Clay had retired from the Senate to run for the Presidency in 1844, all three, however, returning afterward to the Senate, the first two to die in harness there, and the latter finishing his grand career in the Cabinet of Fillmore. It was a Whig Senate, the diminishing marks of the tidal wave of log-cabinism, and Willie P. Mangum, the majestic representative of North Carolina, was President *pro tempore*, in place of John Tyler, elevated to the Presidency through the death of President Harrison. Asbury Dickens was in the first decade of his quarter century's Secretaryship of that body. Among its more prominent members for size and intellect were Dixon H. Lewis of Alabama, in place of William R. King, to whom the present able presiding officer is by comparison but a pigmy; John M. Niles of Connecticut, previously Postmaster-General; Hannegan of Indiana, afterward minister to Prussia; Crittenden of Kentucky; Barrow and Porter of Louisiana, the father of the latter a Presbyterian clergyman, executed as an Irish rebel in 1798, and himself dying in Baltimore, whither he had gone as a friend of Garrett Davis of Kentucky in his quarrel with Thomas Haynes Bayly, of Accomack, in Virginia; Rufus Choate of Massachusetts, of eccentric eloquence; Robert J. Walker of Mississippi, unmatched as a financier; Thomas H. Benton and David R. Atcheson of Missouri; Levi Woodbury of New Hampshire, afterward judge of the Supreme Court; William L. Dayton of New Jersey, dying in Paris as our minister to France; Dickinson, Dix, Foster, Talmadge, and Silas Wright of New York; Allen of Ohio; Buchanan and Sturgeon of Pennsylvania; McDuffie of South Carolina; and Archer and Rives of Virginia. All dead, I believe, but Atcheson of Missouri, who survives much political abuse of "border ruffianism" in venerable old age.

It was a Democratic House from which had vanished the lingering relics of "Tippecanoe and Tyler too"—John W. Jones of Virginia Speaker, with a brief *pro temporeship* to George W. Hopkins of the same State. Matthew St. Clair Clarke of Pennsylvania, a venerable name in American history, was Clerk, succeeded by Caleb J. McNulty of Ohio and Benjamin B. French of New Hampshire. I am still sitting in my seat, from which I was afterward expelled and to which I was again restored, on the right of the Speaker, where the statue of Trumbull of Connecticut now stands in the old Hall. From my elevated position I look across to the westerly side of the Hall, which was then generally, though not exclusively, occupied by the Whigs, and I see the shining head and trembling form of John Quincy Adams in his chair, which I now have in my possession in Brooklyn, Linn Boyd of Kentucky, Ed-

mund Burke of New Hampshire, Stephen A. Douglas of Illinois, George C. Dromgoole of Virginia, Joshua R. Giddings of Ohio, Hamilton Fish of New York, Charles J. Ingersoll of Pennsylvania, R. Barnwell Rhett of South Carolina, Thomas L. Clingman of North Carolina, Alexander H. Stephens of Georgia, Alexander Ramsey of Pennsylvania, Robert C. Winthrop of Massachusetts, Jacob Collamer and Solomon Foot of Vermont, John P. Kennedy ("Horseshoe Robinson") of Maryland, George P. Marsh of Vermont, Kenneth Rayner of North Carolina, Washington Hunt of New York, Samuel F. Vinton of Ohio, Robert McClelland of Michigan, John White and Garret Davis of Kentucky, Caleb B. Smith of Indiana, and Robert C. Schenck of Ohio. Nearer toward me and on the Speaker's right, on the eastern side of the main aisle—mostly but not all Democrats—I still see bending over their desks James J. McKay of North Carolina, Howell Cobb of Georgia, Robert Dale Owen of Indiana, John P. Hale of New Hampshire, Andrew Johnson of Tennessee, John Slidell of Louisiana, Hannibal Hamlin of Maine, Felix Grundy McConnell of Alabama, Henry C. Murphy of Brooklyn, New York, Jacob Thompson of Mississippi, and Hugh A. Haralson of Georgia; most of them fled beyond the bourne, having seen "the last of earth." The venerable sage of Quincy, whose residence here, to which I so often accompanied him, now occupied by the gentleman from Illinois [Mr. THOMAS]; Dromgoole, perhaps the ablest man on the Democratic side when he chose to assert his right; Marsh, dying but recently while our representative at Rome; McClelland, afterward governor of Michigan and Secretary of the Interior in Pierce's Cabinet; John P. Hale, Senator and embassador, still represented in the best social circles of Washington; McConnell, of warm and generous heart; Murphy, the scholar and statesman, dying but yesterday in my own city, and Haralson of the empire State of the South, still recalled by the too seldom visiting but always welcome ornaments of social life in this metropolis. And yet how many survive! Clingman, since Senator, frequently visits his numerous friends in both Houses; Stephens, translated from his movable chair in this present House to the governorship of Georgia; Ramsey, then from Pennsylvania, since governor of the Territory and State of Minnesota and Senator from that State, but recently Secretary of War, and now chairman of the Utah Commission. Winthrop, afterward Speaker and Senator and more recently orator of the Franklin, Washington, and Yorktown monuments; Rayner, Solicitor of the Treasury; Schenck, since minister to Brazil, general, and embassador to England, now living in Washington, and Hannibal Hamlin, still youthful and holding a high diplomatic position. There were then only twenty-six States and only three Territories. Florida, then represented by Mr. Levy, afterward known as Yulee. Iowa, represented by A. C. Dodge, and Wisconsin by Henry Dodge. The States of California, Colorado, Florida, Iowa, Kansas, Minnesota, Nebraska, Nevada, Oregon, Texas, West Virginia, and Wisconsin were then unknown and the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Washington, and Wyoming were unnamed, and much of the immense territory included in the above States and Territories belonged to other nations. Our population was not then much over one-third of what it is now.

It was before this Twenty-eighth Congress that the first great reduction of postage was discussed and carried, reducing the rate for single letters to 5 cents under three hundred miles, and 10 cents above that distance. The rates previous to that had been unchanged from 1825—twenty years—and were:

	Cents.
Every single-sheet letter conveyed not exceeding thirty miles	6
Over thirty and not exceeding eighty miles	10
Over eighty and not exceeding one hundred and fifty miles	12½
Over one hundred and fifty and not exceeding four hundred miles	18¾
Over four hundred miles	25

To come down from these figures to a uniform rule of 5 and 10 cents under and over three hundred miles was a great reduction, and met about as unreasonable opposition as is now manifested against penny postage. It was warmly discussed in both Houses, eliciting the prophecies to which I have just referred. Among those voting for it in the Senate were Allen, Bayard (father of the present Senator), Barrow, Benton, Berrien, Buchanan (afterward President), Choate, Crittenden, Dix, Dickinson, Niles, Porter, Rives, Walker, and Woodbury. Among the nays were Hannegan, Lewis, and Mangum.

Among the yeas in the House were Burke, Collamer, Garrett Davis, Douglas, Fish, Foot, Giddings, Hale, Hamlin, Kennedy, Marsh, E. Joy Morris, Henry C. Murphy, Robert Dale Owen, Ramsey, Schenck, Thomas H. Seymour, John Slidell, John Wentworth, and Robert C. Winthrop. Among the nays were Thomas Haynes Bayly, Aaron V. Brown, William J. Brown, Clingman, Howell Cobb, Dromgoole, Haralson, C. J. Ingersoll, Cave Johnson (immediately afterward Postmaster-General), Andrew Johnson (afterward President), Rayner, D. S. Reid, R. Barnwell Rhett, and William L. Yancey.

So furious were some of the Representatives against this reduction that Mr. Jacob Thompson, of Mississippi, a native of North Carolina, then a member of this House and afterward Secretary of the Interior in Buchanan's Cabinet, moved to amend the title of the bill so as to make it read: "A bill to make the Post-Office Department a nuisance and to guarantee the tariff of 1842." How ridiculous the opponents of a 1-cent postage will appear twenty years hence.

LOW RATES AND HIGH INCOME.

Diminished cost uniformly leads to increased consumption. Reduce the price and you increase the revenue. The reduction of the rate of postage in the United States in July, 1845, led to an increase of revenue beyond all hope. The number of chargeable letters passing through the mail in 1843 was 24,267,552, yielding the sum of $3,525,268. In the year ending June 30, 1847, the number was 52,173,480, yielding $3,188,957. A reduction of one-half in rates doubled the correspondence. The average number of letters passing through the British post-office was 77,000,000 per annum before the reduction. For the year 1847, after the reduction, the number of letters was 320,000,000.

A reduction of the price three-fourths increased the consumption fourfold. A reduction of the duty on newspapers in England increased the revenue. A reduction of the duty on advertisements also increased the revenue. The reduction of the fee of admission to the armory of the Tower of London, at different times, from three shillings to sixpence increased the receipts at each reduction of the admission fee.

A fall of one-eighth in the price of soap increased the consumption one-third; the falling of tea one-sixth increased consumption one-half; the fall in silks one-fifth, doubled the consumption; of coffee one-fourth, trebled it; and of cotton goods one-half, quadrupled it. The reduction of our postage two-thirds would quintuple the number of letters. A gentleman exhibiting a panorama at 25 cents was losing money; he put it down to 12½ cents and cleared a hundred dollars a week. You may put it down as a settled law in economies that a reduction of price in articles of general use and necessity increases the amount of money received. The people will expend more money in low prices than in high prices for the same article. You will collect more money on letters at 1 cent than on letters at 2 or 3 or 10 cents. If you want to keep up a deficiency, keep up your postage at 2 cents; if you want a surplus, put the postage at 1 cent.

HIGH POSTAGE IMMORAL.

High postage injures the morals of a people. If you put postage down to our lowest coin you stop all frauds on the service. Thousands of persons will use illegal means to save a penny on each letter. It is stated that on the first steamship, the Sirius, from England to America there were only five letters put on board to pay postage, and that at least 10,000 letters came over on that voyage without paying postage. A person wishing to convey to an absent member of the family information concerning the children, about whose health some anxiety existed, sketched on the margin of a newspaper a drawing of two little girls, a cobbler's awl, and an old-fashioned well, which being translated read, "Children all well." The drawing of the sketches occupied some time. Had the postage been 1 cent the news would have come in a letter. Rather than pay 3 or 5 cents a newspaper was sent with a 1-cent stamp, and a drawing sketched at the sacrifice of time and trouble. Mr. Cobden declared that not one-sixth of the letters, under high postage, between Manchester and London paid postage. In England women used to go around collecting letters at 2 pence per hundred to send by illicit means. These were collected, carried to their destination, and distributed at 1 penny. The postage was 4 pence. At penny postage all would have gone by the regular mail. The reduction to 2 pence on letters would not cure the evil, for private carriers would deliver at 1 penny. The reduction of the regular postage to 1 penny cut up the illicit business by the roots. Before the reduction of postage in this country in 1845 not more than one-half of the letters passed through the post-office. The number of letters going through the offices of the United States was only about 24,000,000, while in England, under cheap postage, there were over 200,000,000. The number now passing through the United States post-offices is over a thousand millions a year.

POSTAL HISTORY.

The struggle for cheap postage has been an unceasing fight for centuries of the many against the few. Invented originally for the service of despotism it has become the handmaid of democracy. The Assyrian and Persian monarchs had their servants ready with saddled horses at convenient distances and at all hours to carry the decrees of the despot. King Darius was at one time a postmaster-general. The Romans sent couriers on fleet horses with imperial edicts to their distant provinces. Private messages were generally conveyed by slaves. Charlemagne established stations and sent couriers to carry letters, packets, and decrees to all parts of his empire. At his death the service was very much reduced, but in 1464 Louis XI restored it, placing mounted posts within four miles of each other, and required them to be always in readiness to convey government messages. In the thirteenth century riders who were called *nuncii* were organized for the quick conveyance (post-haste) of government dispatches. Butchers and drovers traveling the country to buy cattle were the principal letter-carriers for poorer people, and in early times the universities created a demand for pedestrian messengers to carry the letters of the students home and bring back funds for their sustenance and education. In time posting passengers was added to the conveyance of letters and decrees, and thus came into use post-coaches. Roger, Count of Thurn and Taxis, established posts in the Tyrol early in the sixteenth century, connecting Germany and Italy. Venice, Genoa, Naples, and Leghorn came in postal communion with Lubeck, Hamburg, Bremen, and Frankfort-on-the-Main. In 1524 the French posts were permitted to convey other letters besides the messages of kings and nobles.

BIBLICAL, CHINESE, AND OTHER POSTAGE.

Perhaps the earliest letter-writer mentioned is Jezebel, and her let-

ters were forgeries, for we are informed that she "wrote letters in Alab's name and sealed them with his seal." Solomon, Hiram, Xerxes, and Cleopatra are also mentioned as letter-writers. So were Esther, Mordecai, and Haman. In early times they did not use ciphers, and all kinds of schemes were laid to conceal important messages from public perusal. It is said that on one occasion an inventive master had a letter which he wished to convey secretly branded on the shaved head of his bondman and sent him off after the hair had grown sufficiently to conceal it.

The Chinese were perhaps the earliest and best patrons of the postal system. They had laws to prevent the use of the mail for fraudulent purposes and severe punishment for mail robbery. Chinese posts were called jambs, and Marco Polo estimates their number at 10,000, employing 200,000 horses. They were located twenty-five miles apart, and furnished excellent entertainment for travelers. The Aztecs had early and regular postal facilities for the conveyance of their hieroglyphical correspondence. Birds of strong wing and dogs of swift foot were used in ancient times in postal service. A Bashaw on his travels usually carried with him a basket of pigeons, bred in the seraglio, and they were labeled and liberated when he wanted to send a message home.

In early times letters were in the form of rolls, wound on a stick, or two sticks, round which they were rolled from either end till they met in the middle. They were literally volumes. They were usually written only on one side, and were generally unsealed. Those written to distinguished persons were sometimes placed in a valuable purse, which was tied and closed with clay or wax and stamped with the author's signet.

ENGLISH POSTAL HISTORY.

The United States, France, and Great Britain have been most prominent in the development of the postal system and the too tardy reform of cheap postage. It is just four hundred years ago that post-houses were established in England. Her postal expenses in the reign of Queen Elizabeth were only £5,000. The first chief postmaster was Thomas Randolph. James I improved the postal system. Matthew Le Quester was appointed chief postmaster, and he appointed William Frizell and Thomas Witherings deputy postmasters.

The latter deputy succeeded to the chieftaincy, and in 1635 was ordered to establish a post between London and Edinburgh, to go night and day and return in six days. In 1644 Edmund Prideaux, then a member of the House of Commons, became postmaster and organized a weekly mail to all parts of the nation. In 1656 an act was passed to arrange the posts and fix their rates between England, Ireland, and Scotland. It fixed the rates from 14 pence for a distance over three hundred miles to 2 pence for seven miles or under. Down to 1838 over one hundred and fifty acts were passed on postal affairs, but without materially reducing the rates. During the early history of postal service the "common people" made little use of it. Palmers and gypsies were frequently their postmasters-general. The mails were carried in saddle-bags, and the carrier's approach was announced by the blowing of a ram's horn, which in an earlier period of the world's history would have brought Jericho to a speedy surrender.

Under Cromwell the letters passing through the post were frequently opened and persons prosecuted on information acquired through this disgraceful practice, which is even now continued on American letters under Gladstone and his detectives.

As early as 1683 there was a penny postage established for London. The honor of that reform is due to an upholsterer named Murray. This was a great success and brought in much revenue. The Duke of York, on whom and his heirs the postal revenues had been settled in perpetuity, when that duke came to the throne as James II commenced granting pensions out of the postal revenues, one of which was bestowed to the amount of nearly $30,000 a year on one of the disreputable characters connected with his brother's court, who founded one of the chief houses of English nobility, whose titled representatives still enjoy the disreputable pension.

In Queen Anne's reign the postal system extended over all Her Majesty's dominions, and offices were established in Edinburgh, Dublin, New York, and the West Indies. In 1720 Ralph Allen, postmaster at Bath, suggested cross-posts, or star routes, intersecting the long lines. He got a life lease of the privilege, for which he paid $30,000 a year to the government, and held it for forty-three years, clearing for himself a yearly fortune of $50,000. If any post-office contractor ever deserved success it was Ralph Allen. He was the benefactor of needy men of letters. It was of him that Pope drew the picture of one who devoted his life to—

Do good by stealth and blush to find it fame.

Few contractors nowadays can be charged with doing good, or if ever detected, with much blushing at the discovery! In 1799 the profits of Allen's cross posts had reached a million of dollars a year.

THE MAIL-COACH.

The beginning of the conveyance of the mail by coaches was in 1746. The originator of the stage-coach was John Palmer, a brewer and theatrical manager of Bath. He made the journey from London to Edinburgh in sixty hours less than by the carrier known up to that time. His coaches were well guarded and escaped the depredations of highwaymen, then so common. He had an annual procession on the King's birthday, with his coachmen and guards in new red livery. They are still running and defying the encroachments of railroads. I see them still coming over Old Town Hill in Cookstown, bound for Dungannon, with one or two passengers on the front seat with the muffled coachman with his long whip, and one on the back with the scarlet-clad guard, well-armed with holsters, and playing some favorite tune on his bugle with many breaks between the bars from the joltings of the heavy coach as the foaming horses gallop to their waiting grooms and welcome oats.

The first conveyance of mails by railroad occurred only about fifty years ago between Liverpool and Manchester.

The great postal reform in England was inaugurated by Rowland Hill in 1837. His plan was adopted in 1839, and went into operation in 1840.

The postage on single letters to all parts of the nation was put at 1 penny. All franking privilege was abolished and the mails were dispatched more frequently and at increased speed. In 1848 it was provided that books could be posted at sixpence sterling the pound. The money-order system copied from Germany was adopted in 1840. I need not go into further history of the English postal system. Rowland Hill's eternal monument with its increasing revenue and swelling surplus of twelve or fifteen millions of dollars a year I would not imitate, but it is sometimes proper to learn even from an enemy.

I need not enlarge upon the postal history of other countries, nor need I dwell at length upon our own.

HISTORY OF AMERICAN POSTAL SERVICE.

Dr. Benjamin Franklin was appointed general deputy postmaster of the Colonies in 1753 at a salary of £600 between himself and his confederate, "if they could get it." This experiment brought him in debt £900. In 1754 he gave notice that the mail to New England, which had previously started but once a fortnight, should be dispatched once a week, "whereby answers might be obtained to letters between Philadelphia and Boston in three weeks, which used to require six weeks." He was removed by the British ministry from office on account of his independent notions; but in 1775 the Continental Congress, having assumed practical sovereignty, appointed a committee to devise a system of post-office communication, who reported on the 20th of July a plan, which on the same day was adopted, and Dr. Franklin was unanimously appointed Postmaster-General, at an annual salary of $1,000. This amount was doubled in April, 1779, and in December of the same year was increased to five thousand. An inspector of dead letters was also appointed at a salary of $100, who was sworn to keep the secrets and not to take copies of the dead letters nor to divulge their contents, except to Congress or those appointed by Congress for the purpose. In November, 1776, Dr. Franklin was succeeded by Richard Bache, who had married his only daughter. He remained in office till January, 1782, and was succeeded by Ebenezer Hazard, who was the last head of the Post-Office Department under the Confederacy.

In 1790 there were but 75 post-offices and 1,875 miles of post-routes. The general office was in New York, and Samuel Osgood, of Massachusetts, was the first Postmaster-General under the Federal Government. He recommended that the Postmaster-General should keep himself in the office when the mail was opened and distributed, that his presence should prevent irregularities. In fact, that the Postmaster-General, his assistant, and then one clerk, should all be accommodated with office room in the city post-office. Mr. Osgood's salary was $1,500. In August, 1791, Timothy Pickering was appointed by Washington at an increased salary of $2,000. Joseph Habersham was the last Postmaster-General appointed by Washington, and commissioned in April, 1795, at a salary of $2,400. In 1796 the office was located in Philadelphia, and when the Government came to Washington it was transferred to this city. In 1802 the United States ran their own coaches between New York and Philadelphia, and cleared in the year $11,000.

On the 18th day of September, 1882, I addressed a letter to the editor of The New York Sun, which appeared in that paper on the 24th of that month, and as it recites the history of our postal system I insert it here as part of my speech:

ONE-CENT POSTAGE FOR LETTERS—CONGRESSMAN ROBINSON'S VIEWS ON THE PRACTICABILITY OF THE CHANGE.

SIR: Allow me say that I indorse your proposition to reduce the rates of postage, and ask you to go with me one step further. You advocate a reduction of postage on letters from 3 cents to 2. Why pause at 2 cents? Can you produce a single argument in favor of a uniform 2-cent postage that does not apply with additional force to penny postage? On the first day of the last session for the introduction of bills I introduced a bill to reduce the postage on all letters weighing half an ounce or less to 1 cent. The same day Mr. HILL, of New Jersey, introduced a bill reducing it to 2 cents. Upon two or three occasions he and I have made brief speeches in favor of our several propositions. I intend to make my proposition the chief object of my work in the next session. Does any one doubt that very few years will elapse before we have a penny postage? Every reduction of postage has resulted, and will result, in an increase of revenue, and the larger the reduction the larger the increase. A reduction to 2 cents would result in two letters to one; a reduction to 1 cent would result in ten to one.

I believe the first post-office in this country was established in New York city two hundred and ten years ago. Sixty-eight years after that a path for a horseback mail was marked out by blazed trees from Jersey City to Philadelphia, by which mails were conveyed at irregular intervals; and fifteen years later Benjamin Franklin was made Deputy Postmaster-General for the Colonies. At the establishment of the constitutional Government of the United States Samuel Osgood was appointed Postmaster-General, with one clerk to assist him. There were then seventy-five post-offices, 1,800 miles of post-routes, and a revenue of $38,000. In 1881 there were nearly 50,000 post-offices, 342,000 miles of post-routes, and a revenue of nearly $37,000,000, with a Postmaster-General and 460 clerks and assistants, and over 61,000 employés throughout the country.

Postage laws were enacted in 1789, 1790, and 1791, the latter allowing the franking privilege to the Treasurer, Comptroller, and Auditor of the Treasury, and

to the Secretary's assistant, on letters on the public service. But there was no rate of postage fixed till the act of February 20, 1792, which provided nine different rates of postage on single letters according to distance by land, from 6 cents for thirty miles to 25 cents for distances over four hundred and fifty miles, and for double and triple letters at double and triple those rates; letters by sea, 8, 16, and 24 cents for single, double, and triple letters; newspapers 1 cent each under one hundred miles, and 1½ cents over that distance. Newspaper publishers were allowed to send one copy to each other free, and persons receiving inclosed letters were to mail them that they might be charged.

The act of March 2, 1799, makes the rate of postages on single-sheet letters for less than forty, ninety, one hundred and fifty, three hundred, and five hundred miles respectively, 8, 10, 12½, 17, and 20 cents; over five hundred miles, 25 cents; an additional rate for additional sheets or piece of paper; mail carriers to receive 1 cent additional for letters received and 2 cents for letters delivered between post-offices; magazines and pamphlets, 1½ and 2 cents per sheet, according to distances.

The act of December 23, 1814, increases the rates of postage 50 per cent. This was soon abandoned and repealed by the act of April 9, 1816, which provided that after May 1 of that year single-sheet letters should be 6, 10, 12½, and 18½ cents for distances under thirty, eighty, one hundred and fifty, and four hundred miles, respectively, and over that distance, 25 cents.

These rates continued till 1845, when, by act of March 3, letters of half an ounce or under were charged 5 and 10 cents postage, for distances under and over 300 miles.

The act of August 14, 1848, establishes certain post-offices on our newly acquired possessions on the Pacific, and fixes postage on letters thither from the Eastern States at 40 cents, and on letters between Pacific post-offices at 12½ cents.

The act of March 3, 1851, provides that after the 30th of June in that year postage on single letters of half an ounce or under, and under 3,000 miles, should be 3 cents prepaid, 5 cents unpaid—and over 3,000 miles double these rates; every single letter to a foreign country, 10 cents under 2,500 miles, and 20 cents over that distance. It fixed a complicated postage rate on newspapers, &c., payable in advance quarterly.

The act of March 3, 1855, fixed the postage on single letters not exceeding half an ounce at 3 and 10 cents prepaid, under and over 3,000 miles.

The act of March 3, 1863, fixes the maximum standard weight for the single rate of letter postage at one-half ounce avoirdupois, and for each additional half ounce or fraction thereof an additional rate at 3 cents each on all domestic letters, without respect to distance; drop letters at 2 cents, all to be prepaid by postage-stamps affixed.

The act of June 8, 1872, provides for the issue and transmission by mail of postal cards at 1 cent each.

Numerous changes have been made, more or less, almost every year, but the foregoing are the substantial changes. As the postage rates now exist there are four classes of mailable matter:

1. Letters or sealed packages to any part of the United States, 3 cents for each half-ounce or fraction thereof; drop-letters, 2 cents at free-delivery offices, 1 cent at other offices, all prepaid by postage-stamps affixed; weight of package not limited. Postal cards, 1 cent to any part of the Union. Registered letters, 10 cents in addition to proper postage. To foreign countries generally which are in the Postal Union, 5 cents each half-ounce, 2 cents for each postal card, and 1 cent for each two-ounce newspaper. To Canada, letters 3 cents, newspapers 1 cent.

2. Newspapers and periodicals, regularly issued from known offices, 2 cents a pound, or fraction thereof; weight of package not limited.

3. Books, transient newspapers, circulars, proof-sheets, hand-bills, engravings, printed matter, &c., package to be open at side or end, 1 cent for each two ounces, or fraction thereof, prepaid; limitation 4 pounds, except for single volumes of books or for public documents.

4. Blank cards, patterns, envelopes, and letter-paper, merchandise, models, metals, ores, cuttings, roots, &c., 1 cent for each ounce, or fraction thereof, prepaid; limitation of package, 4 pounds.

The franking privilege has been varied, curtailed, abolished, or extended from time to time. As I have stated, the law of 1791 confined it to four officers of the Treasury. In 1702 the President, Vice-President, Senators and Representatives, Secretary of the Senate, Clerk of the House, members of the Cabinet, and other officials had the privilege given them. In 1794 it was given to James White, Delegate to Congress from the Territory south of the Ohio River. In 1797 it was given to George Washington; in 1800 to William Henry Harrison, Delegate to Congress from Northwest Territory; later in the same year to Martha Washington; in 1801 to John Adams; in 1809 to Thomas Jefferson; in 1810 to the adjutant-general of each State on militia affairs; in 1817 to James Madison; in 1834 to governors on State documents sent to each other; in 1841 to Mrs. Harrison, forty-one years after it had been first given to her husband. In 1845 the franking privilege was abolished, but giving certain officers a quarterly allowance for postage, and allowing Congressmen and their secretary and clerk to send documents ordered by either House. In January, 1850, the franking privilege was conferred on Sarah Polk, and in July of the same year on Margaret Smith Taylor. In 1851 an allowance of $500,000 was made for the mail service of Congress and Departments. In 1866 the privilege was given to Mary Lincoln. In 1869, owing to great abuse of the privilege by the use of stamping-machines, the privilege was confined to autograph signatures; and by the act of January 31, 1873, it was again abolished. In 1874 the postage on public documents sent by the President, heads of Departments, and members of Congress was fixed at 10 cents a volume.

In March, 1875, the franking privilege was, to a certain extent, restored, so that now, while members can not send or receive letters, they can frank any quantity of public documents by the car-load, if they wish; send the CONGRESSIONAL RECORD or anything reprinted from it, such as speeches in pamphlet, by the thousand or more, free, and seed, cuttings, &c., from the Agricultural Department. The Departments can send all matter pertaining to their business free in penalty envelopes, or by distinctive postage-stamps allowed them free. The Presidents, ex-Presidents, and all the living widows of Presidents, Mesdames Tyler, Polk, and Garfield, the Director of the Bureau of Statistics, the Public Printer, the Commissioner of Agriculture, the Secretary of the Smithsonian Institution, the Secretary of the Senate, the Clerk of the House, and others too numerous to mention can, if I am not mistaken, frank matter from their departments, public documents, &c., *ad libitum*. Heads of Departments furnish members with penalty envelopes to convey free answers to letters coming through them for information on business connected with the Departments.

A volume of the CONGRESSIONAL RECORD weighs four or five pounds; an Agricultural Report about three pounds. Of this latter document a member will send six or seven hundred copies, or about 2,000 pounds, each year.

Now, there is very little justice in charging 3 cents for half an ounce of letters to a poor widow, who longs to hear from her absent son, while you charge only half a cent on that weight of merchandise sent by one rich merchant to another. There is less justice in charging 96 cents for a pound of letters and only 2 cents for a pound of newspapers, and still less in allowing me or any member of Congress to send a book weighing four pounds (or hundreds of them) for nothing to a wealthy farmer or well-endowed library while four pounds of letters are charged $3.84. Don't you think that 32 cents on a pound of letters at penny postage is enough when a pound of newspapers for the same distance is only charged 2 cents? I do not complain of the cheap transportation of newspapers. They are a public necessity and a family blessing, but only a very small percentage of the community is favored by cheap newspaper postage, while cheap letter postage reaches every cabin as well as every castle. Why, then, charge forty-eight times as much for letters as for newspapers conveyed the same distance in the same box? Would not sixteen times as much answer the most grasping injustice?

The letter postage amounts to about 90 per cent. of the entire postal receipts, while its weight is far less than half of the weight of matter conveyed. The letters are unjustly taxed to make up for loss on other matter.

There are 60,000,000 of people in these United States. During the last fiscal year there were issued of postage-stamps, postal cards, and stamped envelopes 1,500,000,000, or twenty-five for each person; of these nearly 350,000,000 were postal cards and newspaper wrappers. I presume there were not more than about ten letters sent in twelve months for every person in the country. With postage at 1 cent there would be at the lowest calculation one letter to every person every week. This increase, if not achieved in the first year after the reduction, would certainly come in the second and third, and largely increase every year by increased population, increased intelligence, and increased desire to gratify the feeling of communicating with each other. Ten letters each, per annum, at 3 cents, bring a revenue of eighteen millions, but fifty letters each at 1 cent would bring a revenue of $30,000,000. The additional expense of carrying five letters instead of one would add very little to the expense. It is the tons of documents sent free, the tons upon tons of matter conveyed at 2 cents a pound, and merchandise conveyed at quarter the rates of letters that swell the cost of transportation. It is the matter of the third and fourth classes that run up the cost for handling. A steamboat or railroad train would make slight difference in conveying three half-ounce letters instead of one, or a package of sixty for twenty.

Our postal system wants overhauling. The entire franking privilege should be abolished, except on letters between the Departments and poor claimants for pensions and other dues to them from Government. Every person wanting an Agricultural Report or document should pay for it at least newspaper postage. Members should pay for their speeches in the RECORD or in pamphlet at least newspaper postage. If this were done it would lighten the weight of mail matter even if ten or a hundred letters were sent for one that is conveyed now. The saving in the printing of useless documents would more than compensate for the increase of cost of handling and conveying ten letters to one.

Some advocate sending free newspapers, now paying 2 cents a pound. I do not think the principal newspaper proprietors desire this franking privilege. Most of them are making money fast enough. But the great masses of poor laboring men sensibly feel the difference between 1 and 3 cents. If they sent but one letter a week each it would be a small loaf of bread saved each month. We spent some time last session in reducing the tax on bank checks and patent medicines. Will any one, particularly of the laboring masses, get his medicine cheaper by the millions of reduction from the Treasury on these articles? A reduction on letter postage from 3 to 1 cent would lighten the expenses of every family in the land.

I doubt whether a reduction of 2 cents would be appreciated. It would not be a generous concession to the masses of our people. A reduction to 1 cent would be. Why make two bites of a cherry? Does any one doubt that we shall yet have penny postage? Why not, then, come to it at once? You would hardly have your machinery adapted to the 2-cent rate before the people would be clamoring for the 1-cent. We want a 1-cent stamp with the picture of George Washington, which will carry a half-ounce letter to any part of the country whose liberties he founded. The postal cards will still be in demand in greater number than they are now for messages which convey no secrets and expose no family shame, but the poor people who have to write their private affairs on postal cards have a right to have them conveyed under seal or in closed envelopes. If we had a smaller coin in use than 1 cent we could afford to reduce our letter postage to that, and it would pay in a short time. I presume that Government can afford to print a stamped sheet of paper under half an ounce to be sold at the price of a postal card, prepared with mucilage for sealing like our stamped envelopes, on which the masses can write their messages of business or love and seal it without having to buy paper or envelopes.

If we have an honest administration of the service, such reforms can be worked as greatly to lighten the expenses. The cost of railway service can be reduced, star-route expenses can be diminished, salaries can be cut down, and with the application of business principles to the postal service the people can have a uniform penny postage at very little increase of cost to the Government.

But even if the penny postage did not pay, the people have a right to the reduction. Does the State Department pay? Does the War Department or the Navy Department or the Department of Justice pay? These are the Departments of the aristocracy. The Post-Office is the Department of the masses. Let us abolish our useless diplomatic corps. Let us abolish all pensions, civil and military, except to poor soldiers and sailors. Let us reduce the expenses of our Army and Navy and keep river and harbor appropriations within decent bounds, and you will be able to send all your letters at less than 1 cent by the ten or twenty millions of dollars reduction which you can easily make in these hotbeds of aristocratic and monarchical folly.

A pound of letters carried from New York to Brooklyn or Newark or Jersey City costs 96 cents; at 1 cent it would cost 32 cents. A pound of merchandise is conveyed by the Post-Office Department from New York to Arizona for 16 cents, and a pound of newspapers from Boston to San Francisco for 2 cents.

Now, if the American press will ventilate this subject and express their views upon it we can have penny postage secured at next session. If nothing is said we are likely to have a 2-cent postage, which I should regret. I should rather have the 3-cent postage remain to hasten the surely coming day of a uniform penny postage.

Very respectfully,

W. E. ROBINSON.

Since the publication of that letter I have received several letters from distinguished gentlemen urging me to persevere in keeping the subject before Congress. One of them is from a venerable gentleman who forty years ago was active in public life in New York, as he is now honored in venerable and vigorous old age, now in his eighty-first year. I take pleasure in quoting his letter and to say that I have a promise from him of a statement of the entire question, which I shall present to Congress at some future day and ask attention to his suggestions:

NEW YORK, *September* 25, 1882.

MY DEAR SIR: I have read over with much interest your valuable paper in the Sun of yesterday on postal matters, and am delighted at the conclusion to which you arrived, to give your whole attention in the next ensuing session of Congress to the reduction of letter postage throughout the United States to 1 cent. I am an octogenarian, and long since memorialized Congress to adopt that course. In addition to that which you notice and observe I brought to view that every Postmaster-General, commencing with Franklin, tried to make the Post-Office Department self-sustaining. I ridiculed that idea and urged that you might as well make the Navy Department self-sustaining by authorizing it to send out small piratical cruisers on the ocean, and the same with the War Department, by authorizing it to make incursions into adjoining territory. I further brought forward a proposition, which you would at once approve of, by which every foreign country would consent that our foreign postage might to every foreign country be but 1 cent an ounce, that our foreign mails to Europe might be carried at mere nominal rates, etc. If you would like any further elucidation of the matters command, most truly, yours,

WM. COVENTRY H. WADDELL.

Hon. W. E. ROBINSON, *M. C., Brooklyn, N. Y.*

Another letter which I received from a gentleman in Tennessee is, I think, worthy of attention, from the suggestions it makes about new inventions in postal cards:

NASHVILLE, TENN., *September* 30, 1882.

SIR: I have read with much interest your letter published in the New York Sun of September 24, advocating 1-cent postage on letters. It is a subject of vast importance to the people of the United States, and I am glad to know that a gentleman of your distinguished position in Congress is advocating a matter of such universal good to the millions who appreciate cheap postage.

Some time since I conceived the idea that a postal card, combining all the elements of secrecy now obtained by sealed envelopes, together with the additional recommendation of cheaper postage, might be made; and finally succeeded in inventing an improved postal card, and have applied for a patent.

By means of my invention the space now allowed for writing on a postal card has been much enlarged, and may be extended to a much greater area, without materially increasing in weight.

The postal card now in use contains fifteen square inches of space for writing. The model sent to the Patent Office with my application for a patent contains ninety square inches, or about six times as much as the present card, and can be sealed like an envelope. The great value of this improvement may be realized when you consider that the number of square inches of superficial area contained on one side of a half sheet of ordinary letter paper measures about eighty square inches.

My postal card is of the same size and general style of those now in use, and with additional space obtained weighs less than one-fourth ounce, and if adopted by the Post-Office Department might be sold at 1 cent and carried through the mails without increasing expenses of transportation.

I have the honor to be, very respectfully,

R. O. CROWLEY.

Hon. W. E. ROBINSON, *Brooklyn, N. Y.*

OCEAN PENNY POSTAGE.

Another reform referred to in Mr. Waddell's letter can not be carried out by Congress alone, but by postal treaties between the United States and all foreign nations, which I hope yet to see accomplished, and that is that 1 cent shall pay the postage on a single letter to any part of the world with which we can come into postal communion. We must have ocean penny postage, and it will amply pay. My old friend Elihu Burritt, better known as "the learned blacksmith," devoted much of his time to the subject of cheap ocean postage, and urged it upon the English Government with a wonderful display of argument and pertinacity. He calculated the number of letters sent to and from England and the United States as 744,108 and the postage on letters and papers as £46,568. That was when letters were charged 8 pence by sailing vessels and 1 shilling by steam packets. The uniform rate is now 5 cents, and what is the result? The Cunard steamer Scythia, just leaving New York to-day, December 20, will carry out 245,840 ordinary letters and over 12,000 registered letters, besides 318 sacks of newspapers. Take the ordinary letters alone at, say, 250,000 of less than half an ounce each at 5 cents each, and you have $12,500 for a weight of a little more than four tons. Now, is there any reason why these letters should not go at 1 cent each, amounting to $2,500 or over $600 a ton, while ordinary freight is not a hundredth part of that amount? But at $600 a ton the profits must be enormous. One-cent postage will amply pay for the transportation and delivery of letters from any part of the United States to any part of Europe and leave large profits, and it is only a question of transportation.

The revenue from 1-cent letters would be greater than from 5-cent letters. Our business correspondence with Europe is growing immensely. More than one-fifth of the people of these United States are immigrants or of the first generation by descent from immigrants. Millions more are coming to yearly swell the throbbing increase of our population. These millions for two or three years will write to those they left behind, and there is no reason why, with ocean postage at 1 cent, there should not be conveyed between the two continents a hundred million of letters yearly, which would be a million of dollars; more than half of which would be clear profit after all cost of handling and transportation. Why are we still blindly plodding behind the speed of our age? Why indeed should not the correspondence between the entire people of the Old and New Worlds reach the number of the domestic letters, which is over a thousand millions, which at one penny each would be ten millions of dollars, affording subsidies enough to keep a fleet of iron ocean steamers flying the American flag over the Atlantic?

During the year ending June 30, 1882, the weight of mails dispatched to Europe was over 1,000 tons; the weight of letter mails only about 200 tons; but even that at the regular rate, 5 cents a single letter, was over $128,000. The profits on that over ordinary freight at $4 a ton were $127,200. Less than half of this letter mail was for Great Britain. We paid for foreign-mail transportation $280,000. We sent over 26,000,000 letters and received less than 25,000,000. We prepaid about $2,000,000 on postal matter.

THE MEAN POSTAL CARD.

I demand penny postage in the name of American manhood. The postal card as a means of conveying private information among the American people is an insult to the poor. Why compel the mother or daughter to lay open the secrets of her heart to every prurient eye that gets a glance into the mail-bag? There is no reason, there is base injustice, in telling a poor woman that she can convey a private message for 1 cent if she will consent that every curious eye may read it before it reaches the one for whom it is intended; but that if she wished to keep her heart secrets to herself and her child she must pay 3 or 2 cents. We acknowledge by the use of the postal card that letters can be sent and pay expenses at 1 cent postage. Let the Government convey them sealed, if of the same weight, and keep the people's secrets for themselves. Postal cards will still be required perhaps to the number now used for circulars, notices of meetings, advertising, and other uses; but let the people of the United States have the privilege of sending their private messages under seal at the same rate for the same weight as we now convey them if exposed. What a fiendish government it is that compels its people to publish their heart secrets if they would have them conveyed through the mails, even at paying rates!

POSTAL FIGURES.

I call the attention of the House to the letter from William B. Thompson, general superintendent of railway mail service, to the gentleman from Illinois, chairman of the Committee on Expenditures in the Post-Office Department [Mr. CANNON], dated March 23, 1882, and published in the proceedings of this House of April 11, 1882.

It appears from this letter that during the year ending June 30, 1881, there passed through the Post-Office:

	Number.
Letters	1,053,252,876
Postal cards	324,556,440
Packages of transient matter (class 3)	468,728,312
Packages of merchandise (class 4)	21,515,832

Let us now see the weight of these different matters:

	Pounds.
Weight of letters	35,218,143
Weight of postal cards	2,028,478
Weight of transient matter (class 3)	58,591,039
Weight of merchandise (class 4)	8,548,849
Weight of newspapers and periodicals (class 2)	69,952,438
Weight of letters and postal cards	37,246,622
Weight of transient newspapers and merchandise	137,092,311
Aggregate weight of all matter	174,338,940

Thus the weight of printed matter and merchandise was over three and a half times as great as that of all the letters and postal cards.

Upon nearly seventy millions of pounds of newspapers you charged 2 cents a pound, or $1,399,048, while on a little over 35,000,000 pounds of letters you charged 96 cents a pound, or $30,809,417; on nearly 60,000,000 pounds of printed matter you charged at 8 cents a pound only about $4,687,283; while on a little over 2,000,000 pounds of postal cards at about $1.28 a pound you charged $3,245,564.

Newspapers and periodicals sent by publishers amount to 40 per cent. of the expenses of transportation, while they pay only a little over 3 per cent. of the cost. The third-class matter of transient newspapers and printed matter amounts to 33 per cent. of the expenses of transportation, while it pays only 12 per cent. of the cost. The two classes of printed matter cost the postal service of the country nearly three-fourths of the entire expenditure of the Department and does not pay more than a sixth of the expenses. Was ever such inequality or iniquity known as this? This is giving the franking privilege to publishers and printers and making the writers of letters pay for their privileges.

The aggregate number of packages passing through the mails in the year ending June 30, 1881, was 2,720,234,252. If each package had paid 1 cent, the revenue would have been over $27,000,000, which ought to pay the entire expenses of the Government. The total weight of mail matter was 174,338,940 pounds. One cent an ounce on this matter would have paid nearly $28,000,000. Yet you insist upon letters paying 6 cents an ounce.

I have had considerable correspondence with the Postmaster-General on this subject, without, perhaps, much progress in my work of converting him to my way of thinking; but I can afford to wait, and in less than five years, if he and I live, we shall be more in accord. I had intended to publish the correspondence, but it would add considerably to the length of these remarks, already sufficiently voluminous. The following table among the materials which he furnished me I give for general information:

Fiscal year.	Postage value of 1, 2, and 3 cent stamps and envelopes issued.	Increase over preceding year.	Per centage of increase.
1871	$16,087,628 25	$1,226,024 25	8.2+
1872	17,275,104 00	1,187,475 75	7.3+
1873	18,515,770 00	1,240,666 00	7.1+
1874	*19,685,833 00	1,170,063 00	6.3+
1875	*21,024,054 50	1,338,221 50	6.7+
1876	*22,409,681 00	1,385,626 50	6.5+
1877	*22,111,014 00	†298,667 00	†1.3+
1878	*23,656,208 00	1,545,194 00	6.9+

*These amounts include the value of postal cards issued. †Decrease.

Postal cards were put into use at the beginning of the fiscal year ending June 30, 1874. The annual average rate of increase before their introduction in the 1, 2, and 3 cent stamps and stamped envelopes was 7.5 per cent. After their introduction the average rate of increase, including postal cards, to 1878, was 5 per cent.

Penny postage, then, for all who correspond at home throughout our boundless territory! Penny postage also for all who write to those abroad! Let oceans roll and mountains rise between the children of men, but let their messages of joy and sorrow, of love and sympathy, of business and pleasure, cross those seas and mountains, oceans and continents, at the lowest rate possible, under the most approved modes of transportation known to the world.

Naval Appropriation Bill.

SPEECH

OF

HON. J. PROCTOR KNOTT,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 20, 1883,

On the bill (H. R. 7314) making appropriations for the naval service for the fiscal year ending June 30, 1884, and for other purposes.

Mr. KNOTT said:

Mr. CHAIRMAN: No one could possibly appreciate more fully than I do the force of the old maxim, *ne sutor ultra crepidam.* It is with the utmost diffidence, therefore, that I venture to submit any remarks whatever in relation to the pending bill. It is certainly no part of my purpose to inflict upon the committee anything like a lengthy or labored speech, as my physical condition is such as to prevent my attempting an elaborate discussion of the various features of the measure under consideration, even if I had the disposition to do so. Since the bill has been laid on our desks, however, I have been looking over the Naval Register to some extent, and rise now merely for the purpose of calling attention as briefly as possible to some curious facts disclosed by that document, which it seems to me the honorable Committee on Appropriations have failed to consider with that careful deliberation which their significance demands. I infer so because I am fully satisfied that each of the distinguished gentlemen composing that committee is fully inspired by that commendable spirit of retrenchment and reform which from the prevalent clamorous pretension one would suppose to have seized upon every department of the public service, while the facts to which I allude appear to indicate in the clearest possible manner one of the points at which retrenchment may be justly as well as conveniently inaugurated, and where reform is certainly demanded.

Much complaint has been heard, Mr. Chairman, of the *personnel* of the Navy being "top-heavy," and it is unquestionably true that this branch of the public service is loaded down with a vast redundancy of officers. We have in commission, according to the last Naval Register, a copy of which I hold in my hand, thirty steaming vessels, and as the committee was informed by my distinguished friend from Indiana [Mr. CALKINS], in his very able and interesting remarks this morning, we have for those thirty vessels two hundred and ninety-three engineer officers, supposed at least to be competent to do anything coming legitimately within their line of duty. The sea-pay of this corps, so disproportioned to the number and character of vessels on which their services are required, aggregates over $642,000 per annum; their pay for shore-duty over $569,000, and for "waiting orders" over $453,000, that is, for standing around and doing nothing.

That the gentlemen composing this corps are men of the highest character, morally and socially, I most cheerfully admit. Nor am I here to deny that they are theoretically proficient in all the various duties of their profession; but I undertake to say, sir, that with the exception of a few men like Melville, who were graduated from a machine-shop, and who are not afraid of hardening their velvety palms by handling the hammer and the cold chisel, not one in twenty of them ever entered the man-head of a boiler in his life, or has clinched a rivet, or had a monkey-wrench or an oil-can in his hand a half dozen times since he has been in the service. The fact is that in a large majority of instances the actual duties which I have always supposed, and which the world supposes, to be performed by steam-engineers are really performed on shipboard by artificers—machinists, more or less skilled, who are not afraid of soiling their horny hands with grease or soot, men who put on their check shirts, lubricate the engine, take hold of the lever, run the machine, patch the boiler, and make other repairs that may be necessary, while the engineer officer, the gentleman in uniform, who wears a sword and draws a large salary, stands by and sees him do the work.

But this is not all, sir. We are informed that twenty-five officers of this corps have grown to such enormous proportions, and are so loaded down with rank and dignity that there is not a ship in the entire Navy big enough to hold one of them; that nothing short of a whole fleet, or a first-class navy-yard is at all worthy of their gigantic powers, and that consequently those of them who can not get an opportunity to dazzle the gaze of foreign countries as "fleet engineers" are assigned to sinecure stations on shore.

But, Mr. Chairman, this branch of the naval service is by no means singular in this respect. There are fifteen medical directors, fifteen medical inspectors, thirteen pay directors, and thirteen pay inspectors who have attained the same enormous growth with these twenty-five tremendous chief-engineers, and I could but think while the gentleman from Indiana was speaking of them this morning, what a calamity would ensue if some ill-advised, incompetent, or treacherous Secretary of the Navy should take it into his head to order all these colossal staff officers to sea at once. Why, sir, it would inevitably swamp every ship in the service. [Laughter.] Or suppose he should accidentally assign a chief-engineer, a medical director, and a pay inspector all to duty on the same ship. There is not a craft afloat that could sustain such a ponderous weight of official rank for a single moment. [Laughter.] I am glad to say, however, sir, that our Secretaries have so far appreciated the perils that would accrue to the service by freighting our men-of-war with such mountains of official dignity, and have consequently taken care to assign these overgrown staff officers to soft billets on shore, some of them in our various navy-yards and others to "special duty;" and here, sir, I can but echo the exclamation of one of the gentlemen who have just preceded me—"What *that* is the Lord Almighty knows!" [Laughter.]

But this is not all, sir. Attention has already been called to the fact that the Pay Corps of the Navy numbers, all told, a hundred and twenty-five, and I find from the pay tables in the Register before me that their aggregate sea-pay is about $376,000. Now, sir, for gentlemen of this corps, as for gentlemen of the corps of engineers, it is impossible that I should entertain any but the kindest possible feelings. Nevertheless candor compels me to say that the office of pay director, pay inspector, paymaster, passed assistant or assistant paymaster is just as superfluous in our naval service as the fifth wheel would be to a wagon. There is not a solitary duty of any kind that can possibly devolve upon an officer of this corps anywhere or under any circumstances which could not be just as well or perhaps better performed by any intelligent officer of corresponding or even inferior grade in the line. I repeat, sir, that there is not an intelligent master in the service who could not discharge any of the ordinary functions of the Pay Corps with as much satisfaction to the country and credit to himself as any paymaster in the Navy.

Then, sir, there is another corps belonging to this arm of the public service about which the country has heard a great deal, and for which I confess I have the highest admiration. I refer to what is known as the Marine Corps. [Laughter.] That corps is officered as follows: one colonel commandant and one colonel, who seems to have no other appendage to his name but just plain colonel, but who I suppose in justice to his position and the nature of the duties devolving upon him should be styled colonel ornamental [laughter]; two lieutenant-colonels, seven majors, line and staff, twenty-two captains, thirty first lieutenants, and fourteen second lieutenants, at an annual cost to the Government of $135,000. And yet, sir, I challenge any gentleman to indicate a single duty now devolving upon any of these officers, from colonel down to second lieutenant, that could not be as well performed by a naval officer detailed from the line. Tactics is, I believe, one of the things which the Naval School at Annapolis was especially designed to teach; and I undertake to say that there is not a midshipman in the service who is not as proficient in the arts and mysteries of military discipline and drill as any first lieutenant in the Marine Corps, whose most difficult and responsible duty at present seems to be to drill a squad of marines occasionally on the deck of some vessel, ornament a review now and then in a navy-yard, or parade up and down Pennsylvania avenue on one of your swell occasions. [Laughter.]

But, sir, the most singular facts yet remain to be stated. As I have already said, since this bill has been reported to the House I have been at some pains to look through the Register and pay tables of the Navy, and I have been astonished to find the most remarkable, not to say startling and unjust disparity between the compensation paid to officers of the line, who have won their rank on the quarter-deck, buffeting the tempest and braving the terrors of the battle, and those gentlemen of the staff, who as Senator Benton once said, seem to have been born simply to consume the fruits of the earth.

Make your calculations from the data furnished in this document, sir, and you will find that captains in the line, with an average sea-service of eighteen years and four months, are allowed $4,500 a year for sea-duty, $3,500 a year for shore-duty, and $2,800 on leave or waiting orders. While the average pay allowed to medical directors of the same relative rank and an average sea-service of only twelve years and five months, is $4,400 for sea-duty, $4,000 for shore-duty, and $3,000 on leave or waiting orders. From the same data you will find, sir, that the pay director, of the same relative rank and with an average of only eight years and ten months sea-service, gets $4,400 a year sea-pay, $3,877 for shore-duty, and $2,938 on leave or waiting orders. So that while the old captain, upon whom devolves the entire responsibility for the proper management of the ship and everything on board, is allowed $100 more than staff officers of the same relative rank while at sea, the staff officers of the same relative grade but far less sea-service get from a hundred and thirty-eight to five hundred dollars per annum more than he does on shore; and it must be remembered that this class are nearly always found on shore, since nothing less than a whole fleet is sufficient to take any one of them to sea. [Laughter.]

But the discrepancy becomes still more glaring when we come to the next grade. Here we find that the average sea-pay of the medical inspector, pay inspector, and chief-engineer, with the relative rank of commander, is $900 per annum more than that of the commander from whom they borrow their title. While their average pay for shore-duty is not only from six hundred to a thousand dollars a year more than that of a commander, but from one hundred to five hundred dollars more than that allowed a captain standing one full grade higher, and you will find a discrimination in favor of staff officers in every grade down to the bottom of the list with the exception of that of lieutenant.

But, sir, the glaring injustice of this singular inequality of the pay of the line and staff will become more conspicuous if we take a look at the administration of our several navy-yards as shown by this Register. For instance, the commodore commanding the navy-yard at Portsmouth entered the service in 1840, and is paid $4,000, while the chief-engineer who entered the service nine years later and occupies the relative rank of commander, two full grades below, receives precisely the same pay, and $500 more than the captain of the yard who entered the service ten years before he did and stands one grade higher in rank. Or take the navy-yard here in Washington, where the chief-engineer, with the relative rank of commander, receives precisely the same pay as the commodore commanding who entered the service thirteen years before he did, and $500 per annum more than the captain of the yard who has seen eleven years more service and stands a full grade above him in rank. But a still more striking instance of this singular and inexcusable disparity may be found at the Norfolk navy-yard, where the chief-engineer, with the relative rank of commander, receives the same pay as the commodore commanding who entered the service fifteen years before he did, and $500 more than his senior in rank, the captain of the yard, who has seen five years of service more than himself.

Not to weary the committee, however, with a further recital of these details, I will simply add that this Register shows that the chief-engineer at each of our navy-yards entered the service long after the commodores commanding and captains of the yards; that in five out of the eight they are only of the relative rank of commander, but are, notwithstanding, each paid the same as the commodores and $500 per annum more than captains in the line. In two others the chief-engineers have the relative rank of captain, but while they each receive the same pay with the commodore, and $500 more than the line officer with whom they hold relative rank, strange as it may seem they get no more than officers of their own corps a full grade below them in rank. In the remaining instance the chief-engineer has the rank of lieutenant-commander, but true to the principle which makes fish of one and flesh of another corps of officers in the same branch of the public service, he gets $200 a year more than the captain of the yard, who is not only his senior in rank but seven years his senior in service.

I call particular attention, sir, to the comparative length of service of the officers of the line and staff in these instances, because it is not unusual to hear the great length of service of the latter urged as a pretext for giving them such remarkable advantages over the former in the way of pay. And it should be borne in mind also that necessary expenses, duties, and responsibilities of the chief-engineer bear no kind of proportion to those which devolve upon the commodore in command.

Now, sir, I ask honorable, fair-minded gentlemen around me if the state of things which I have so imperfectly presented to their view is just? Is it right? Is it fair dealing between man and man? Is it economical? Is it conducive to the harmony and well-being of the service? In my judgment it is not; it can not be. And if I shall have an opportunity I will move to amend the bill so as to entitle officers of the several staff corps to the same pay as that now allowed by law under similar circumstances to officers of the line with whom they respectively hold relative rank, and no more. I shall do so not only as a matter of sheer justice, but as a matter of economy; for, unless I have made a mistake in my calculations, by this simple process of equalizing the pay of the several corps of the Navy there will be a clear annual saving of over a hundred and ten thousand dollars, now not only uselessly but most inequitably squandered. But if I could have my way, Mr. Chairman, I would go much further than this. I would provide for the abolition of every officer in the Engineer, Marine, and Pay Corps altogether as absolutely useless and unnecessary.

I would do away entirely with the various grades in the engineer service, and employ a sufficient number of practical machinists, sufficiently skilled to keep the machinery in repair and run the engines, and who should perform just precisely what they were engaged to do, namely, the actual duties of engineers, and not merely to sit by while some one else did the work, while a competent line officer should be detailed to take charge of and be responsible for the economy and administration of the engine-room under the direction of the commanding officer. It is idle to say, sir, that this could not be done successfully and satisfactorily. Engines are run and costly machinery properly cared for in business establishments all over the country by men who never wore an epaulet or sword in their lives, and who crave no other rank than that of honest men who are not afraid or ashamed to do the work they are paid to perform; and it can be just as easily done in our navy-yards and on our men-of-war. I would not propose, however, to inaugurate such a radical reform by an amendment to this bill, but if I shall have the opportunity, I will offer an amendment reducing the corps by stopping promotion to the higher grades until they are reduced to a maximum greatly below their present number, after the plan proposed by the distinguished gentleman from New Jersey, at the last session, for cutting down the line.

As for officers of the Marine and Pay Corps, I would do for them just precisely what the bill proposes to do for the commodores. I would not interfere with the commission or emoluments of one of them, but simply let them die out, let them quietly and peacefully "go the way of all the earth," and their rank and titles with them. And to that end I would provide that there should hereafter be no promotions or appointments to any of the grades in either, but that whenever a vacancy should occur in any grade of either corps a competent officer should be detailed from the line to discharge the duties thereof, if necessary, under proper regulations to be prescribed by the Secretary of the Navy.

One of the results of these changes, sir, would be the saving of nearly a million dollars annually, which might be applied if necessary to the building of new and approved vessels of war. I commend this fact to the serious consideration of gentlemen who seem to be so much excited over the present deplorable condition of our Navy. Cut off these supernumeraries, and apply the amount that would thus be saved to the building of fast-sailing steel-clad cruisers, and you will find in less than ten years that you will have a navy by no means so contemptible as gentlemen represent it to be at present.

Another, and a most important consequence of such changes as I suggest in the administration of these three corps, would be a compact, homogeneous, harmonious, and efficient service; the dispensing with a vast amount of circumlocution and red tape, a convenient distribution of duty, and a certainty in the responsibilities of officers throughout all the various grades from Admiral down to midshipman; the total and lasting suppression of the thousand and one petty jealousies invariably existing between different corps in the same arm of the service, and the elimination of useless, unnecessary, and unsuitable material from the active list of the line itself. You would hear no more, sir, of the *personnel* of your Navy being top-heavy or of your ships being loaded down to the gunwales with supernumerary officials. You would no longer hear the ungenerous taunt thrown into the teeth of gallant and meritorious men, who have no means of controlling the circumstances by which they are surrounded, that the streets of the capital are so thronged by naval officers on waiting orders that you can not throw a rock at a dog without crippling some of them, for you would find a large majority if not all of them always with something to do. There would be no need of your strangling those brave and ambitious young fellows down here at the Naval Academy at Annapolis, in their very birth into official life, as you would a litter of blind kitttens, simply because there were too many of them, but you would find room, for years at least, for every young graduate in the various corps where they would become thoroughly trained in every possible duty that can devolve upon a naval officer from that of the paymaster's clerk to the construction and equipment of a steel-clad steamer or the command of a man-of-war. In view of these considerations, sir, I would most earnestly suggest to gentlemen who claim and so justly claim that this branch of the public service should be thoroughly pruned, that the knife should be first put to the parasites which feed upon its substance, without adding to the beauty of its foliage or the excellence of its fruit.

But, sir, although I have already spoken longer than I intended and feel that my strength will not justify my detaining you longer, there is one other point to which I desire to briefly allude. I refer to what is commonly known as the selection clause in this bill. That the present method of promotion in the Navy may not at all times produce the best results to the service I am not here to deny, but I very much doubt whether the remedy proposed in the case of promotions to the rank of rear-admiral will correct any evil that may possibly occur in that regard. Nor can I see why, if it is necessary in that particular instance, it should not apply to all the inferior grades.

I will not deny that in some instances the best possible selection might be made even if made from the rank of captain; but all men are fallible, and it is just as liable to turn out the other way, and that a captain low down upon the list, with no special recommendation arising from length of sea-service, superior talents, or any other cause, save perhaps an intimate relationship with the powers that be, may be promoted over the heads of his superiors in age and experience as well as in rank. Such a thing, it is needless to say, would be unjust even if it should result from an honest mistake of judgment in those making the selection, but it would lead to interminable jealousies, discontent, and complaints upon the part of other officers, and finally result in the demoralization of the entire service. And moreover, Mr. Chairman, the plan proposed in the bill would, in my judgment, lead to other results very much to be deprecated. I know it is provided that those from whom the selection is to be made are to be named by a board of officers not below the grade of rear-admiral; but, sir, will those comprising that board show no deference to the will of him who selected them? Sir, no man is more inclined than I am to give my fellow-man credit for the highest honor and the strictest fidelity to the requirements of justice and law, but there is not a gentleman around me who has occupied his seat for one Congressional term who does not know what is implied in the word "influence," who has not observed something of the blandishments of what is styled "society," or who has not seen patient merit thrust aside in the interest of the mere court favorite. I do not say that such things have been or are likely to be done out of sheer venality, but all know that—

> Mankind is unco' weak,
> And little to be trusted.
> If self the wavering balance shake,
> It's rarely right adjusted.

I think, therefore, sir, it would be wise in us to pause at least before

we do anything that might tempt an officer to neglect his duties in order to resort to any of the manifold appliances that might be used to procure his own advancement, or that might give him reasonable grounds for dissatisfaction and complaint in case another should be promoted over his head.

With profoundest thanks to gentlemen who have given my ill-digested remarks such polite and flattering attention, I will yield the remainder of my time to my friend from Georgia [Mr. BLOUNT].

TABLE A.—*Compiled from the Naval Register of* 1882, *showing the difference in the average pay of line and staff officers, United States Navy.*

Names of grades.	Average pay on sea service of all in grade.	Average pay on shore duty of all in grade.	Average pay on leave or waiting orders of all in grade.
Captains	$4,500	$3,500	$2,800
Ranking with captain:			
Medical directors	4,400	4,000	3,000
Pay directors	4,400	3,877	2,938
Chief engineers	4,400	4,000	3,000
Commanders	3,500	3,000	2,300
Ranking with commander:			
Medical inspectors	4,400	3,500	2,800
Pay inspectors	4,400	3,600	2,800
Chief engineers	4,400	4,000	3,000
Lieutenant-commanders	2,912	2,512	2,112
Ranking with lieutenant-commander:			
Surgeons	3,236	2,900	2,396
Paymasters	3,324	3,080	2,488
Chief engineers	3,282	2,978	2,431
Lieutenants	2,556	2,156	1,756
Ranking with lieutenant:			
Passed assistant surgeons	2,200	2,000	1,700
Passed assistant paymasters	2,105	1,905	1,605
Passed assistant engineers	2,183	1,983	1,683
Masters	1,886	1,586	1,286
Ranking with master:			
Passed assistant surgeons	2,184	1,984	1,684
Passed assistant paymasters	2,000	1,800	1,500
Passed assistant engineers	2,000	1,800	1,500
Ensigns	1,244	1,044	844
Ranking with ensign:			
Assistant surgeons	1,700	1,400	1,000
Assistant paymasters	1,700	1,400	1,000
Assistant engineers	1,725	1,425	1,025
Cadet-midshipmen, after graduation	950	500	500
Cadet-engineers, after graduation	1,000	800	600

TABLE B.—*Showing rank, pay, and length of service of commodores commanding, officers acting as captain of the yard, and chief engineers on duty at the several navy-yards of the United States, compiled from the Naval Register of* 1882.

Navy-yard.	Name of officer.	Rank of officer.	Pay.	Entered service.
Portsmouth	C. H. Wells	Commodore, commanding	$4,000	1840
	A. E. K. Benham	Captain, captain of yard	3,500	1847
	D. B. Macomb	Chief engineer, rank of commander	4,000	1849
Boston	O. C. Badger	Commodore, commanding	4,000	1839
	Ralph Chandler	Captain, captain of yard	3,500	1845
	Ed. D. Robie	Chief engineer, rank of commander	4,000	1852
New York	J. H. Upshur	Commodore, commanding	4,000	1841
	I. A. Kimberly	Captain, captain of yard	3,500	1846
	C. H. Loring	Chief engineer, rank of commander	4,000	1851
League Island	Ed. Simpson	Commodore, commanding	4,000	1840
	W. E. Fitzhugh	Captain, captain of yard	3,500	1845
	H. H. Stewart	Chief engineer, rank of captain	4,000	1845
Washington	Thomas Pattison	Commodore, commanding	4,000	1839
	A. A. Semmes	Captain, captain of yard	3,500	1841
	W. B. Brooks	Chief engineer, rank of commander	4,000	1852
Norfolk	A. K. Hughes	Commodore, commanding	4,000	1838
	W. K. Mayo	Captain, captain of yard	3,500	1841
	Thos. Williamson	Chief engineer, rank of commander	4,000	1853
Pensacola	S. P. Quackenbush	Commodore, commanding	4,000	1840
	Alfred Hopkins	Commander, captain of yard	3,000	1851
	Elijah Laws	Chief engineer, rank of lieutenant-commander	3,200	1858
Mare Island	T. S. Phelps	Commodore, commanding	4,000	1840
	John Irwin	Captain, captain of yard	3,500	1847
	M. Fletcher	Chief engineer, rank of captain	4,000	1850

The Tariff.

SPEECH

OF

HON. WILLIAM McKINLEY, JR.,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 27, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. McKINLEY said:

Mr. CHAIRMAN: I shall occupy but little time in this debate. It was not my purpose until to-day to participate in the general discussion on this bill, intending to reserve whatever I might have occasion to say until the bill shall be read section by section for the final action of the Committee of the Whole. In what I shall say to-day I will not speak on the general propositions showing the benefits of a protective tariff and the evil results of the doctrine of free trade, for upon that subject at the first session of this Congress I expressed myself very fully. I have seen nothing since and learned of nothing since to change my convictions then uttered, but have witnessed much in the consideration of this question before the Committee on Ways and Means to confirm and strengthen them.

There is a general demand, Mr. Chairman, for a revision of the tariff. All parties agree that the present tariff laws require revision, amendment and simplification, and the majority of this House at its first session, conceding the necessity of a revision, created a commission of men of learning and business experience, and required that commission to make its report to this Congress on the first day of the present session. All phases, then, of tariff sentiment believe in a revision of the tariff; the only question upon which there is any difference of opinion in this House or throughout the country is the question upon what principle that revision shall be made. On this side of the House it is insisted that the revision shall be made not upon the principle which recognizes revenue and revenue only, but upon the principle which shall recognize a fair and just protection to American interests and to American labor; while the majority on the other side of this Chamber, conceding that revision is necessary, insist that the revision shall be made upon the basis of a recognition of revenue and revenue only; and it is there that the two parties practically divide in the House and throughout the country.

The majority sentiment in this House is in favor of the former principle, and believes not only in a tariff for revenue but in a tariff for protection as well. The Committee on Ways and Means as at present constituted represents that dominant sentiment, and the bill which that committee has brought to this House and recommends for its adoption recognizes fully—and I desire to make no concealment—recognizes fully the doctrine of protection. While the bill is protective in its character, yet recognizing the reasonable demand of the country for a reduction of the revenues of the Government, the committee has in its bill, wherever it could be done without injustice to existing interests, made reductions in the interest of a diminished revenue. While these reductions may not be all that every member of this House or of this side of the House could desire, still it must be borne in mind that in approaching the national revenues members of Congress, the representatives of the people, should be cautious and conservative.

It must be remembered, Mr. Chairman, that it is much easier to reduce duties than it is to impose them; and we ought to be very sure of what the necessities of this Government will be in the near future, and how much less of the present revenues will be required, before we make any very radical reduction in the revenues derived from the existing tariff. And in this connection it is proper I should say that we are justified in believing that the Senate of the United States, which has the internal-revenue bill of this House passed at our last session, a bill which reduces internal-revenue taxation more than $26,000,000, will send back that bill to this House with added reductions, which together with the reductions made by the tariff bill now before the committee will aggregate more than $50,000,000.

Much comment has been indulged in concerning the reduction shown by this bill. But if gentlemen have taken the pains to examine the schedule of reductions as shown by the figures of the experts of the Treasury Department, and which have been provided for members in form convenient for reference, they will find that in every single schedule from the first to the last, saving and except two, to which I will hereafter refer, there is a reduction of duties and therefore a corresponding diminution in the revenues. These two exceptions are cotton and cotton goods, earthen-ware and glass-ware, and excepting these very considerable reductions have been made in every schedule of the tariff list and the aggregate will exceed in my judgment more than $23,000,000. I believe too that if this bill shall be enacted into a law it will be found in its administration to very considerably add to these reductions. Another thing will be observed, Mr. Chairman, that we have followed very

closely the schedules recommended by the Tariff Commission. I have no desire to follow gentlemen upon the other side who have discussed this question in their criticism of the *personnel* of that commission or of its composition nor of the personal views and interests of the gentlemen who constituted it.

It is sufficient for me to say that so far as my knowledge goes, and it extends to a number of those who constituted that commission, they are intelligent, conscientious, capable men, and peers of the best men on the floor of this House. Their work was well and I believe conscientiously performed. I say we have followed the commission's schedules largely. We have made some increases, it is true, but in the large majority of cases where any deviation has been made from the suggestions of the Tariff Commission they have been in the direction of reduction of the duties and not of increase, and if you will run over the different schedules of the bill as brought in by the committee and compare item for item with the report of the Tariff Commission, you will find in a considerable number of cases that the Committee on Ways and Means have recommended a reduction below the report of the commission. It seems to me that from the standpoint of the other side of this Chamber any reduction should be hailed with approval rather than opposition. If we have honestly decreased the revenues twenty-two millions of dollars by tariff reductions, we have certainly made a step in the right direction, and if we have not made all the reductions which should have been made, with experience and a knowledge of the necessities of this Government to be learned hereafter the next Congress or some subsequent Congress can make still further reduction.

Again, it will be found that the present law has been greatly simplified, classifications have been carefully made, and every safeguard has been raised to prevent evasions, and make undervaluations difficult and hazardous. The customs court provided for will save the Treasury Department from its long docket of contested cases, will give all interested parties a speedy hearing, and secure uniformity of decision. No tariff bill can be made without defects and errors, and none can be framed which will satisfy every interest. This never has been the case and never will be. This bill is no exception to the rule, but I believe that with all of its imperfections it will prove easy of administration, equitable in its ratings of duty, and as nearly just to American interests as possible.

Much criticism has been indulged in because of the increase of the duty on cotton-ties, and gentlemen who have heard this discussion would be led to believe, and gentlemen who have participated in it on the other side have presumed that the only people in the United States to be consulted as to the rate of duty to be levied are the sugar and cotton planters of the South. They have spoken freely and complained continually of the enormity of the increase upon cotton-ties and the iniquity of the reduction upon sugar. Cotton-ties must be reduced and sugar, which is the necessity of every household, must pay a high duty. This is the Democratic doctrine of a revenue tariff.

Now, what is this cotton-tie question? For I think it is very much misunderstood. The cotton-tie is a piece of hoop-iron, a piece of ordinary hoop-iron cut into a length just long enough to go round a bale of cotton. Under existing law hoop-iron, which is used in the making of cotton-ties, pays a duty of 1½ cents a pound. The Treasury Department of this Government held that a piece of hoop-iron cut into lengths of the size sufficient to go around a bale of cotton, with a loop attached to fasten it, was not hoop-iron, but was a manufacture of iron not provided for, and held it to be dutiable at 35 per cent. ad valorem, which was equivalent to about three-fourths of 1 cent a pound. Now, all this bill proposes to do is to declare that hoop-iron in any length employed for any purpose shall pay the same duty that is levied upon the plain article known as hoop-iron; and that is all there is in the outcry about an increase of the duty upon cotton-ties which has been raised by the cotton planters of the South, and repeated in nearly every speech yet made by gentlemen on the other side.

I would like any gentleman on the other side of the House to give me any substantial reason why a cotton-tie made of hoop-iron should not pay the same duty as the hoop-iron itself. It costs the same amount of labor and requires the same material. It is hoop-iron; it is nothing else; and the device of cutting that hoop into lengths the size to go around a bale of cotton and punching the holes in the end of it or putting a buckle at the end is only to avoid the duty imposed by law; and now that we propose to correct that and place this article in its proper relation with hoop-iron the cry is set up on the other side that we are trying to destroy the cotton industry of the South.

There is another thing. These gentlemen who cry about the insatiate greed of the manufacturers of hoop-iron, who denominate them robbers—these same poor cotton-planters who pay 4 cents a pound for iron to bale their cotton sell the hoop-iron that goes about that cotton not as hoop-iron, but they sell it as cotton. They pay 4 cents a pound for the iron and they sell it to cotton manufacturers as cotton at 11 cents a pound.

Mr. CARLISLE. Will the gentleman permit me to ask him a question?

Mr. MCKINLEY. Yes, sir; with pleasure.

Mr. CARLISLE. Does the gentleman make that statement of his own knowledge?

Mr. MCKINLEY. I make that statement upon information and belief. And I invite my friend from Rhode Island [Mr. CHACE], whom I see sitting before me, a manufacturer of cotton goods, to state what the truth is about it.

Mr. CHACE. There is no question about it.

Mr. AIKEN rose.

The CHAIRMAN (Mr. MCCOOK). Does the gentleman from Ohio [Mr. MCKINLEY] yield to the gentleman from South Carolina?

Mr. AIKEN. I deny the gentleman's assertion. I say, sir——

Mr. MCKINLEY. I yield only for a question.

Mr. AIKEN. I simply want to correct the statement of the gentleman.

The CHAIRMAN. If the gentleman from Ohio yields for that purpose the gentleman from South Carolina will be heard.

Mr. AIKEN. The price of cotton is settled beyond the Atlantic. It is set by the English and not the Rhode Island manufacturer, and the Englishman in setting that price takes off the tare, amounting on a bale of cotton to twenty-two pounds, which is the exact weight of the bagging and ties. Thus when he receives a bale of four hundred and twenty-two pounds, he pays for four hundred pounds of cotton. He buys cotton; he buys lint and every colored man who puts up a bale of cotton in the South is defrauded out of the amount of money he pays for his ties. I ask the gentleman in whose interest it is he desires to raise the duty on the cotton-tie three-quarters of a cent to one and a half cents per pound? Is it in the interest of the American laborer? Is it in the interest of the wards of this great nation? [Applause.]

Mr. MCKINLEY. I ask my friend from Rhode Island [Mr. CHACE], who is a cotton manufacturer and who buys cotton, to answer my question.

Mr. CHACE. This is a very simple question. The cotton manufacturers of the United States buy about 1,200,000 bales of cotton per annum. They pay for it the market price and they buy the hoops as cotton.

Mr. AIKEN. Who sets the price?

Mr. CHACE. They pay for those hoops as cotton. You gentlemen of the South buy the hoops for 3½ cents to 4 cents a pound, and you sell them to us at from 10 to 11 cents a pound. That amounts to 70 cents per bale, or $840,000 per annum that goes into your pockets from our pockets. And yet you complain.

Mr. KING and Mr. COOK rose.

The CHAIRMAN. The gentleman from Ohio [Mr. MCKINLEY] is entitled to the floor.

Mr. MCKINLEY. I do not care what they do in England——

Mr. KING. The gentleman is entirely mistaken and I want to set him right.

Mr. MCKINLEY. The gentleman from Rhode Island [Mr. CHACE], who is a manufacturer of and buys cotton, declares on the floor of this House that for the cotton-tie which you buy at 3½ cents a pound you charge him 10 to 11 cents a pound.

Mr. CRAPO rose.

Mr. KASSON. Let us hear from Massachusetts.

Mr. MCKINLEY. I yield to the gentleman from Massachusetts [Mr. CRAPO] to bear his testimony.

Mr. CRAPO. The bale of cotton is put upon the scale and it is weighed, cotton, iron, hoops, and all; and on that total gross weight we pay 10 or 11 cents a pound.

Mr. AIKEN. I ask to be permitted to say one word in reply.

Mr. MCKINLEY. I can prove that assertion of mine by witnesses all about me, who tell me they do precisely the same thing.

Mr. AIKEN and Mr. CARLISLE rose.

Mr. MCKINLEY. I do not yield for further interruptions. The gentlemen in the galleries who applauded my friend from South Carolina are not interested in American manufacturers and American labor.

Mr. KING. Will the gentleman allow me a word?

Mr. MCKINLEY. There is a lobby here from the other side wanting to get legislation from the Democratic side of this House to enhance English manufacturing, enrich the coffers of English lords, destroy American industries, and degrade American labor.

Mr. KING rose.

The CHAIRMAN. Does the gentleman from Ohio yield?

Mr. MCKINLEY. I decline to yield. I have said so already and I trust I am understood. This debate must be closed at 5 o'clock. The other side have had more hours of this general discussion than we have had on our side. They should be content.

Mr. KING. I do not want false statements to go uncontradicted.

Mr. MCKINLEY. They are not false statements; but when I stated a fact about cotton-ties I was not making any complaint against the cotton-planters of the South. I do not want to interfere with their business regulations or their profits. I do not care how much they get for the hoop-iron that goes around their cotton-bale. But when they come here and call American manufacturers robbers because they want a cotton-tie to pay the same duty as hoop-iron out of which it is made, it comes with a poor grace from men who buy iron from robbers of the North at 4 cents a pound and sell it to the New England factories as cotton for 11. [Applause.] Yes, to the same robbers of the North. And that is all there is in this cotton-tie proposition.

It is to make hoop-iron of any length, under any name, in any disguise, pay the same duty that the hoop-iron you buy in your stores at

home, which is imported, is now required to pay. The proposition is just, logical, and unanswerable, and should be maintained by this House.

Ah, but they say, you have increased the duty on earthen-ware. Every speech that has been made on the other side of the House has cried out against the increase of duty on the earthen and glass ware used in the United States. Now, let us look into that matter. We admit there has been an increase; nobody denies that. But it will be found upon investigation that the increase has been grossly exaggerated by gentlemen on the other side of the House.

What is the increase? The present duty on plain white granite-ware and on painted, decorated, and printed ware is 40 per cent. ad valorem. The proposed duty upon plain white granite-ware is 55 per cent. ad valorem, and on plain white granite-ware painted or decorated 65 per cent. ad valorem. That looks upon its face like a great increase, in the one case 15 per cent., and in the other case 25 per cent.; but it will be found upon examination that that increase is not real.

Let me show you, for you want the facts and only the facts. In the bill which is brought to this House by the Committee on Ways and Means there is a proposition to repeal what is denominated in Heyl's Digest, section 516. Now, this bill proposes to repeal that section. Let me read it.

In determining the dutiable value of merchandise hereafter imported, there shall be added to the cost, or to the actual wholesale price or general market value at the time of exportation in the principal market of the country from whence the same has been imported into the United States—

Now here are the items which are dutiable under that section—

the cost of transportation, shipment and transshipment, with all the expenses included, from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States; the value of the sack, box, or covering of any kind in which such merchandise is contained; commission at the usual rates, but in no case less than 2½ per cent.; and brokerage, export duty, and all other actual or usual charges for putting up, preparing, and packing for transportation or shipment.

Under our bill that section is to be wiped out. There is to be no duty on commissions; there is to be no duty on inland charges; there are to be no dutiable charges whatever. The duty is to be assessed upon the actual cost of the merchandise.

Now, what difference does that make in the cost of a crate of crockery-ware? Let me call attention to an actual invoice which I have before me. I will take first an actual invoice of four average crates of the common white ware used by the people of this country generally.

Of this grade of ware four crates cost in England $117.85, and with the discounts that are given to the American buyer, the four crates will cost $79.77. The common earthen-ware which the majority of the people of this country use on their tables will cost on the average in England $19.94 per crate. That is the cost in England to the American importer.

Now, add to that the various items mentioned in the section which I have just read. The package costs $3.97; inland freight and charges $2.04; marine insurance, consul fees, and certificates, 54 cents; making a total of $6.73.

Now, add to that the commission of 2½ per cent. provided in this section which we propose to repeal, and we will have 60 cents more, making the total duty and the cost of the goods including charges amount to $27.33 per crate. Now, that is the whole amount which is dutiable under the existing law.

The present duty is 40 per cent., and 40 per cent. of $27.33 is $10.93. That is the duty which the importer would pay under the present law upon a crate of common earthen-ware.

What will he pay under the proposed law? The duty under the proposed law is 55 per cent. On what? On the actual cost of the goods in England. What is that? It is $19.94; and 55 per cent. of $19.94 is $10.97. So that the duty under the proposed law will be $10.97, while under the present law it is $10.93.

Now, in the light of that actual invoice what becomes of the howl from that side of the Hall about the extravagant duties upon the plates of the poor people of this country?

Does anybody in this House know what one hundred and twenty-five pieces of cream-colored crockery-ware, such as is used by the masses in this country, are sold at by retail now? A dinner-set of one hundred and twenty-five pieces costs the consumer the enormous sum of $10. And take the iron-stone china, a still higher grade, and it will cost the consumer for the same number of pieces $12.50 to $14.

Before we had a 40 per cent. duty in the United States, before ous pottery manufactories had started, the consumers of the United Stater were paying to the English potters at Staffordshire, England, 50 per cent. more than they are paying to-day. The result of the competition by American potters has brought down the price of common crockery-ware to the low rate at which we find it to-day. It never was so cheap to the consumer as now.

Now, I appeal to this side of the House and to the protectionists of the other side to stand by this young industry in the United States.

It is not twenty years old to-day. We practically manufactured no white ware in this country until 1862 and 1863, and the only way that our potteries were then established was by the aid of the gold premium before resumption, which added a large incidental protection to that interest. It can not continue unless the duty asked for by this bill is granted.

I admit that on the higher class of goods, those that are painted, decorated, or printed, and which the rich and luxurious use, the proposed duty in the bill is an increase over existing rates. But that increase is necessary. We are developing the art industry in the United States, and it must be fostered and nourished. Art schools are springing up all over the country.

We have one in Cincinnati that decorates nothing but plain earthenware. The gentleman from Pennsylvania, the distinguished chairman of the Committee of Ways and Means, has a notable one in his own city. It is in the interest of art, it is in the interest of the women and the girls who are pursuing this art for a livelihood, that I appeal to this House to stand by the duty proposed in this bill. The bill makes painted and decorated earthen-ware pay the same duty as decorated china-ware, and this is right. It costs just as much of labor, skill, and materials to decorate earthen-ware as china-ware, and it is often very difficult to detect the difference between the one and the other.

It is surprising the amount of labor required and the number of hands through which this ware must pass before completion.

In the growth of a single plate there are twenty-one processes, and a detailed statement may be of interest:

First. Combining, mixing, sifting, and bolting materials in liquid state.

Second. Filtering this slip by means of hydraulic presses to a plastic, putty-like consistence.

Third. Tempering, kneading, or wedging to a uniform consistence for working.

Fourth. Batting out into circular sheets.

Fifth. Laying on and forming by means of jigger or jolley.

Sixth. Running molds to and from drying-room.

Seventh. Fettling, sponging, finishing, and carrying to green-ware room.

Eighth. Carrying to green placing-room, placing in seggars, and setting in kilns or ovens.

Ninth. Firing.

Tenth. Drawing from bisque-oven and carrying to bisque-ware rooms.

Eleventh. Brushing and sand-papering, and selecting bisque-ware.

Twelfth. Stamping with trade-print on bottom.

Thirteenth. Carrying bisque-ware to dipping-rooms.

Fourteenth. Dipping ware to give a coating of glazing.

Fifteenth. Carrying to placing-room, placing in seggars, setting the same in glost-oven, and luting between to seal same to protect from fire.

Sixteenth. Firing glost-oven.

Seventeenth. "Drawing" glost-oven and carrying ware to glost "drawing-room."

Eighteenth. Dressing glost-ware.

Nineteenth. Selecting glost-ware and placing on shelves or in bins.

Twentieth. Selecting out and carrying to packing-room in executing orders.

Twenty-first. Packing in crates or hogsheads with straw for shipment.

Each of the above is a distinct department, operated by different workmen, and each of these departments has several handlings; and this regular, every-day size, good quality plate is sold for 5 cents each, or 60 cents per dozen. The imperfect ones, of which there are about one-half, are sold at a large reduction from above.

Mr. Chairman, I wish to show from a paper published in Staffordshire, the city of the great potteries of England, how they are seeking to take the American market, and how the rivalry is ruinous to the industries of the United States. I read now from the arbitration between the workmen and the potters of Staffordshire, concerning a request of the workmen for increased wages. The manufacturers before the arbitration were showing why they could not pay the demanded rates. Let me read an extract or two. This is from Mr. Akerill, secretary of the employers:

The potting trade was divided into several kinds—American trade, general foreign and colonial trade, and continental and home trades. In the evidence given by the employers in 1879 it was stated that there was very small prospect of their being able to get an advance in selling prices in the American trade. Owing to the increased price in coal, borax, and other materials, those engaged in that market endeavored in the spring of this year to obtain the moderate advance of 5 per cent. on selling prices on this account, and also because their business was unremunerative; but after a struggle of some months' duration they failed in their efforts, as the supply of goods was more than equal to the demand, and they found that American manufacturers were taking their trade, as they continued to sell at old prices, while their English competitors were asking for an advance. The position of the English manufacturers was worse now than it was when the award of 8½ per cent. was made in their favor, as they had had to give more for coal, borax, and oxide of cobalt, with the prospect also of being unable to get an advance in selling prices. In the employers' evidence on the last occasion it was said that they had no desire to reduce wages, except it was mutually advantageous; and they contended that such had been the result, for it had assisted the master to find more work, and for the workman to earn more wages. They further contended that to the majority of workmen the reduction of 8½ per cent. had not been a serious loss, if any; for by increased diligence they had been enabled to earn fair wages, if not quite equal in amount to what they did prior to the award; and manufacturers engaged in the American trade thought it would be most unwise at the present time to disturb the conditions of labor, more especially as many of the manufacturers were selling goods to-day at lower prices than they were doing when the award was given by Lord Hatherton.

If the business of the country and of the world generally should improve during the next year, and the manufacturers at Martimas next find themselves able

to obtain better prices than they could now do, they would not hesitate to let the men share in that advance, without troubling an umpire to decide the question. But to force up labor, and, in consequence the selling prices of goods just now, could not but have a disastrous result for both masters and men. In this, as in the American trade, the foreigners were their rivals, and they only waited for the labor market to be forced up here to take again the orders which should come to this district.

That is to say, on the other side they have reduced the wages of their laboring people in order to capture the American market; and they do not want to increase wages, because if they do our American potteries will have a portion of our own market. We have only 40 per cent. of it to-day; 60 per cent. of the American market, as to pottery, goes to England, while we ought to control the whole of it, and will with proper protection, and to the ultimate benefit of the consumer.

Then Mr. John Maddock, one of the most extensive English manufacturers of pottery, says that he has a brother over in New York watching the American trade, and if they can get a reduction of the duties on pottery, then they will be able to capture and hold the American market. I am told—indeed I know—that this brother has been in the city of Washington; and I have no doubt he is in some of these galleries to-day; and I doubt not that a speech to be made hereafter—not by my friend from Illinois [Mr. MORRISON] who stands before me, for he said in his speech yesterday that he conceded on crockery there was about 17½ per cent. growing out of these dutiable charges for commissions and inland transportation—but there will be inspired for somebody else a speech to be made to show why in the interest of American consumers, not in the interest of English potters (of course), this duty should be reduced. Hear what Mr. Maddock says:

Mr. John Maddock was the first witness called on behalf of the manufacturers, and was examined by Mr. E. Powell. He said he was a manufacturer of white granite, engaged in the American trade. In his opinion the trade at the present time was better as regarded the men and worse as regarded prices; that was to say, that in consequence of his having more work to do the men were kept more fully employed than they were a year ago, while the prices obtained for the ware was unremunerative. It was a fact that he was selling these goods now in order to meet American competition, at a less price than he was doing at this time last year, and he thought it was the duty of manufacturers to continue selling their goods at the present price in order to keep the trade. At the beginning of last year he was a member of a committee of white-granite manufacturers, and at a meeting called to consider the position of the trade it was resolved, in consequence of certain increases in the cost of production, to make an effort to increase the selling price of goods. The manufacturers then resolved to reduce their discounts 2½ per cent. As one of that committee he had endeavored to carry out that resolve but failed to accomplish his object. Indeed, not only did he fail in reducing the discount to the amount stated, but he was actually compelled to lengthen the discount a further 2½ per cent. He had two manufactories engaged in this particular trade, and from the fact that he had a brother living in New York and was consequently kept familiar with the trade of that country, he concluded that they would feel more and more the competition they were subjected to.

They had been looking toward the probability of having a President in favor of free trade, but as the result of the recent election they were doomed to disappointment, though they might eventually obtain some relief from the present heavy tariff.

How the English manufacturer is looking to the Democratic party for help, and how he sighs for a free-trade President! They want to keep our trade for the better prices which are to come with a reduction of duty. They are selling at a loss, upon their own confession, to keep the trade for future profits. Our friends on the other side of the House say that reduced duty means reduced cost to the consumer. This is not the opinion of their English allies. Reduction of duty means their profit and a corresponding injury to our consumer.

Mr. Chairman, I must hasten on. I believe that it is the duty of American Congressmen to legislate for American citizens, and not for foreign manufacturers. Let us take care of our own interests, and look to the well-being of our own citizens first. [Applause.] Let me show you how England is watching the growth of free-trade sentiment in the United States. I read in the Pottery Gazette, published in England, in its number of May 7, 1882, that they have sent a special agent over here to look into our industries. That gentleman says that while in New York he attended the meeting of a free-trade league; and I wish gentlemen to hear what he says about it. He says:

I was informed by an importer—

Of course by an importer—

that a large public meeting was to be held in the Chickering Hall to "consider the necessity of an immediate reform in the unjust, unequal, and iniquitous system of taxation called a protective tariff." This meeting was called by the New York Free-Trade Club.

I attended this meeting, and since doing so my hopes of the eventual abolition of the tariffs on raw materials and the considerably reducing of the duties on manufactured goods have been increased tenfold. The trouble which we had in England some thirty-five years ago is now commencing in real earnest here. The work of the Cobden and Bright Corn-Law League is repeating itself throughout the States. It would be impossible in England to have found a more intelligent and enthusiastic audience, and composed exactly of the class most interested in this question. Manufacturers, importers, and the working-class consumers. A Senator from North Carolina was present, and gave one of the best speeches on the subject that it was ever my pleasure to listen to. The club is disseminating literature, organizing lectures, and at the next Presidential election this can not fail to be felt. Some argue that the tariffs benefit the manufacturers, but are prejudicial to the working classes; others argue that the working classes are alone benefited, and some again that it benefits both equally. It is not for us now to discuss who are most benefited. *The vital part of the question lies far above that.* The consumers are vastly in the majority, and it is unjust to tax the many for the benefit of the few.

The processes of educating the working classes on the subject itself are more difficult than they were in England. The immensity of the country and the indifference of the working classes to politics are serious drawbacks in the way, but nevertheless the work is rapidly advancing, and these trades, in conjunction with other leading industries in England, will, at no very distant date, see, I believe, a change. The question is one of such great importance to English manufacturers that it is impossible for us to give too much attention to it, and we shall closely watch the progress of events and the work of the New York Free-Trade Club, to which subscriptions are pouring in for the providing of the sinews of war.

"The sinews of war," subscriptions of money, flowing in to defeat the doctrine of protection in the United States, to overturn the American system founded by that great Whig leader, Henry Clay. But more:

It will be for some years impossible for American manufacturers to produce all that is required by her 50,000,000 people, and the market lying so near us and being an offshoot of our own people, and speaking our own language, is for these reasons a market that must be closely watched.

I may mention incidentally, as an evidence of the warm feeling toward England, that the British national anthem was played on the large organ after the first leading speech was concluded.

[Laughter and applause.]

And if we could only have had the Marine Band of this city here yesterday upon the conclusion of the speeches of my honored friends from Virginia and Texas [Messrs. TUCKER and MILLS], and had them play the "British national anthem," how beautifully appropriate such concluding service would have been. [Laughter and applause.]

But in the absence of that there were ripples of applause from every free-trader on that side of the House and murmurs of approbation from the agents of every importer who held places in the galleries of this House.

Mr. Chairman, my time has about expired. I did not intend to occupy so much time as I have already. I would have been glad to have shown this House the condition of the workingmen in some of the districts of England which the other side of this House would seem willing to transfer here. Hear me while I read that vivid description of the degradation of English labor as furnished by Mr. Porter, the correspondent of the New York Tribune, which appeared in that great paper last Monday. He tells you how the women and the children work there from early morn until late at night in the iron furnaces and founderies in the Black District and the compensation they receive:

The most startling account of the degradation of a branch of English labor comes from the Back Country, a region which I shall not reach for three or four weeks. The facts, however, which I shall present in advance of going there are from the most trustworthy source and were actually witnessed a few days ago. It takes one back to the days before Parliamentary interference compelled the white slave-drivers of the manufacturing districts of England to stop using women as beasts of burden in the coal-pits of this same region. I had expected to find poverty and distress and squalid misery in these great centers of industry, for we have that at home in a land where the laborer is not obliged to work for 10 or 12 shillings a week. I did not expect to read such a recital of man's greed as one that has just been made public as "a simple narrative of truth" from the Black Country.

It appears that to-day, in spite of "factory act" and "school board," thousands of females, old and young, mothers and daughters, with their little children by their sides, toil by day and by night, in a locality about seven miles from the great free-trade city of Birmingham—the home of Bright and Chamberlain. In this gloomy district about 24,000 people are engaged in making nails and rivets. If they were men and boys the lowness of the wages would not seem so bad. But this account brings out the fact that 16,000 females are engaged day after day in the occupation. They are not all mature women; daughters work by the side of mothers, daughters who, in their tender years, ought to be at home, if they have any home, or in bed, instead of working their weary arms in shaping, in the still small hours of the morning, molten iron into the form of nails. Here is the picture drawn by a writer in the London Standard who actually witnessed it two or three nights ago:

"In the middle of a shed which adjoins a squalid-looking house there is a whole family at work in the production of these nails—father, mother, sons, and daughters—daughters, too, very young in years, but with that sad look of premature age which is always to be noticed in the faces of child-workers. The gayety of youth, its freshness and its gentleness, seem to be crushed out of them. In the center of the shed, with its raftered ceiling—a bleak and wretched building, through the walls of which the wind readily finds its way—there is a 'hearth,' fed by 'gledes' or breezes. Probably there is a girl or woman blowing at the bellows, while the strips of iron from which the nails are made become molten."

To make this still more forcible, here is an actual case:

In one of these forges was a mother and several children. The mother was a woman probably 40 years of age; her youngest daughter—a flaxen-haired girl with a sweet and winsome face—was certainly not more than 12 years of age. By the side of the hearth there was what is technically called the "Oliver"—a barrel-like construction, on the top of which is fixed the stamp of the particular pattern and size of the nail required to be made. The workmen and workwomen, by means of a wooden treadle—an industrial tread-mill it ought more strictly to be called—shoot out the nails from the slot in which they are fixed. They have previously hammered the top of the incandescent metal with masculine firmness so as to form the head of the nail.

So inured do these poor women and girls become to this work that it is said they seem to work with more vigor than the men—very often, indeed, they support their husbands and their fathers, who may have fallen into drunken habits. But the first question that will naturally be asked by those who demand cheap goods even at this fearful degredation of woman is, how much can they earn? Again I quote from the man who has witnessed the spectacle:

"The remuneration they receive is incredibly small. It is no unusual thing—on the contrary, it is quite the usual custom—for a family of three or four persons, after working something like fourteen hours a day, to earn £1 ($5) in a week. But out of this money there has to be deducted 1*s.* 3*d.* for carriage to convey the nails to the "gaffers," as they are termed in the district; then there is allowance to be made for fuel and the repairing of the machinery, which reduces the £1 to about 16*s.* 9*d.* ($4.18) for three people who have commenced to work every morning at half-past 7 or 8, and who have worked on through all the weary day, with no substantial food, until late at night."

These poor laborers rarely or never taste meat from one week's end to the other. In the expressive but simple language of one work-woman, this is how they fare: "When the bread comes hot from the bake-house oven on Saturday we eat it like ravenous wolves." The scenes of misery—misery so deep and dreadful that the most graphic pen can only faintly convey its depth of sorrow—that are witnessed in this region would hardly be believed in the United States, and were I not quoting from English authority of the highest character I should be fearful of laying myself open to the charge of prejudice, so frequently made against those

who would rather elevate than degrade labor, and who do not want cheapness at such a fearful cost. Women, it is said (and in a few weeks I shall go through this entire region and verify the words of my informants) within a few days of their confinement have been to work in the agony of exhaustion, in order to earn a few pence, at the "hearth"—not the "hearth" of home which England especially at this season of the year so fondly boasts of, but the "hearth" of the forge. They have been known to return to work in a day or two after childbirth, "emaciated in constitution, weak and weary for the want of simple nourishment." Their children, ragged and ill-fed, have had to lead miserable and wretched lives, with no hope before them but a life of wickedness and vice. What more dismal picture can be drawn than the following description of the cheerless homes of these poor creatures?

The houses, if they deserve to be dignified with the word, are wretched in construction; in many instances they are more like hovels than human dwelling places; they seem to be devoid of all those ordinary conveniences which are to be seen in houses occupied by a better class of work people; they certainly shelter, and that is all, the toilers who for a few hours rest within their rickety walls.

This picture needs no comment or elaboration. Happily it has no counterpart in American civilization, and its introduction here would be abhorent and un-American.

The laboring men of this country understand this question and its relation to their wages. I beg to read from one of the petitions from my district, signed by the men engaged in the mills, mines, factories, and furnaces, and I have many of them; and our record daily shows like petitions from all sections of the country. They want no free trade; they want no revenue reform which means reduced wages, and they declare it with no uncertain sound:

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

The petition of the undersigned workingmen, employés of The Ohio Iron and Steel Company at Lowellville, Ohio, respectfully sets forth the following facts:

In common with other workingmen they have been prepared to acquiesce in the schedules of duties on foreign products recommended by the Tariff Commission, although not approving of all of the provisions of the schedules, their principal reason for accepting the schedules arising from a strong desire to see the tariff question settled upon a basis that would offer some hope of permanence, and that would also offer some hope of stability to the industries of the country.

They have, however, viewed with alarm the effects upon general business of the mere proposition of the commission to reduce duties, and of the widespread apprehension that Congress may go even further in the work of reduction than the commission has recommended, and they point to the recent stoppage of mills and factories and workshops, to the enforced idleness of many workingmen, to the shrinkage in values and the decline in prices, to the largely-increased number of financial failures, to the tendency toward lower wages for labor, to the hesitation of capital to engage in new enterprises, and to the withholding of orders for supplies by railroad companies and other great corporations, as conclusive proofs of the depressed condition of many of our leading industries and of the great shock which our whole industrial system has experienced.

They believe that this serious and threatening condition of our industrial interests can only be changed, and confidence and prosperity be restored to the country, by the firm refusal of Congress at its present session to do anything that will tend to increase the importation of foreign goods, or that will make competition between the manufacturers of this country and of other countries for the supply of our markets so severe that the wages of American workingmen must be still further and permanently reduced.

Duties, therefore, should not be seriously decreased on any articles of iron or steel, and they should be increased on tin-plates, steel-wire rods, steel blooms, pig-iron, cotton-ties, and all "non-enumerated" articles. To decrease the duties on many iron and steel products which could be named could only result in an increase of importations and a consequent increase of revenue or else in a great reduction of wages, to be followed by general distress and discontent.

The workingmen whose names are appended therefore pray that Congress will adopt no lower rates of duties on any foreign-manufactured products than are recommended by the Tariff Commission; and they further pray that Senators and Representatives in this crisis of our manufacturing industries, which have done so much to develop the resources of the country and to increase and extend its prosperity, will take counsel of the experience of the past, which tells a warning story of the effects upon American industries of a too-ready acceptance of the economic views of our foreign rivals.

Shall their appeals go unheeded? This side answers no, thrice no. The fine-spun theories of the free-traders weigh lightly with me against the hard facts gained by these men in the school of experience. Many of them know from realization the hardships which result to labor from free trade, and their voice has been steadily against its inauguration here.

Mr. Chairman, we can have the Democratic doctrine of free trade whenever the Democratic party can make of our laboring men slaves, but not until then. [Applause on the Republican side.] Why, if labor was equal on this side of the Atlantic with the other we might compete with the best manufactories of the world in any market. No lover of his race, no friend of humanity, wants reduced wages. I do not speak for capital. Capital can take care of itself. Rob it of its profits in any of the so-called protected industries, and it will seek other avenues of investment and profit. I speak for the workingmen of my district, the workingmen of Ohio, and the country.

Mr. SPRINGER. They did not speak for you very largely at the last election.

Mr. McKINLEY. Ah, my friend, my fidelity to my constituents is not measured by the support they give me. [Great applause.] I have convictions upon this subject which I would not surrender or refrain from advocating if 10,000 majority had been entered up against me last October [renewed applause], and if that is the standard of political morality and conviction and fidelity to duty which is practiced by the gentleman from Illinois, I trust that the next House will not do what I know they will not do, make him Speaker of the House. [Laughter and applause]. And I trust another thing, that that general remark interjected, coming from a man who has to sit in the next House, does not mean that he has already prejudged my case which is to come before him as a judge.

Mr. SPRINGER. Your constituents have done that for you.

Mr. McKINLEY. For if he has, then he would be subject to be taken from the panel of jurors, because he had already expressed an opinion in the case which was to be tried before him. [Applause.]

No interest in this country is asking for a revenue tariff. Not a single petition has come to us for a tariff bill to be based upon Democratic principles. The farmers, for whose special interests the Democratic party assumes to speak, have not asked for it. They want to produce and want the laboring men in the factories to consume their products and pay a good price for the same. They have no wish to break down manufacturing and transfer the vast army of men who are consumers and who work in the shops to the ranks of producers, and therefore competitors with them. They want a market, and protection enables them to have it. The wool-grower wants no free trade or revenue tariff. He wants and should have full and adequate protection with all other interests. All interests want a settlement of this question, and it would be an irreparable wrong to permit this Congress to adjourn without passing a tariff bill recognizing fully the principles I have announced. Agitation is paralyzing business, creating uncertainty and distrust of the future, and the highest statesmanship will be illustrated and enforced by a prompt and speedy disposition of this whole question.

Now, Mr. Chairman, I close, not with my own words, but the words of one whose memory we revere. I close this rambling speech with the last words that were ever uttered on the floor of this House on a tariff bill and in a tariff discussion by the lamented Garfield, whose successor [Mr. TAYLOR] sits on my left.

Standing there where the gentleman from Kansas [Mr. HASKELL] sits to-day, that magnificent man closed his great speech on the tariff debate with these patriotic words, which sounded out through this Chamber and thrilled us all:

For the present the world is divided into separate nationalities, and that Divine command still applies: "He that provideth not for his own household has denied the faith, and is worse than an infidel." And until that era arrives described by the gentleman from Virginia, patriotism must supply the place of universal brotherhood. For the present Gortschakoff can do more good for the world by taking care of Russia. The great Bismarck can accomplish more for his era by being as he is a German to the core and promoting the welfare of the German Empire. Let Beaconsfield take care of England; let McMahon take care of France; and let Americans devote themselves to the welfare of America. When each does his part for his own nation to promote prosperity, justice, and peace, all will have done more for the world than if all had attempted to be cosmopolitans rather than patriots. [Loud and prolonged applause.]

The Tariff.

SPEECH

OF

HON. GEORGE L. CONVERSE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 27, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. CONVERSE said:

Mr. CHAIRMAN: Not desiring to express any opinions at this time on the particular provisions of the pending bill, I will make a few suggestions upon the question of constitutional power which seems to be involved in the general subject of the tariff.

There can be no question of greater importance than the settlement of differences in regard to the constitutional powers of the Government under which we live. Erroneous opinions on that subject entertained and promulgated by the leading men of the country mislead the public judgment. The evils increase and multiply with the lapse of time and are liable, as in our own recent history, to culminate in political convulsions, the consequences of which may last for generations.

It has been asserted during this discussion that the Constitution grants authority to Congress to pass laws for the protection of domestic products. That claim has been repeatedly denied during this debate and the one that occurred in May on this subject. Which of these claims is well founded and which false? Where is the line of authority and of power on this subject? I understood the gentleman who addressed the committee yesterday afternoon [Mr. McLANE, of Maryland] to trace this authority which he deemed existed in the Congress of the United States for the protection of American industries to that clause of the Constitution which authorizes the laying of taxes, duties, and imposts. In my judgment the power does not lie there. The language of that provision, section 8 of the first article of the Constitution, is:

The Congress shall have power 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; but all duties, imposts and excises shall be uniform throughout the United States.

Power is there given to Congress to lay and collect taxes, duties, and imposts. What for? The clause itself furnishes the answer in plain and explicit language, "to pay the debts and provide for the common defense and general welfare of the United States." If the power to protect American manufactures is conferred on Congress by that provision it must be embraced in the words, "provide * * * for the general welfare of the United States." It would require a forced and unnatural construction to place such a meaning on such language.

That provision of the Constitution, in my humble judgment, simply authorizes the enactment of a tax law for the purpose of raising revenue to carry on the Government. All tax laws are mere revenue laws and this provision names the purposes for which such revenue shall be raised. All will admit that the power to protect the products of American labor has been exercised, whether rightfully or not, by the Congress of the United States, and such laws have been enforced for a very long period of time and are still on the statute-books. If the power to protect is not conferred in the clause authorizing the raising of revenue, where is it to be found? The only other clause relating to this subject is the power to regulate commerce. The language of the Constitution is as follows:

The Congress shall have power * * * to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

In my humble judgment, the power and authority to enact such laws discriminating against foreign imports in favor of our own industries, whether commercial, agricultural, manufacturing, or mining, and thus indirectly protecting our own similar industries from foreign competition, is conferred by the language "to regulate commerce with foreign nations."

I desire in my few suggestions to make broad and distinct the line between the question of power to protect as a mere naked legal question, and the question of public policy of protecting, which is an entirely different, distinct, and separate question. The one contemplates a question of constitutional authority, the other a question of expediency calling for the exercise of statesmanship. What is the meaning of the phrase "to regulate." It means to enact rules under which or in pursuance of which commerce with foreign nations, between the States, and with Indian tribes may be carried on.

What is the commerce that is to be regulated? It embraces not only trade but also intercourse. It covers not only all articles of commerce and all intercourse between foreign nations and our own, but even the vehicle through which the trade or commerce shall be carried on, whether it be among the States or with foreign nations or with the Indian tribes. It covers the article and the means employed for its transportation, and may extend to the mode of payment, including the regulation of foreign bills of exchange. That provision of the Constitution confers authority to exercise a wide discretion to discourage the importation of some articles from foreign countries and to prohibit altogether other articles, or it may encourage certain imports while it leaves others to be controlled by the laws of trade. Under this provision Congress exercises its authority not only upon the broad ocean and on the bays and inlets of our coast where the tide ebbs and flows, but upon the lakes and rivers and along the arteries of commerce, wherever found, extending from valley to valley and from State to State, throbbing with the giant industry of fifty millions of freemen.

It may be asked what reasoning or proofs are at hand aside from the plain and natural meaning of the words employed in this provision of the Constitution to show that it includes authority to discourage and even prohibit the importation of foreign articles of industry, and thereby discriminate in favor of those of our own country and people.

The first item of proof to which I desire to call the attention of the House is that our entire system of navigation laws which the country has enjoyed for nearly a hundred years has no other constitutional support than the clause "to regulate commerce." The whole system rests there. We have under it passed our registry laws, and laws regulating tonnage dues. We have discriminated in favor of our own carrying industry to the absolute exclusion and prohibition of all foreign competition in the coastwise trade. No foreign vessel is permitted to engage in it. The industry is limited to American-built ships, bearing the American flag and commanded by American seamen.

Here is an example of absolute and complete protection of two American industries—ship-building and the coastwise carrying business—under this provision. The power has been exercised by Congress to exclude foreign-built ships from registry or license and from engaging in the coastwise trade ever since the formation of the Government, and so far as my knowledge extends no one has ever questioned the constitutionality of such laws. Neither has any one to my knowledge ever proposed a change so as to admit foreign competition in the coastwise carrying trade.

Mr. CARLISLE. Will the gentleman from Ohio allow me to ask him a question?

Mr. CONVERSE. Yes, sir.

Mr. CARLISLE. Can the gentleman point to a single instance in which the Supreme Court of the United States in defining the extent of the constitutional power to regulate commerce has included under that delegation of power the right to impose a tax upon imported goods? Has it not confined it entirely to the making of regulations concerning the carrying trade, &c.?

Mr. CONVERSE. No, sir. There has been no such decision. The question whether Congress could regulate commerce by laying and collecting imposts has never to my knowledge been directly submitted to the court. The court has never held by a direct decision that Congress could regulate commerce by levying imposts. Neither has it held that Congress could not do so. The power of Congress to regulate commerce by imposing duties has never been authoritatively denied to my knowledge. The court has not limited the power of Congress under the clause "to regulate commerce" to the making of regulations concerning the carrying trade.

Story on the Constitution (volume 2, page 23) says:

Many of the like powers have been applied in the regulation of foreign commerce. The commercial system of the United States has also been employed sometimes for the purpose of revenue; sometimes for the purpose of prohibition; sometimes for the purpose of retaliation and commercial reciprocity; sometimes to lay embargoes; sometimes to encourage domestic navigation, and the shipping and mercantile interest, by bounties, by discriminating duties, and by special preferences and privileges; and sometimes to regulate intercourse with a view to mere political objects, such as to repel aggressions, increase the pressure of war or vindicate the rights of neutral sovereignty. In all these cases, the right and duty have been conceded to the National Government by the unequivocal voice of the people.

When interrupted I was presenting in my own language the substance of the decision in the case of Gibbons vs. Ogden, 9 Wheaton's Reports, where it was held that the only constitutional authority possessed by Congress to pass navigation laws under which this protection is given which I have mentioned is found in the clause "to regulate commerce with foreign nations, and among the several States."

Chief-Justice Marshall, in delivering the opinion in that celebrated case, alludes to the subject of regulating commerce by imposing duties. In speaking of the framers of the Constitution, he says:

Those illustrious statesmen and patriots had been, many of them, deeply engaged in the discussions which preceded the war of our Revolution, and all of them were well read in those discussions. The right to regulate commerce even by the imposition of duties was not controverted; but the right to impose a duty for the purpose of revenue produced a war as important, perhaps, in its consequences to the human race as any the world has ever witnessed.

Mr. HASKELL. Will the gentleman permit me to ask him a question?

Mr. CONVERSE. Yes, sir.

Mr. HASKELL. After one hundred years of protective tariff during nine-tenths of the time in the United States, after all the declarations of the fathers, is it not late to-day to be raising the constitutional question of the right to discriminate in duties?

Mr. CONVERSE. I will reach that point in the course of my remarks, if time permits.

The Constitution enumerates the subjects which shall fall under the jurisdiction of Congress, and when thus enumerated Congress has plenary and sovereign power over those subjects. The regulation of commerce with foreign nations and among the States has been confided to Congress. The means whereby and the extent to which it shall be regulated is left to the discretion of the Congress.

Chief-Justice Marshall, in the case already quoted, on this point says:

If, as has always been understood, the sovereignty of Congress, though limited to specified objects is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States. The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are in this as in many other instances, as that, for example, of declaring war, the sole restraints on which they have relied to secure them from its abuse. They are the restraints on which the people must often rely solely in all representative governments.

In the ship-building industry and the coastwise carrying business are examples, however, where the power of Congress, under the authority "to regulate commerce," has been exercised without question for a long period of time, and it has been exercised to the exclusion of all competition whatever. I invite the attention of gentlemen to the fact that there is no other provision of the Constitution authorizing Congress thus to protect these industries.

To regulate then must imply the power to prohibit some branches of foreign industry from competing with our own; and to prohibit some branch of industry must imply the power to discourage it as well as to prohibit. The one includes partial protection of our own industry from competition, and the other embraces full and absolute protection. If the United States permitted absolute free trade with all nations, thus leaving the business of commerce to take care of and regulate itself, there would be ample ground for argument that no regulations were necessary to be enacted on the subject of commerce with foreign nations. Indeed it is difficult to perceive that any laws would be necessary on the subject beyond a few for the punishment of crime.

For the second item of proof showing the power of Congress to discourage or prohibit particular items of foreign commerce, or all commerce with any foreign nation, I call attention to the embargo laws previous to the last war with Great Britain. Sometimes such measures are resorted to as war measures, but in this instance to prevent war, and with the view of regulating our commerce with the Government.

Mr. TUCKER. I do not desire to take up the time of my friend from Ohio, but will he allow me to ask him a question?

Mr. CONVERSE. With pleasure.

Mr. TUCKER. If the power to regulate commerce with foreign

nations involves the power of prohibiting importations from foreign nations into this country, does the gentleman maintain the power to regulate commerce among the States, which is in the same terms, includes or gives the power to Congress to forbid importations from one State to another?

Mr. CONVERSE. I do not, as to all proper articles of commerce. The Constitution says that no tax or duty shall be laid on articles exported from any State, and if imported from one State to another they would by the same act be exported from one State to another. Besides, the relations between the General Government and the several States is very different from what it is with foreign nations. We have no community of interest and no legal relations whatever with foreign nations, while the States and the Government of the Union together form one government, under which we live, and which unites us as one people.

I will now ask my friend from Virginia where is the power to exclude foreign vessels from participating in the coastwise trade unless it be in the clause to regulate commerce? There is none. There is an example of the exercise of that exclusion under this very constitutional provision for the protection of our own American industry. Therefore the question of exclusion is a question of discretion and not a question of power. I am saying nothing upon the advisability of either partial or total exclusion, and present only the question of constitutional power. Yet it is apparent that only one portion of our people can engage in that particular carrying industry, namely, those who live on the seaboard; but no one has to my knowledge proposed a change, denounced it as a monopoly, or denied the constitutional authority.

The third reason in support of the original proposition, that Congress, having constitutional authority to regulate commerce with foreign nations, possesses plenary power over the whole subject and may regulate it by laying import duties in the interest of domestic industry, is that those words "to regulate commerce" at the time of the adoption of the Constitution were understood to embrace that meaning. All other maritime powers, and especially England, from whom we derived most of our customs, laws, and language, at and before that time regulated commerce between her own people and foreign countries and her own colonies by duties and imposts with a view to benefiting her manufactures. In support of that fact, that it was so understood, I have already cited Judge Marshall's statement made in 1824, and will now cite the statement of James Madison in his Cabell letter in 1828, as follows:

It is a simple question under the Constitution of the United States whether the power to regulate trade with foreign nations as a distinct and substantive item in the enumerated powers embraces the object of encouraging by duties, restrictions, and prohibitions the manufactures and products of the country. And the affirmative must be inferred from the following considerations: The meaning of the phrase to regulate trade must be sought in the general use of it; in other words, in the objects to which the power was generally understood to be applicable when the phrase was inserted in the Constitution.

The power has been understood and used by all commercial and manufacturing nations as embracing the object of encouraging manufactures. It is believed that not a single exception can be named. This has been particularly the case with Great Britain, whose commercial vocabulary is the parent of ours. A primary object of her commercial regulations is well known to have been the protection and encouragement of her manufactures.

Such was understood to be a proper use of the power by the States most prepared for manufacturing industry while retaining the power over their foreign trade.

Such a use of the power by Congress accords with the intention and expectation of the States in transferring the power over trade from themselves to the Government of the United States. This was emphatically the case in the Eastern, the more manufacturing members of the confederacy.

The fourth reason is that the laying and collecting of duties and imposts is a most simple, effective, inexpensive, and reasonable mode of regulating commerce with foreign nations. Under it foreign imports may be discouraged to any degree of discouragement without prohibition; and domestic industry may be protected much or but slightly, as expediency may determine. It has always been and still is the favorite mode among all the civilized nations of the earth for regulating commerce. In case any foreign nation should discriminate against our industry or shipping by heavy discriminating taxes it would be only in the exercise of this particular constitutional authority that we could pass and enforce countervailing tax laws upon their industries or ships, and thus protect our own.

Fifth. If the power to protect domestic industries, whether commercial, agricultural, mining, or manufacturing, is not conferred by the Constitution on the Congress, then it does not exist under this Government. No one will deny that the several States after they won their independence and before the Union was formed under the Constitution respectively enjoyed and exercised the power to protect their own industries, and they each did it in as full and perfect a manner as any nation of the earth by tax on imports.

The laws being different in the several States, the tax on imports and the domestic industry of each was differently affected. There was no harmony on this point between the States, and thus divided they could not command a favorable reception abroad for their own industries which were discriminated against in foreign ports. This condition of things was one of the principal reasons for adopting the Constitution and granting to Congress full and exclusive authority over commerce with foreign nations. The States possessed and exercised the power to regulate commerce, and by duties and imposts protected their respective industries. They transferred all of that power to the Government of the United States, reserving none of it to themselves. Therefore the United States do now possess and may exercise the power unless it has been lost. On this point I desire to quote from an authority which by Democrats will be regarded as conclusive. Upon the subject of the power of Congress under the Constitution of the United States to establish a tariff for even protection (the policy of its exercise being quite another question) Andrew Jackson, in his message to Congress on the 7th of December, 1830, said:

The object of the tariff is objected to by some as unconstitutional and it is considered by almost all as defective in many of its parts. The power to impose duties on imports originally belonged to the several States. The right to adjust these duties with a view to the encouragement of domestic branches of industry is so completely identical with that power that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government without limitation or restriction saving the very inconsiderable reservation relating to their inspection laws. This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them, and consequently if it be not possessed by the General Government it must be extinct.

Our polical system would thus present the anomaly of a people stripped of the right to foster their own industry and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely can not be the case; this indispensable power thus surrendered by the States must be within the scope of the authority on the subject expressly delegated to Congress. In this conclusion I am confirmed as well by the opinions of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the Constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people.

The last item of proof which I propose to submit in support of the proposition is that the first Congress under the Constitution enacted a law for the protection of domestic industry by laying duties on imports. The preamble in the act recited that as one of the objects of its enactment, and the next year the same Congress passed another law on the same subject, and recited in the preamble to that also that one of its objects was protection to American manufactures. There were in that Congress eighteen men who were members of the constitutional convention, ten of whom—William Samuel Johnson, Oliver Ellsworth, George Read, William Few, Caleb Strong, John Langdon, William Patterson, Rufus King, Robert Morris, and Pierce Butler—were members of the Senate, and eight—Roger Sherman, Abraham Baldwin, Elbridge Gerry, Nicholas Gilman, Hugh Williamson, George Clymer, Thomas Fitzsimmons, and James Madison, jr.—members of the House. There were also quite a number who had participated as members of the Legislatures of the respective States in the ratification of the Constitution.

These bills were signed by George Washington as President of the United States, who was also president of the constitutional convention, and signed the Constitution. It is fair to presume that these patriotic and experienced men who sat in the convention and participated in its debates had a fair knowledge of the provisions of the instrument and the power conferred by it on Congress. The debates in the Senate during that Congress were never published, though there are three very interesting volumes of private notes on the debates and events of that body now in possession of a descendant of one of its members in Philadelphia. In the House no suggestion was made by any one of want of constitutional power in the regulation of commerce with foreign nations to protect domestic industries. The Representatives from Virginia on this floor will be interested to know that three propositions in that body came from their State to amend the bill—one for a duty on coal, to protect her coal-pits; one on hemp, to encourage the growth of that article; and one to exclude beef, for the benefit of the cattle interest. The objects of these amendments were not revenue, but protection. The contemporaneous evidence of the power of Congress under this commerce clause is clear and convincing.

Mr. REAGAN. Does the gentleman assume that was a law for protection?

Mr. CONVERSE. It so recited, and I think the protection amounted to 5 per cent.

Mr. REAGAN. Does the gentleman remember the average rate of duty?

Mr. CONVERSE. I think it was about 5 per cent.

Mr. TUCKER. We will accept that.

Mr. CONVERSE. Then if the gentleman accepts that he accepts my construction and yields the question of power.

Mr. HASKELL. That is it.

Mr. CONVERSE. If he admits that Congress has the power to lay a protection tax of 5 per cent. it may in its discretion fix it at any other rate; where is the line? Even 5 per cent. might in some cases be full protection. When the power is once admitted to exist you cross the line and there is no retreat. It requires as much power in Congress to pass a law for 5 per cent. protection as it would 50.

Mr. REAGAN. The line, it seems to me, if the gentleman will permit me to interrupt him, is established very clearly at that point which fixes the maximum rate of revenue by imposts. When you pass that you give protection pure and simple, and there you violate the Constitution.

Mr. CONVERSE. That is simply a question of discretion. The gentleman by his statement admits that revenue under his construction is not the sole object contemplated in levying taxes on imports. Does not that admit the power to protect? On this point Story on the Constitution, volume 2, page 26, says:

Indeed the advocates of the opposite doctrine admit that the power may be applied so as incidentally to give protection to manufactures when revenue is the principal design, and that it may also be applied to countervail the injurious

regulations of foreign powers when there is no design of revenue. These concessions admit, then, that the regulations of commerce are not wholly for purposes of revenue, or wholly confined to the purposes of commerce considered *per se*. If this be true, then other objects may enter into commercial regulations; and if so, what restraint is there as to the nature or extent of the objects to which they may reach, which does resolve itself into a question of expediency and policy? It may be admitted that a power given for one purpose can not be perverted to purposes wholly opposite or beside its legitimate scope. But what perversion is there in applying a power to the very purposes to which it has been usually applied? Under such circumstances does not the grant of the power without restriction concede that it may be legitimately applied to such purposes? If a different intent had existed, would not that intent be manifested by some corresponding limitation?

But, as I said in the outset, I have nothing to do now with the question of discretion in fixing the amount or extent of protection; I am only arguing that this grand Government of ours possesses a certain power which it may exercise or not as it chooses to do. Recurring to the suggestion made by the gentleman from Kansas [Mr. HASKELL], we must bear in mind that for nearly a hundred years laws enacted for the protection of domestic industry, under the power to regulate commerce, have been on the statute-books without question. There have been enactments passed solely for the protection of particular industries by the levying of duties to the practical exclusion of such foreign articles from the country. Now, if Congress had no power to pass such laws, and was in fact violating the Constitution thereby, why have not the lawyers of the country taken that question into the courts and procured a decision upon the constitutional question, thus limiting the power of Congress in that respect?

Mr. REAGAN. Allow me to say to the gentleman that the question has been before the courts and they have held that it is a political question and not a judicial question; that it addresses itself to the consciences of members who have taken an oath to support the Constitution.

Mr. CONVERSE. How could the exercise of a power not granted to Congress by the Constitution be a political question, and limited only by the elastic consciences of its members? No, sir; whenever Congress undertakes to exercise a power not granted in the Constitution the courts have the authority to step in and stop it. There is no doubt about that proposition.

Mr. CARLISLE. But the courts can not inquire into the purpose of Congress.

Mr. CONVERSE. Certainly not. But there is the naked fact. Take a case in which protection is borne upon the face of the statute; in which the foreign article is excluded for the benefit of the domestic; in which no revenue whatever is collected or intended to be collected. The courts certainly could inquire into the constitutionality of such a law. If the subject has been before it, as gentlemen assert, and the court has failed to pronounce such acts void for want of constitutional power to pass them, it may be fairly inferred that Congress has the power.

What is the use of deceiving ourselves or each other, or the people who confide in us, as to the powers of the Government? The good name of the United States is involved in this charge that the Government has for nearly a century and now continues to exercise powers not granted to it by the States and people in the Constitution. What do gentlemen mean by charging violations of the Constitution upon the men who made it? Did they not know its meaning? If so, did they knowingly and purposely break it from the beginning? It can not be true. The mind revolts at such perfidy as the suggestion implies. The contemporaneous interpretation, together with the enjoyment and exercise of the power for a hundred years with the acquiescence of the States and the courts, ought to settle the controversy by way of estoppel, if in no other way.

Mr. REAGAN. Allow me again. It seems to me that it is a strange assumption that an average duty of 8 per cent. for the purpose of obtaining revenue is a violation of that portion of the Constitution which authorizes the levying of duties to secure revenue.

Mr. CONVERSE. Yes, but Congress recited in the act that it levied those duties for protection.

Mr. SPRINGER. The reasoning was bad; the fact is the same.

Mr. CONVERSE. Not only has this power been exercised for a hundred years, but George Washington, Thomas Jefferson, James Madison, James Monroe, and Andrew Jackson, all of them, recommended to Congress the propriety of nourishing, fostering, and protecting the domestic industries of the United States. They were not guilty of bad reasoning in weighty matters affecting the powers of the Government and the welfare of the American people, and can not be accused of a desire to wrong any section of this Union or any class of their fellow-citizens.

Mr. HEWITT, of Alabama. If the gentleman will permit me, I will say that Madison said that for thirty years after the formation of the Government the power was never questioned in Congress to lay duties for the protection of American industries.

Mr. CONVERSE. Certainly; he did so say in the Cabell letter, if I remember aright.

Having given an extract from President Jackson, I desire now to give one from a message to Congress sent by each of the Presidents, Washington, Jefferson, Madison, and Monroe, in support of their belief in the constitutionality of such measures:

Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts in every way which shall appear eligible.—*Washington's speech to both Houses of Congress*, December 7, 1796.

The suspension of our foreign commerce produced by the injustice of the belligerent powers and the consequent losses and sacrifices of our citizens are subjects of just concern. The situation into which we have thus been forced has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions, become permanent.—*Jefferson's message*, November 8, 1808.

There is no subject which can enter with greater force into the deliberations of Congress than the consideration of the means to preserve and promote the manufactures which have sprung into existence and attained an unparalleled maturity throughout the United States during the period of the European wars. This source of national independence and wealth I anxiously recommend, therefore, to the prompt and constant guardianship of Congress.—*Madison's message*, February 18, 1815.

Our manufactures will likewise require the systematic and fostering care of the Government. Possessing as we do all the raw materials, the fruit of our own soil and industry, we ought not to depend in the degree we have done on the supplies from other countries. While we are thus dependent, the sudden event of war, unsought and unexpected, can not fail to plunge us into the most serious difficulties. It is important, too, that the capital which nourishes our manufactures should be domestic, and its influence in that case, instead of exhausting, as it may do in foreign hands, would be felt advantageously on agriculture and every other branch of industry. Equally important is it to provide at home a market for our raw materials, as by extending the competition it will enhance the price and protect the cultivator against the casualties incident to foreign markets.—*Monroe's inaugural*, March 14, 1817.

If the weight of other great names is needed in support of this constitutional authority they could be given.

Mr. SPRINGER. Will the gentleman permit me to ask him a question?

Mr. CONVERSE. Certainly.

Mr. SPRINGER. Do I understand the gentleman to claim that Congress has the power to prevent the shipment of wheat from the State of Ohio into the State of Pennsylvania under this power to regulate commerce among the States?

Mr. CONVERSE. I will ask the gentleman a counter-question.

Mr. SPRINGER. Answer mine first.

Mr. CONVERSE. I will answer it. The same clause of the Constitution also provides that Congress shall have power to regulate commerce with the Indian tribes. Does the gentleman deny that Congress has the power to prevent shipments to the Indians?

Mr. SPRINGER. Answer my question and then I will answer yours. I will say that it has not the right. Now answer my question.

Mr. CONVERSE. Congress does prohibit shipments to the Indian tribes, and even prevents trade, except what is carried on by licensed traders and agents of the United States. There might be an occasion when Congress would have the right to stop trade from a State.

Mr. SPRINGER. I say it has not the right.

Mr. CONVERSE. It may not have now, but there may be circumstances which would call for the exercise of such power. Congress exercised that power during the late rebellion, and the Southern States were never out of the Union. Congress now exercises that power, I believe, as to the shipment of diseased cattle. Commerce might be stopped in cases of epidemic cholera, yellow fever, and the like. But Congress could not tax articles of trade in passing from one State to another in the Union, because the Constitution forbids it. Exports from a State can not be taxed, and there is a community of privileges and immunity between the citizens of the several States guaranteed by that instrument.

Mr. HASKELL. Suppose that some State was infected with a contagious disease, could not Congress stop commerce with that State?

Mr. SPRINGER. No; they could not stop it. The gentleman is claiming a power which would authorize Congress to prevent the States of the West from competing with the State of Pennsylvania and the States of the East.

Mr. CONVERSE. All the nations of the earth have from the beginning exercised the power to regulate their own commerce with foreign nations, and to regulate it by imposing duties. Great Britain did it at the time of the formation of our Constitution, the country from which we derived our language and to a large extent our laws. The States of this Union after the close of the Revolutionary war exercised, each for itself, this power to regulate its own commerce by the imposition of duties. There was never any claim, or even pretense, that it was for any other purpose than to protect their domestic industries. When the Union was formed under the Constitution all that power which the States then had was conferred upon the General Government. There is no pretense that the States still enjoy that power.

At the time of the adoption of the Constitution all the States had on their statute-books laws regulating trade and imposing imposts upon foreign commodities. Upon the adoption of the Constitution those laws fell without even the form of a repeal. So unanimous was the opinion that the Constitution conferred this power upon the General Government that those State statutes dropped without repeal; no one ever supposed them to have any force after the adoption of the Constitution of the United States.

Mr. REAGAN. Was not the object of the provision of the Constitution to facilitate commerce among the States, not destroy it?

Mr. CONVERSE. I will ask my friend whether the regulation of commerce with foreign nations means only to facilitate? Does he put that meaning upon it?

Mr. REAGAN. No, sir.

Mr. CONVERSE. Why, then, does the gentleman put his question to me? We are discussing the power of Congress to protect home industries by taxing foreign, in regulating commerce. The power to regulate implies the power to discourage as well as the power to encourage. It is simply a question of power under the Constitution which all other nations enjoy in regulating commerce. If the gentleman acknowledges the authority to protect by discriminating duties, and claims that within the limits of revenue which can be imposed on commerce or within the limits of revenue needed for the economical administration of the Government and the payments of its debts, there is room for ample protection to domestic industry, I agree with him.

Mr. REAGAN. At this point I would like to inquire of the gentleman where he derives the power under the Constitution to take property from one private citizen and give it to another or from one class of the community and give it to another without compensation?

Mr. CONVERSE. There is no such thing in the Constitution; and it is not done. All these tariff laws are in their operation simply a discouragement upon the importation of foreign produce, leaving our own commercial, agricultural, manufacturing, and mining industries to find a common level of profit by competing among themselves and each other in a country where every person, citizen or foreigner, may choose his employment and change it as interest may dictate. When a ship-load of goods comes here from France or Germany or any other country, our laws say they shall not come in and find a market here unless a duty of 5 per cent., 10 per cent., or 30 per cent., as the case may be, is first paid into the Treasury. This power is exercised under the clause "to regulate commerce with foreign nations" in order to discourage the importation of goods. It is not to promote commerce. It operates to discourage commerce and to protect the domestic industries of the United States, enabling our own producers to undersell in the market those from abroad.

Nicaragua Canal.

SPEECH

OF

HON. M. C. GEORGE,

OF OREGON,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 5, 1883,

On the motion to suspend the rules and fix a day for the consideration of the bill in relation to the Nicaraguan Canal and the memorial of the Legislature of the State of Oregon relative thereto.

Mr. GEORGE said:

Mr. SPEAKER: Over three hundred years ago the eyes of the bold adventurers from the Old World first rested upon the waters of the Pacific. Soon thereafter, and long before the weary pilgrims landed at Plymouth, engineering parties from continental Europe were exploring the West and surveying for a ship-canal way through the narrow barrier between the two great oceans.

As long ago as in 1797 the governing mind of a Pitt entered with promptness into a scheme presented to the British Government for the emancipation of the Spanish colonies, which contained a stipulation for the opening of navigation between the Atlantic and Pacific oceans by the Isthmus of Panama or by Lake Nicaragua, and from Jefferson's time down the subject has attracted the attention of the statesmen of America.

To unite the waters of the East with those of the West, in the interest of the commerce of the world, has been the dream of centuries, and we of to-day hope to see it realized. To reduce the distance by abolishing the entire circumnavigation of the South American Continent is so manifestly important as to require, as has been stated, nothing more than a mere statement of the purpose to secure its approval. The capital of the moneyed centers of the world is to-day deeply interested, as is evidenced by the success thus far of a De Lesseps and an Eads. The subject opens up a wide field for investigation—questions on the practicability and cost of an interoceanic canal; the probable amount of tonnage and value of commerce that would seek the new avenue; its relative commercial importance as compared with the great Suez canal—questions involving changes in the channel or means of trade, nautical conditions affecting the courses of vessels, the power of our Government in extra-territorial jurisdiction over such a canal—patriotic considerations affecting the welfare and peace and future prosperity of our nation. All these and many others demand our attention.

The Legislature of the State which I have the honor to represent upon this floor passed at its recent session a concurrent resolution, already presented to this House, urging upon Congress the necessity for immediate and favorable action upon the act incorporating the Maritime Canal Company of Nicaragua, in order that the beneficent work may be promptly commenced and carried to a successful conclusion. I desire as a representative from the far-off Pacific to call the attention of this House to a few matters of special interest to our section of the country.

The wheat-growers of the Pacific are intensely interested in this subject. In the last half of 1881 three hundred and three ships of various nationalities sailed from the Pacific ports grain-laden for European ports. This magnificent fleet, carrying cargoes from 1,200 to 4,000 tons each, sailed a distance 13,710 miles around Cape Horn before reaching their destination. Nicaragua, for instance, would save 6,500 miles, or nearly one-half of the distance, a burden which our wheat-producers now have to bear. It will save two-thirds of the distance between San Francisco and New York.

Last year our grain for exportation amounted to over 1,500,000 tons, nearly as much as the grain exports of the entire United States in 1850. The European freights alone to and from San Francisco last year amounted to $16,069,789 and the foreign ocean freights for our whole coast to about $25,000,000; and it has been estimated that in the moving of a single wheat crop of California alone a canal would save over twelve millions of dollars to its wheat-producers, saying nothing of the present loss of interest on account of time in wheat transportation. The cost of transporting our grain is a vital one to our interests. Grave doubts arise as to the continuation of this now leading industry—doubts growing solely out of the cost of transportation. In addition to being compelled to transport our wheat and flour almost half way around the globe to our only market, England, to the only consumers upon whom we can depend, we are brought into a direct competition with the Empire of India, now rapidly being penetrated by railroads built under the control of the British Government, and with opening wheat-fields of the territory to the North and from the Red River country.

The port of Bombay this last year exported 680,000 tons, more than half as much as we furnished England, and it is calculated that their surplus this year will equal 1,000,000 tons. At this rapid increase the home food supply of England will soon prove ample, unless by cheapening our transportation we can successfully compete. The difference in the cost of a single cent per bushel in laying down our grain upon the docks of Queenstown or Liverpool may determine whether the food supply shall come from us or be drawn from competing fields in Hungary or Russia or India or Manitoba. A trouble long and sorely felt by our wheat-producers is a lack of tonnage to carry our exports to market.

The distance is so great that the time consumed in calling for ships in the long voyage to our ports and return to a port of discharge, consuming the greater portion of a year, operates as a heavy burden upon our productions, and vessels that do reach us charge enormous rates because of competition, amounting to millions of excess upon a single crop. In the last two years the charges have substantially consumed the profits. With a canal available, the distance and time decreased three-fourths, we could easily telegraph or cable for tonnage, to our great relief.

In a few remarks offered in this House on the 4th of April of last year I attempted to give some faint idea of the wonderful development yet in store for the Pacific coast north of California. I there quoted the estimate that the wheat products of that northwest section would, ere many years, load 1,500 vessels per year, and this from a country promising many, very many, other great industries and resources. In no country are they so varied as in Oregon and Washington and Idaho. With all its other resources it is most emphatically a food-producing region; its low lands for grasses and vegetables; its prairies for grains of all kinds; its uplands for fruits of almost every variety; its rolling bunch-grass plains for beef and mutton; its rivers and bays for bountiful supplies of finest salmon and fish of all kinds—food for the consumers of the world.

The transcontinental lines of railroad will soon open our door to the influx of a mighty immigration. Our production will most rapidly augment in quantity, and cheap transportation is an imperative necessity. We suffer through its want and are retarded to-day in our onward march of industrial and commercial development, and the interoceanic canal is believed to be the available project which holds out the prospect of permanent relief. The day the canal is opened the farmer will find his acres enhanced in value. The merchant will be many days nearer the commercial marts of the Atlantic and of Europe; and when the time arrives that we can land the varied products of our soil in Baltimore and Philadelphia and New York and Boston in eighteen days and Liverpool and Queenstown and Glasgow and Hamburg and Bremen in thirty days without breaking bulk and at reasonable rates, there will be witnessed an impetus given our growth unequaled in the history of our country.

The millions of consumers in Europe and you people of the Atlantic seaboard need what we produce; but the expanse of a continent and the dangers around the "Cape of Storms" intervenes and bars the exchange. Your ship-yards on the Atlantic need the splendid spars and timber from my State and from Puget Sound and Alaska. Your manufactories want our wool and other products in exchange for your materials. To you, my friends of the valley of the Mississippi—a valley so wonderfully productive; an area greater than the valleys of all the rivers emptying from Europe into the Atlantic and the Mediterranean, with many of those emptying into the Indian Ocean, and where, ac-

cording to Carlisle, enough corn can be raised to feed ten times the present population of the world; a valley with its marvelous net-work of rivers, inland-water transportation of continuous navigation of over 20,000 miles, ramifying a territory larger than the combined areas of Germany, Austria, France, Spain, Italy, Great Britain, and the Netherlands, capable of supporting, if peopled as densely as Holland, at least 400,000,000 souls—remember that your natural outlet is the Gulf of Mexico, and mark the prospect when we can have cheap and rapid interchange of your varied products with those of the Pacific. It would be as it were the drawing together of the mouth of the Columbia of the Northwest and the Golden Gate of California with the mouth of the Mississippi—the father of waters. It will bind more closely in bonds of common nationality the West with the East. Pause but a moment and reflect upon the fact that our Pacific exports last year amounted to 1,750,000 tons. To decrease that distance traveled must necessarily develop our coastwise commerce and operate to vastly increase our mercantile marine.

Not only will the trade and commerce of the valley of the Mississippi with other sections of our common country be vastly stimulated, but the prospective growth with other countries will be very great. Take the cotton-goods trade with China as an illustration. China has her 400,000,000 of people to be clothed. They are very partial to cotton goods. No country can compete with the Southern States in the yield or the quality of cotton textile fiber, and we are rapidly developing in its manufacture. Already we can successfully compete with England in the cotton-goods trade with China, and as our nation becomes older the inevitable tendency will be toward cheapness in manufactures, and with our superior facilities for cotton production and skill and energy in its manufacture; with our geographical proximity to this great Chinese market, and with the present distance decreased by the construction of this canal, America will permanently control the trade in cotton goods.

The opening of direct water communication from Pacific ports to New York will, at least in slow or heavy freight, operate as a powerful competitor and regulator of transcontinental railroads; more especially, however, in through freights, as the mission of railroads is rather as carriers between the coast and the interior; yet in the general bearing it will have on the trade and commerce of the country, in the improvement of the lands of the West, when European emigration reaches our western shores in thirty days at a cost of only $35 per head, and in the enhancement of trade between America and the Orient, it will demonstrate that the usefulness of these transcontinental lines will be largely supplemented and their interests greatly promoted. Since the completion of these roads under the operation of the laws of trade, the teas and silks of China and Japan have sought land transportation from San Francisco east.

The general trade with these countries is immense and must rapidly augment; and with direct lines of steamships from New York and Baltimore and Boston and Philadelphia and New Orleans through the proposed canal, and touching at Acapulco and Mazatlan, San Diego, San Francisco, the Columbia River, and Puget Sound, connecting with proposed Mexican railroad lines and with the Southern, Central, and the Northern Pacific Railroads, and thence to Yokohama, Shanghai, and Hong Kong, commerce and trade will spring up as if by magic, with all their great and beneficial results. This work becomes a greater necessity since the completion of the Suez Canal. That new transit-way, aside from its advantage to European commerce, actually shortens the distance between New York and Hong Kong and to a certain extent diverts trade over that new route; and this interoceanic canal will still more shorten the distance and cause the deflected trade and commerce once more to return.

The existing tonnage likely to seek this new avenue annually is variously estimated. Mr. Nimmo, Statistician of the Treasury Department, estimated it some time since as 1,625,000 tons. It is claimed on good authority that his data corrected would give 3,706,000 tons. Captain L. S. Phelps's estimate is 3,500,000 tons; the committee on statistics of the Paris canal congress, 3,762,000; Admiral Davis, in response to a Senate resolution, estimated it at 4,000,000 tons; the San Francisco Board of Trade at 5,000,000; Admiral Ammen at 5,000,000 tons, and De Lesseps at 6,000,000. But all statistics are limited to facts as they now exist. Grand as they are in the present commercial and political aspect, yet when we turn to contemplate the possibilities of the future, with its sure progress and development, with distance largely annihilated, with hazards and dangers of voyages removed, who can foresee or who can foretell the grandeur of the results?

The authority under the Constitution to carry out such an undertaking is ample. Congress has power "to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the defense and general welfare of the United States;" "to regulate commerce with foreign nations and among the several States;" and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof;" and these, coupled with the treaty-making power vested in the President and Senate to determine the relation between the citizens of our country with those of foreign nations, construed as they have been by a long line of judicial decisions affirming the constitutionality of all legitimate and incidental means necessary to carrying into execution these given powers as inherent attributes of sovereign authority with the acquiescence of the people and all branches of our Government for years, settles this question in my mind beyond controversy.

Ten surveys and examinations of proposed routes across the Isthmus under the authority of our Government have been made during the past quarter of a century. The Nicaraguan route has been carefully examined and the estimated cost with certain contingencies may approach a maximum sum of $75,000,000. It will be through a country of great resources and abounding in nearly all the materials required for the construction. It will be several hundreds of miles shorter in route for American coast commerce than the contemplated canal at Panama.

Far be it, however, from my intention to disparage in the least the energy or ability displayed by the great originators of that canal or the project for ship transit on rail. All success to them if they can be carried through. I for one must say, however, that I prefer more of American and less of French control of the canal at Panama.

While manifestly it never was the intention of the Monroe doctrine to interfere with any purely commercial enterprise by European money on this continent, yet we of the Pacific coast may well apprehend the effect of a concentration of French capital at Panama protected by the French Government landing occasionally as emergencies require, and afterward easily and naturally transferred into a permanent post for French soldiers in case of a war with that country. The great gateway for ships for defense for our coast would be liable to be closed against us and open to those who would injure us; and there are far too many grave political and commercial matters involved to permit the contemplated establishment of foreign influence and power at that point to be viewed with disinterested serenity.

England and France and Germany are greatly interested, and their eyes are now upon the passage-way of the West. It would bring them within easy commercial relations with the western coast of South America, the eastern coast of Australia and New Zealand, China and Japan, the Hawaiian Islands and British Columbia, and the Pacific coast of North and Central America. It would relieve their out-bound voyages of head winds, giving them instead a shorter distance with favorable winds and fair weather, and will cheapen and make less fluctuating the price of breadstuffs—an incalculable advantage for the masses of such a manufacturing and commercial country as England.

England, with her centralized government, quick to conceive and prompt and ready to execute, may, ere the masses in our Republic become united and aroused to action, grasp and hold a power that should belong to us.

This great Government has given of its treasure and of its broad domain that railroads might span this continent. Can it not, will it not, give, in the interest of competition, in the interest of commerce, in aid of a great, deep water-way, with its vast competitive influence and regulating power? This wealthy and powerful country should build and own and control this national highway and make it free to American commerce; for when we take into account the physical circumstances of the globe and the present commerce likely to seek this avenue of trade, all must admit that the successful completion of a canal from the Pacific to the Atlantic on the highway of nations would be the grandest occurrence in the enterprise of man. As was truly claimed over two centuries ago by the founder of the Bank of England, the passage-way through Central America will be the gateway of the universe, and its governors will give law to the Atlantic and Pacific Oceans. Napoleon Bonaparte, years ago, when contemplating the situation of our country midway between Europe and Asia, said that the day would surely come when no nation would dare to fire a gun without the permission of the United States.

Of course there is opposition to this movement. Such has ever been and probably ever will be the case in all great and important national undertakings. English opposition to the Suez Canal is to-day repeating itself in American opposition to the Nicaragua Canal. As England subsequently obtained financial control of that gateway of the East, so history will repeat itself in the ultimate extension of American power over this gateway of the West. Possibly so long as the world is at peace the financial interests of the company may protect themselves; but when war becomes imminent and American interests are at stake Nicaragua will no more control the canal than did Egypt the one at Suez.

No nation has been so vitally interested in Suez as England, and no nation has such important interests at stake at Nicaragua as America.

English trade and commerce has ever been aggressive; so must be ours. The foundations for British rule in India over people of great advancement in civilization and of an ancient and wealthy government was laid in what Macaulay termed "a purely trading corporation," occupying originally but a trifling area, until under combined commercial aggression, with the arts of diplomacy protected by English power, it expanded until a vast empire was established. While England by force has asserted her control over Suez, America will, it is to be hoped, provide for the same at Nicaragua by agreement. This interoceanic highway should be under our exclusive control and protection. Let us interest ourselves, let us invest of our capital, let us guarantee of our strength, and let all the world learn that in this vast undertaking America stands as the power that backs the enterprise.

Removal of Actions by Corporations from State to Federal Courts.

SPEECH

OF

HON. WALPOLE G. COLERICK,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 12, 1883,

On the bill (H. R. 3123) to amend sections 1, 2, 3, and 10 of an act entitled "An act to determine the jurisdiction of the circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes," approved March 3, 1875.

Mr. COLERICK said:

Mr. SPEAKER: At the first session of this Congress, and at the earliest opportunity, I introduced a bill relating to the removal of actions to the Federal courts, the purpose of which was to destroy the power now possessed by corporations, under existing statutes, to remove to those courts actions instituted by or against them in the courts of those States wherein they transact business and exercise corporate powers. The bill so presented by me is as follows:

A bill prohibiting the circuit courts of the United States from taking cognizance of civil actions between a corporation created by the laws of any State and a citizen of any State in which such corporation transacts business, and forbidding the removal of actions between such parties to said courts from the State courts.

Be it enacted, &c., That the circuit courts of the United States shall not take original cognizance of any suit of a civil nature, either at common law or in equity, between a corporation created or organized by or under the laws of any State and a citizen of any State in which such corporation, at the time the cause of action accrued, may have been carrying on any business authorized by the law creating it, except in like cases in which said courts are authorized to take original cognizance of suits between citizens of the same State; nor shall any such suit between such a corporation and a citizen of a State in which it may be doing business be removed to any circuit court of the United States, except in like cases in which such removal is authorized in suits between citizens of the same State.

SEC. 2. That all acts and parts of acts in conflict herewith are hereby repealed.

The subject-matter of the bill is substantially embraced in one of the provisions of the bill now under consideration.

It is manifest that the bill reported by the committee has been carefully prepared and has received that thoughtful consideration which its importance required. It is so wise, just, and non-partisan in its provisions that it ought to receive our cordial approval and zealous support.

The time allotted to me for discussion will be confined to that provision in the bill which relates to the removal of actions by corporations from State to Federal courts. It provides:

That the circuit courts of the United States shall not take original cognizance of any suit of a civil nature, either at common law or in equity, between a corporation created or organized by or under the laws of any State and a citizen of any State in which such corporation at the time the cause of action accrued may have been carrying on any business authorized by the law creating it, except in cases arising under the patent or copyright laws, and in like cases in which said courts are authorized by this act to take original cognizance of suits between citizens of the same State; nor shall any such suit between such a corporation and a citizen or citizens of a State in which it may be doing business be removed to any circuit court of the United States, except in like cases in which such removal is authorized by the foregoing provision in suits between citizens of the same State.

Cases embraced within the exceptions named will rarely occur, as the only instance in which an action between citizens of the same State can be removed to the Federal court is, where a controversy arises between such citizens claiming lands under grants of different States such an action may be transferred to the Federal court, and the only other exception named in the bill are cases arising under the patent and copyright laws. Under existing statutes a corporation created by the laws of a State other than that in which it is sued may, when so sued in a court of the State, transfer the action so instituted, if it involves the sum of $500 or more, to the Federal court, by merely showing that the corporation was created or organized under and by virtue of the laws of some other State. This power, by reason of the manner in which it has been and may be exercised, creates a wrong which should no longer be authorized, sanctioned, or perpetuated by law.

Why, sir, in nearly every city, town, and hamlet in this vast country innumerable foreign railroad, express, telegraph, and other corporations have offices in which they transact the business in which they are engaged, and by and through their authorized agents make contracts and otherwise exercise their corporate powers in the same manner and to the same extent as they do in the States where they were created, and when sued in the State courts upon contracts made in those States, or for torts committed or other liabilities incurred therein by them, they cause these actions when the amount involved is within the jurisdiction of the Federal courts to be transferred to those tribunals. Why? Is it because they are apprehensive that otherwise injustice will be done to them? Oh, no; it is to prevent justice from being done.

We all know that many meritorious actions instituted in the judicial tribunals of the State against foreign corporations, so called, are abandoned when certified to the Federal courts, by reason of the inability of the plaintiffs to bear and pay the increased expenses occasioned thereby, and these corporations knowing this fact avail themselves of this power so as to discourage litigation against them and thereby prevent and defeat the collection of just and honest claims or compel their adjustment upon such terms as they may dictate. In this manner these opulent and powerful corporations, in the exercise of this power, may and do by and under the forms and sanction of law unjustly oppress the poor, who by reason of their poverty are unable to contend in those forums with their formidable adversaries and are compelled to abandon or sacrifice their just and meritorious claims.

Corporations for the purpose of suing and being sued should be treated and considered as citizens of each and every State in which they have offices and transact the business in which they are engaged. They are fully protected in the complete enjoyment of all their rights and powers by the different States the same as corporations of their own creation, and if they dwell in the State and there exercise the privileges of citizenship, as they are held to be citizens, they should be compelled to respond to the process of the courts of the State and submit to their jurisdiction. It looks like a perversion of language to construe the word "citizen" as used in the statute to embrace a corporation. Webster defines the word citizen as "an inhabitant of a city, a freeman." To dignify an inanimate, heartless, and soulless corporation as a citizen and clothe it with the attributes of citizenship is the purest fiction and most barren ideality, and yet by the decisions of our courts they now enjoy that exalted title and occupy that fictitious and mythical character. Judge Dillon, in his work on the "Removal of Causes," says that—

Corporations created by the States are within all the removal acts under consideration, and after much uncertainty and fluctuation of opinion in the Supreme Court of the United States the settled rule now is that a corporation for all purposes of Federal jurisdiction is conclusively considered as if it were a citizen of the State which created it.

The power now possessed by these corporations to remove their actions to the Federal courts was conferred by Congress, and the same body that gave them this power can take it from them. The power was probably granted for good and salutary purposes; but it has been so shamefully abused that it now becomes a necessity to deprive them of it. It has been truthfully said that the best mode of securing the repeal of a bad law is to enforce it. The wisdom of this assertion has been aptly and forcibly illustrated in the enforcement of this statute, and furnishes the strongest argument for its repeal.

The Federal courts, in the acquisition of additional jurisdiction, have made within a brief space of time rapid and gigantic strides, until they now absorb to an alarming extent the litigation of the country. The people are justly complaining of the extensive jurisdiction given to and exercised by these courts in civil actions, and bitterly protest against being dragged away from their farms, work-shops, and places of business to attend in the Federal courts, which are held at great distances from their homes and among strangers, actions merely involving the collection of claims, which can be tried as impartially and more promptly in their county courts, thereby avoiding the great and unnecessary expense now imposed upon them in prosecuting and defending actions in the Federal courts. The expenses incurred by parties in traveling with their witnesses to and from these courts, and for hotel bills incurred while waiting for and attending the trial of such actions, and for the fees of additional attorneys rendered necessary by the removal of their causes to those courts, far exceeds in many cases the amount involved, and often, by reason of the inability of the parties to pay these extraordinary expenses, they are compelled when suing to dismiss their actions or submit to unreasonable and unjust compromises of them, and when sued they are from like causes compelled to pay under protest unjust claims, against the collection of which complete defenses exist. These are burdens and hardships which the law ought not to impose.

To illustrate the manner in which the law authorizing the removal of such actions has been abused I will state a case within my own knowledge. A short time ago a poor man whose home had been destroyed by fire instituted an action against an insurance company upon a policy of insurance that had been issued to him by the company and which fully covered the value of the property insured, which was about $800. No controversy existed as to the amount of his damages, yet the company applied to the court for the removal of the action to the Federal court, because it was a citizen of another State and the amount involved exceeded $500. This man, by reason of his poverty, was compelled either to abandon his case for the want of means to prosecute it or reduce his demand to a sum less than $500, so as to defeat the jurisdiction of the Federal court and thereby secure a trial of his case at home where his witnesses resided. He accordingly reduced his claim, and the company then settled the case, thereby compelling this poor man to accept $300 less than was justly due him; and in this manner the statute is constantly abused and rendered an instrument for the perpetration of the grossest wrongs.

Corporations of every kind, when occupying the fictitious character of citizens of other states, when sued in the State courts, take advantage of this statute for the purpose to which I have referred, and cases

equally unjust as the one to which I have specially alluded are of daily occurrence. Why should such privileges be granted to them? Why should they be permitted by the law to defeat meritorious actions at their pleasure, in defiance of justice? We should by our laws protect, when justice requires it, the weak against the strong, the poor against the wealthy; otherwise they in their helplessness will always suffer in such unequal contests. Strip these corporations of the unjust power now enjoyed by them under this statute and you will place the contending parties on terms of greater equality, although the advantages of wealth and power over poverty and obscurity will still exist.

Mr. Speaker, on a former occasion in this House, when a like bill was under consideration, the distinguished gentleman from Massachusetts [Mr. ROBINSON] deemed it proper to criticise with unmerited severity an act of the Legislature of the State of Indiana imposing certain restrictions upon foreign corporations as conditions precedent to the lawful exercise by them of their corporate powers in that State by requiring them to consent that all actions instituted by and against them should be tried and determined in the courts of the State. The passage of this act simply evinced and expressed the popular sentiment of the people of Indiana on the question of the removal of actions by corporations from the State to the Federal courts. It did not emanate from any spirit of hostility against these corporations, as they have always been amply and fully protected by the laws of that State. It was merely designed as a protective measure against the further infliction by corporations of the wrongs to which I have alluded and of which the people have been the victims.

Universal complaint was loudly heard all over the State against the system so generally adopted and persistently pursued by these corporations in removing their actions to the Federal courts for the sole purpose of avoiding and defeating the collection of meritorious claims. This power was so extensively and shamefully abused as to outrage public sentiment. It had become an intolerable wrong. The people anxiously and patiently waited for Congress to redress this grievance until longer forbearance ceased to be a virtue, and then secured for their own protection the passage of the act. Waiving any question that may arise as to its constitutionality, I heartily indorse its spirit and purpose in operating as a salutary restraint on these corporations from exercising a power which they have heretofore so flagrantly abused.

It is urged as an objection to this bill that it makes a discrimination between citizens in this, that it permits an individual possessing all the attributes of citizenship to remove his action to the Federal courts, and denies that privilege to the artificial, fictitious, and mythical citizen popularly and properly known as a corporation. It is proper that no discrimination should be made between citizens on account of race, color, creed, or present or previous condition in life, and that every right and privilege granted or guaranteed to them by the Constitution and the laws of the land shall be sacredly respected, fully protected, and rigidly enforced. Justice and law, both human and divine, require this.

If we accept the modern construction of the word citizen, as judicially defined, and embrace within its definition corporations and treat them as citizens, still I submit that no discrimination is made against them. We do not deprive or divest them of their new-born title of citizen, or abridge any of their rights or privileges of citizenship. We merely make them, for the purposes of suing or being sued, citizens of every State in which they reside and transact business, in lieu of limiting, as now, their recognition as citizens for those purposes to the States in which they were created. An individual can have but one place of residence, and if he leaves that residence on business or for pleasure, without any intention of changing or abandoning it, and while thus abroad is sued in one of the courts of a State in which he may be temporarily staying by a citizen of that State, he may transfer his cause to the Federal court, if the amount involved is within its jurisdiction, by showing that he resides in another State.

A corporation that dwells in many States and there constantly exercises every privilege of citizenship that it is capable of exercising, when sued in the courts of a State in which it so dwells and enjoys these privileges may even in an action upon a contract which it made in that State, or for a tort which it committed therein, transfer such action to the Federal court by showing that it is a citizen of another State by birth, although a resident of the State where sued. Here we have two rules by which citizenship is determined—one to be applied to the individual and the other to the corporation. As to the individual citizenship is determined by the place of his residence; and as to the corporation by the place of its birth. This discrimination is removed by this bill, which creates as the sole test of citizenship the place of residence and not birth of the party applying to have the action removed to the Federal court.

But, sir, if it is true that this provision in the bill is subject to the criticism that it creates a discrimination between citizens in the manner pointed out by those who oppose its passage, then the question arises, has Congress the power to make the discrimination? The power of creating and defining the jurisdiction of the Federal courts, other than the Supreme Court of the United States, is solely vested in Congress. While Congress can not extend the limits of their jurisdiction beyond those named in the Constitution, it may contract or diminish their jurisdiction. This has been often decided by the Supreme Court of the United States. In one of the cases so decided, Carey *vs.* Curtis, 3 Howard R., 245, the court said:

> Secondly, in the doctrine so often ruled in this court, that the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good. To deny this position would be to elevate the judicial over the legislative branch of the Government and to give to the former powers limited by its own discretion merely. It follows, then, that the courts created by statute must look to the statute as the warrant for their authority; certainly they can not go beyond the statute and assert an authority with which they may not be invested by it, or which may be clearly denied to them. This argument is in no wise impaired by admitting that the judicial power shall extend to all cases arising under the Constitution and laws of the United States. Perfectly consistent with such an admission is the truth that the organization of the judicial power, the definition and distribution of the subjects of jurisdiction in the Federal tribunals, and the modes of their action and authority have been, and of right must be, the work of the Legislature. The existence of the judicial act itself, with its several supplements, furnishes proof unanswerable on this point. The courts of the United States are all limited in their nature and constitution, and have not the powers inherent in courts existing by prescription or by the common law.

That we have the power to divest or withhold from the Federal courts the jurisdiction now possessed by them to hear and determine by removal actions instituted by or against corporations in the judicial tribunals of the States, and which are now subject to removal to the Federal courts, is clearly and conclusively established by these authorities. Shall we preserve this jurisdiction in the interest of corporations, or destroy it in the interest of the people?

Sir, this bill is so eminently just as to command our support. We proudly boast of the matchless form of our government, and the justness and perfection of our laws, and that our courts are open for the prompt and certain redress of all grievances, and that no individual, however humble or obscure, can complain of a single violation of his rights, even committed by the highest dignitary in the land, that may not be vindicated by the majesty and supremacy of the law. But how vain is this boast and false this assertion when we allow this law, rendered odious to the people by reason of the judicial construction which it has received and the manner in which it has been abused by rich and powerful corporations against their poor and humble creditors, resulting in many cases in a denial of justice to remain on our statute-book. By repealing it, as proposed by this bill, we will perform a duty which we owe to the people, and for which they will hold us in grateful remembrance.

The Tariff.

SPEECH
OF
HON. THOMAS M. BAYNE,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 22, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. BAYNE said:

Mr. CHAIRMAN: The fiscal system of the United States, with respect to its operation and effects, is an entirety. It is composed of two subsystems, the tariff system and the finance system. Change the one and you change the other. Strike down the one and you strike down the other. Uphold the one and you uphold the other.

FINANCE SYSTEM.

The composition of the finance system is the laws relating to the national banks, to the Treasury notes or greenbacks, and to the gold and silver coinage. The product of these laws, as stated by the Comptroller of the Currency (Mr. Knox), was on November 1, 1882:

Treasury notes outstanding	$346,681,016
National-bank notes outstanding	362,727,747
Gold in the Treasury less certificates held by the banks	148,435,473
Standard silver dollars in the Treasury	92,414,977
Subsidiary silver coin and silver bullion in the Treasury	30,761,985
Coin in the national banks	102,362,063
Coin in State and savings banks	17,892,500
Estimated amount of coin held by the people	387,562,793
Total	1,488,838,554

It is apparent that we have nearly $30 per capita within the United States. But of this vast aggregate $779,449,791 are gold and silver coin, $567,105,456 being gold and $210,324,335 being silver. It never happened in the history of our country before that we had so large a proportion of gold and silver coin. It never happened until within the last two years that our coin exceeded our paper circulation.

What brought about this condition of things?

TARIFF SYSTEM.

The reply of any fair-minded student of our history will be, "It was the protective tariff under which we have been living for the last twenty-two years that did it."

How? In this way: It fostered and protected our industries, and thus enabled us to produce and manufacture the supplies for our wants and keep our money among ourselves. It curtailed and limited importations, and thus prevented foreign countries from absorbing our gold and silver. During the last ten years we have sold to foreign countries $1,205,904,761 more than we have bought from them. If we had bought $1,200,000,000 more than we sold to them, where would the gold and silver we now have be?

MONEY STIMULATES INDUSTRY.

What effect has the presence of this large amount of money? It has stimulated all kinds of industry. The agricultural, manufacturing, mining, and commercial industries have respectively been impelled into the greatest activity by it. Railroads have been constructed, telegraph lines extended, mines have been opened, mills and factories have been busy, lands have been tilled, and prosperity has abounded on all hands. Better dwelling houses, better schools, better churches, better newspapers, better books have followed as the night the day. For it is a sociological law that material prosperity must forerun the higher developments of the sciences and arts.

THE CONSUMER.

During the progress of the debate on this bill much rhetoric has been expended on behalf of the consumer. Who is the consumer? Everybody is a consumer. The free-trade Representative of an agricultural district has kept before our eyes the hardships of the farmer under the protective policy; while the free-trade Representative of a city district has ever in mind the sufferings of the toiling millions. Now, instead of asking a free-trade politician to decide between protection and free-trade, I propose to submit the matter to the farmer himself, and I will agree beforehand to abide by his decision.

Now, the farmer will admit that an abundance of good money in the country is a good thing. I have shown that we are indebted to the protective policy for that boon. He will admit, too, that as the volume of money increases the prices of things will rise. Well, now, I ask the farmer how much he paid for his wagon, his plow, his trace-chains, the woolen goods and cotton goods he bought for himself and his family twenty-five years ago? And, Mr. Farmer, how much do you pay for these things now? I venture to say that you buy them for one-half of what you had to pay for them twenty-five or more years ago. Now, how much more do you get for your cattle, your horses, your hogs, your hay, your wheat, your oats, your corn, your potatoes, your butter, and your cheese than you did twenty-five years ago? I venture to say that you get double now what you got at that time.

Now, is not it a little singular that the free-trade Representative should feel so badly about this? Take care of him at the next election.

But the city free-trade Representative thinks his constituents are oppressed by the protective policy. Now let us see. The master carpenter is a large consumer. I will make the carpenter a witness, and not a free-trade politician. Now, Mr. Carpenter, how much did you pay for your nails, your glass, your saws, and the various implements you use, your hinges, your locks, your gas-fixtures, &c., twenty-five years ago, and how much do you pay for them now; and how much more do your journeymen get to-day than they did before the protective tariff of 1861?

So with the blacksmith. Twenty-five years ago the blacksmith would put a new set of shoes on your horse for less than $1; now he will charge you in most places $2; yet he gets the iron that makes the shoes and nails for far less money now.

It runs in this way through the whole line of avocations. No man is excepted from the benefits of protection. The capitalists of the United States could in all probability carry on some businesses with more or less profit under free trade. But it would be in special industries, and it would involve the reduction of the wages of labor to the standard obtaining among their rivals, who under free trade would be the cheapest producing nations.

No American who understands the bearings and consequences of free trade can favor it and at the same time sympathize with the workingmen of his own country. There are advocates of free trade or low duties who doubtless believe that they are right; they are not right. Such men ignore the experience of every highly civilized country of the world. They ignore the lesson taught by our own vicissitudes. Haunted by a theory, they will not consider figures and facts. With these free-trade *doctrinaires* it is not what has been or what is, but what would have been or will be. They give play to their imaginations instead of their reasoning faculties, and prefer the phantoms they create to the realities that everywhere environ them. At times they seem to think that there is something in the principle of protection. When sugar or rice or barytes or jute is under consideration they look askant for the nonce at their *bête noire*, but the moment iron or steel or cotton goods or woolen goods are reached their solicitude for their pet theory asserts itself with a vigor and a zeal worthy a good cause.

There will be an election in 1884. A President and Vice-President and Representatives to the Forty-ninth Congress will be chosen by the American people. Let me say to those who are so anxious to strike down our protective tariff that that election will put an effectual quietus on their design, if I am not fearfully mistaken as to the sentiments and purposes of a large majority of the voters of the country. The workingmen are the voters who make Presidents and Congressmen, and they will show you that they know their rights and interest, and knowing them they will certainly maintain them.

The Tariff.

SPEECH

OF

HON. JOHN P. JONES,

OF NEVADA,

IN THE SENATE OF THE UNITED STATES,

Monday, February 19, 1883,

On the bill (H. R. 5538) to reduce internal-revenue taxation.

Mr. JONES, of Nevada, said:

Mr. PRESIDENT: There are not produced within the limits of the State which I have the honor in part to represent upon this floor more than one or two articles in the long line of protected articles in the schedules of this tariff. Her people may be said not to be the direct beneficiaries of this tariff; but indirectly they are vastly interested in maintaining the protective policy of this country. They believe that in the direction of protection will be found the prosperity, progress, and civilization of the country. I shall therefore not direct my remarks to any particular amendment, to the increase or the lowering of the duty on any particular article, but with the indulgence of the Senate I will submit a few reflections upon the general reasons which, in my judgment, underlie and justify the policy of protection.

During the discussions of economic questions which followed the publication of Adam Smith's Wealth of Nations, those who sustained the general theory of free trade almost universally admitted that there were two exceptional cases in which sound policy dictated a tariff discrimination in favor of home production. The first is that of articles essential to national safety and independence, and for the supply of which it might be hazardous to rely upon foreign imports. The second is that of articles the production of which could only be started under the stimulus of protective duties, but in respect to which there was good ground for believing that when sufficient capital should be invested and skill acquired the articles could be as well and as cheaply produced at home as abroad. Protection is doubtless a sound policy in both these cases, but the statement of them does not cover all the circumstances and conditions in which it is wise. The rule for granting it is in my opinion a much broader one.

Protection to any extent necessary to effect the object ought to be given to every industry to which this country has such natural adaptation that the product will cost no more labor—that is to say, no greater expenditure of mental and physical force—here than elsewhere; and provided always that there is no obstruction, legal or otherwise, to a full and free competition among home producers. In the case thus stated I should look only to an equality in the actual amount of labor required and not to the money price or wages paid to the laborer, and I should be in no wise deterred from giving protection from the probability that the product could be permanently imported at a lower money price.

No industry should be protected which is monopolized under a patent, or where the raw material can be monopolized by reason of its scarceness, or when it is not open to the fullest and freest competition. But I would give protection to all industries where the situation is such that capital and labor can be freely engaged in them over large sections of the country, which is true of iron, the raw materials of which are widely diffused, and also of cotton and woolen cloth, which can be advantageously spun and woven in all our latitudes and climates and in every one of our States and Territories.

Protection should never be extended to any industry in which other countries have such an invincible superiority in climate or other natural advantage that we can never hope to achieve equal results with equal amounts of labor.

No one would propose, for example, to stimulate by tariff duties the growth of coffee or bananas in this country, or a hot-house production of spices or india-rubber trees. In such and in similar cases the best policy is to appropriate to our own use the special advantages of other regions, and we effectually do that by free importation; because, in fact, the producers are only remunerated for their labor, and but scantily at that, while we participate equally with them in the bounties of nature which they enjoy. We recover in that way a part of the loss which we have sustained in selling to foreign countries the wheat and many other agricultural staples raised upon our virgin lands at prices

which simply paid for the labor of producing them, and left nothing to compensate for the exhaustion of the soil.

This country, with all its circumstances and conditions, natural and acquired, its land, climate, waters, forests, and mines, and the genius, education, and aspirations of its people, its government, social order, and accumulations of capital, constitute the possession and patrimony of its citizens, whether born here or admitted by our free consent, it being our undoubted right to exclude whom we will, as it is clearly our highest duty to exclude all men and all races whose common citizenship with us would be injurious to our own interests. This country has been reclaimed from the wilderness and the savage, defended against foreign enemies, and endowed with a free government and with all the appliances of a high civilization, by ourselves and by our ancestors; and not for others, but only for ourselves, for our posterity, and for those whom we may for our own advantage admit into a participation in our inheritance. Such as it is, with all its incidents and surroundings, it is a commonwealth in which the rights of persons and of property, however sacred, are not absolute and sovereign, but are held in a certain degree of subjection to or of relation to the rights and interests of all.

Even the fee-simple of lands, the highest of all forms of property, is not an unrestricted dominion, but may be controlled and appropriated to public uses by what the lawyers call "the right of eminent domain," which resides always in the sovereign power, and which may in extreme cases be exerted in new and unexpected directions, as has been recently illustrated in the Irish land laws.

Capital of every kind, and land, including under that term all real-estate rights, such as water-powers and mines, are held subject not merely to the taxing power which determines without appeal how much of their property shall be appropriated to the public use, but to a proper relation to those whose only possession is their labor. The persons in this latter class are members of that community which we call the nation, and have rights in it which aliens can not claim.

Their valor in war has helped to sustain the country against all enemies in times past and will serve as a bulwark of defense upon which we can rely in times to come. And we know well that without a certain degree of material well-being they can not possess the educated intelligence and civic virtues which will fit them to do their part in maintaining good social order and good political government.

The laborers and artisans of this country have that rightful interest in it which entitles them to the ratio of wages resulting from all the advantages, natural and acquired, which it possesses, among which are the freedom of its institutions, the fruitfulness of its soil, the salubrity of its climate, its natural productions of all kinds, its facilities of intercommunication, accumulations of capital, and proportion of population to capital and to areas of arable land. To some of these they have mainly contributed and to all they are the rightful co-heirs with every other class. They ought not to have their wages lowered to the standard of less favored countries by the free importation of the same kind of products which cost no more labor at home than abroad. To permit this to be done inflicts an injury and an injustice upon labor, the corner-stone upon which rest our freedom and prosperity.

The free-traders hope to be able to receive the same income from their lands and investments and the same prices for their products which they now receive under the policy of protection, and at the same time enjoy the advantages of free trade in making their purchases. Their hope is not only a selfish but a delusive one. Once drive the vast army of people now engaged in manufacturing into agricultural pursuits, and change them from consumers into producers of raw materials, by breaking down the protective system, foreign markets would soon be glutted with raw materials and their prices would fall, while the prices of manufactures would rise and the producers of raw material would discover too late that the exchange power of their products would be far below what it now is. In order to continue manufacturing in this country under free trade the operatives must accept the conditions, privations, and scale of living of foreign operatives, which they will never do so long as there is in this country an unoccupied acre of tillable land.

It is my foremost, fundamental, and irremovable objection to any such policy that it is not based upon fair play as between different interests and classes. The artisans and laboring men of this country have always filled the ranks of our armies with a ready and patriotic zeal, but they can not be expected to do so hereafter if they are to have no advantage over aliens when they sell their labor or the products of their labor in the markets of the country. If it is really a disadvantage to land-owners and capitalists to pay only so much more for an American than a foreign article as will equalize the conditions here and abroad, it is a disadvantage more than counterbalanced by the benefits they themselves derive from the protective system.

But while I advocate protection to labor in this country as a measure of justice to all classes and interests, I fully believe it is advantageous to those who buy labor and the products of labor. The dearest thing in the world is cheap labor, as all experience proves. It has been a delusion and a failure in every form in which it has been tried. The enslaved African labor of our Southern States was as ruinous economically as it was socially and politically; and the introduction of Chinese labor into this country, if it had not been arrested by Congress, would have been even more disastrous.

Good wages enable the laborer to live in a degree of comfort which maintains his self-respect, heightens his aspirations for improvement, gives him some leisure for reflection and the acquisition of knowledge, and stimulates his creative faculties, which results in inventions and discoveries that economize labor and make it more effective. It is high wages and not low wages that has enabled American farmers to overcome in the markets of Western Europe the competition of the boundless wheat-fields of Russia, worked until recently by serfs, and still worked by a very poorly paid labor.

All the tools and appliances with which grain is produced, transported, and loaded into ships; the improved plows, sowing, hoeing, thrashing, and reaping machines, headers, and elevators are American inventions. Probably none of them would have been made if free trade instead of protection had been the policy of this country. Such inventions are always made by artisans, and not by agricultural laborers, who have no familiarity with mechanical problems and no opportunity to apply scientific principles to the production of mechanical results. This fact is signally illustrated by the official records of the Patent-Office.

In the report of the Commissioner of Patents for 1882 it is found that upon a comparison of the manufacturing with the agricultural States the proportion of patents to population, excluding the colored race for the States formerly slave-holding, was as follows:

In Connecticut there was 1 inventor to 782 inhabitants; in Massachusetts, 1 to 982; Rhode Island, 1 to 980; New Jersey, 1 to 1,354; New York, 1 to 1,345; California, 1 to 1,758; Alabama, 1 to 14,395; Arkansas, 1 to 11,161; Florida, 1 to 7,923; Mississippi, 1 to 8,551; North Carolina, 1 to 12,045; South Carolina, 1 to 8,691; Tennessee, 1 to 10,447; West Virginia, 1 to 10,043; Georgia, 1 to 6,588.

This comparative statement furnishes a satisfactory explanation of the difference in material prosperity between the States of varied industry and those devoted almost exclusively to agriculture, if a country be rich in the proportion that it is able to subordinate the forces of nature to its own wants. The small number of inventions made in the Southern States is entirely attributable to the almost exclusive attention which their people have paid to the single primitive industry of cultivating the soil, and is in no degree chargeable to mental incapacity or to the want of inventive faculty. Their vigor has been too signally illustrated in politics and war to leave any doubt that their achievements will be distinguished in any direction to which their efforts may hereafter be turned.

The soil and climate of the Southern States are adapted to the growth of their great staple, cotton; but they are indebted to the New England inventor of the cotton-gin for the possibility of producing it with that degree of cheapness which gives it so conspicuous a place among the materials for textile fabrics, and without which it would lose its commercial pre-eminence. This invention alone built up the great cotton interests of the South, and has repaid a hundred-fold all that the Southern planter has ever claimed that the tariff has cost him.

The resources of inventive skill are not exhausted with the cotton-gin, and the Southern States are now extracting great wealth from the cotton-seed—which, until lately, was regarded as worthless—by obtaining from it oils and other valuable products, and they are constantly giving new value to the cotton fiber by spinning it into yarn and weaving it into cloth in the vicinity of its growth and by improving and cheapening the means of transporting it to market. It is thus true that their best guarantee of continued supremacy in cotton cultivation as against the vast regions in Asia and Africa, which are equally well adapted to its growth, is not their soil and climate, but the superior skill of American artisans.

Human intelligence is a much greater force than human muscle in the production of wealth. No individual or country ever became rich through hand labor. Such labor can furnish scarcely anything beyond the absolute necessities of life. It can furnish but few of its comforts and none of its luxuries.

Very little more than a century ago the hand-woven shawls and cotton cloths of the East supplied the markets of England and the Continent of Europe. The current of that trade has been reversed by the spinning jenny, loom, and steam-engine, all of which were the creation of the better paid artisans of the Western World.

The inventions of a little more than a century, and all of them made in countries where labor has been the best paid, enable the common laborer of to-day to enjoy more comforts and luxuries, to wear better clothes, to sleep in better beds, and to eat better food than the titled and privileged classes were before that time able to command.

The stimulus to labor-saving inventions increases in proportion as labor commands a higher price and is more worth saving. As such inventions nearly always originate among the industrial classes, the probability that they will be made becomes greater precisely in proportion as they are elevated by education and inspired with hope by the possibility of bettering their condition.

It is a great merit of the protective system that it is the means of educating large classes of the people. Even should it involve some degree of cost to the country, it is defensible on the same ground upon which it is deemed good policy to provide educational facilities for the rising generation at the public charge. It is approved American doctrine that children and youth are worth a good deal more to the country in consequence of the instruction given to them at the expense of the tax-

payers than it costs to provide such instruction. But the period of education does not by any means terminate with the age of minority; in fact, it is then only just beginning. It may and does continue throughout the whole of active life. And no education is more real and effective than that which comes in connection with such of the industries of man as employ and exercise his mental faculties.

It is only the first steps in education which are taken in schools for the young. The more important schools and colleges are the workshops, the chemical laboratories, and the great practical enterprises of engineering.

There can be no danger of the permanent dearness in our markets as compared with foreign markets, of any commodity for which this country has natural adaptations, and in the production of which there is no impediment to the free and full competition of home producers. The labor of American artisans is not really a dear labor in the long run.

If well-paid workmen can be relied upon to make such inventions and create such appliances in aid of industries that their labor is really the cheapest labor and the only labor which has cheapened production, it may be asked why it is necessary to give them protection against the products of countries in which wages are low. The necessity would not exist if the use of labor-saving appliances was confined to the country in which they originated. It would be contrary to modern ideas to deny the right of skilled laborers to expatriate themselves, or of manufacturers of tools and machinery to sell them in the markets of the world. In former times it was common to forbid either the export of machinery or the departure from their own country of skilled artisans, or of persons who possessed the secrets of profitable trades and arts. England maintained the policy of retaining in this way a monopoly of all the arts in which its people excelled until about fifty years ago. At the present time all labor-saving inventions soon become the common property of the world. We know, in our own case, that our reapers, mowers, improved plows, locomotives, sewing-machines, elevators, and many other inventions, are found in every other country which is sufficiently civilized to utilize them.

The danger to well-paid labor with which inventions originate comes from the competition of countries in which laborers are cheap and reliably steady and made effective by the importation and use of improved tools and machinery, which they did not and could not invent, and which they could not maintain and operate without the superintendence of inventive workmen. In a certain sense inventive and highly advanced countries furnish the means for their own destruction to less civilized and underpaid populations. If we had been able and had chosen to keep for our own exclusive use the machinery and tools which have been invented here to save labor in agriculture, the competition of Russia with us in raising wheat would not exist.

It is to-day seriously apprehended in England that British cotton spinning and weaving machinery, worked by the abundant, cheap, and docile labor of India, will wrest from the English cotton manufacturers their monopoly of the markets not only of India itself but of China and the entire East. The London Economist, which seems alive to this danger, published recently a letter from India, describing the new and great cotton factories in operation at Ahmedahan, spoken of as "the chief rural center of cotton-spinning in Western in India." The writer says:

> Each of the chief factories employs about 1,000 hands, of whom only two are Europeans. They are owned, financed, and worked entirely by natives, excepting one engineer and a highly skilled Englishman, who superintends repairs of the machinery. The cotton and all other raw material are much cheaper than in England, the labor is very much cheaper, and the European engineer told me it was steadier, and nearly as effective, man for man. The extra cost of the machinery is to some extent balanced by the cheapness of building.

As long as the inventions and industrial appliances of each country are left to become the common possession of all countries capable of using them, the only permanent advantage enjoyed by the more civilized over the less civilized people is their power of constantly maintaining and improving machinery. But only well-paid workmen can keep themselves always in advance of a poorly-paid people like the inhabitants of India, and in order that workmen who are well paid may continue to be so, it is necessary to give them tariff protection against the products of the cheaper labor which has been made effective by their own inventions.

There is no danger that extravagant profits can be realized by manufacturers where there are no conditions existing which give them a monopoly. When men are at liberty to transfer their capital and industry from one pursuit to another, and when new investments of capital and industry are constantly being made, the tendency to an equalization of profits and wages in all pursuits is strong, active, and constantly operating. Nothing is more certain than that competition will prevent the profits of any one industry from rising above the average standard of profits in all industrial avocations of the country. As there is the same tendency to an equalization of wages as to an equalization of profits, all classes of laborers derive a benefit from the maintenance of a fair scale of remuneration to labor in the protected lines of production; and all classes of laborers would suffer if this scale of remuneration was broken down by a withdrawal of protection, because the persons whose wages are thereby reduced would necessarily invade and overcrowd other and more remunerative employments.

There is no necessity for foreign importations as a means of holding in check a tendency to excess in the prices of protected articles, after time enough has elapsed to bring into the home production capital and skill enough to supply the home market. If, however, there is an absolute exclusion of the foreign article before the home production is properly developed, there would be a danger of exorbitant prices and profits. Under these circumstances the tariff ought to be raised gradually and not to the point of absolute exclusion suddenly, but by degrees, and only as the home production and home competition become sufficient to supply the market and regulate prices.

But, after that the only mistake possible is that of making the protective duty too low; and no injury can result from any height to which it may be carried after it is made high enough to keep out the foreign article. Nothing more can be said against a higher rate than that it is superfluous and useless. Until the tariff is prohibitory prices are controlled by foreign competition. After that, no matter to what height it is carried, they are then regulated as they should be by the free trade and active competition of the fifty millions of our own enterprising people. This competition is all that is necessary to insure fair prices and to render undue profits and exorbitant wages impossible.

The discussion of the various features of the tariff bill has already been quite protracted, and even, perhaps, tedious. I can not at this time trespass upon the patience of the Senate for anything beyond a statement of principles in outline and in very general terms. Statements made in that way are liable to be misunderstood; and to avoid that in some measure I will endeavor to illustrate them by a reference to gold and silver and to petroleum. All the gold and silver in the mines and all the oil in the wells are the property of the owners of the land in which they are found. Neither of these products require tariff protection, nor are susceptible under present conditions of receiving any. Their production is in excess of the domestic demand. Gold and silver, being everywhere accepted materials of money, are always sure of a market abroad. Petroleum will also be sure of a foreign sale until foreign production is very much increased, which may never happen. The producers of these articles, thus needing no protection in the home market, and with an assured demand abroad for any surplus production, might think it for their interest to make their own purchases of everything they need in cheap foreign markets. Indeed, upon the theories of free trade as currently expounded, they might insist that it is their natural right to buy in the cheapest market and that it would be tyrannical to deprive them of it. But I do not admit either that they have any just claim to an unrestricted trade in foreign goods, or that such trade would be for their advantage.

Petroleum, gold, and silver are a part of the natural resources of the country, and in many respects they are still a part of the inheritance of all the people of the country, acquired by the efforts, struggles, and sacrifices of their ancestors or of themselves. It is true those substances are now mainly segregated for individual use; but it is for that use in subordination to the general good of the community. It is the good fortune of the present inhabitants of Pennsylvania and West Virginia that their territory was unexpectedly found twenty years ago to contain oil; and it is the good fortune of the people of the Rocky Mountain region and of the Pacific slope that they have discovered rich mines of gold and silver.

The trans-Alleghany region was conquered from the native Indians by many bloody battles, and wrested from the British crown by a seven years' war. It has been made accessible and endowed with the improvements of civilization at the expense of the whole country. The Pacific slope was in part purchased from the first Napoleon for a sum of money great in that day, paid from the National Treasury, and in part won from Mexico in our own times by the the valor of American armies. By the English common law which was brought here by the founders of the country gold and silver were deemed noble and royal metals because they were the exclusive material of coined money, and mines of them did not belong to the owners of the land on and under which they are found, but to the Crown. The same rule has prevailed in nearly all countries, and during all periods.

It prevails to-day in the Spanish-American countries south of us. It was changed in this country from mixed motives of public policy and a generous consideration for the miners, who, on the average, endure more hardships and privations than any other class of laborers, and for a poorer remuneration. But though I represent an exclusively mining people, I disclaim for them, and I am sure they will sustain me in disclaiming, the pretension that they are entitled to treat their gold and silver as a meritorious acquisition of their own, to be managed and enjoyed without reference to the common interests of the whole country.

There can be no doubt that the producers of gold and silver have been signally benefited by the system of protection which has been so long the settled policy of this country.

The Comstock lode is famous for its richness in gold and silver, but except in its outcroppings and near the surface it would have been utterly valueless in countries like Mexico or Peru.

The part of nature in depositing its treasures was an indispensable one, but the part performed by the art of man in unlocking them has been equally indispensable. It may be said that the ponderous engines by which its 3,000-foot levels are kept clear of the constantly incoming

waters, and vast masses of by no means rich ores are hoisted from the depths of the earth and the cunning and potent machinery by which those ores are crushed and prepared for amalgamation might have been imported from foreign countries. But machinery must be repaired as well as purchased, and without skilled workmen on the spot, always ready to meet perpetually recurring new difficulties with new expedients, it is practically impossible to conduct such a business as that of mining except at an enormous disadvantage; and it is of course true of that business, as it is of any other, that if we had looked solely to foreigners for our tools and machinery we should have wholly lost all the improvements which come from the inventive ingenuity of domestic artisans.

Comparing San Francisco with the Atlantic coast cities in respect to the elements of the cost of fabricating any given piece of iron machinery, there can be no doubt that it can be produced more cheaply in the latter, where the raw material, labor, and interest upon capital are all lower, and where the current rate of profit expected upon business enterprises is also lower. Nevertheless, the people of the Western slope find it to be to their interest to go to San Francisco for the engines, hoisting apparatus, crushing and pulverizing machinery, and the various other appliances needed in the business of mining. This can only be explained by supposing, what is actually the fact, that they can find in San Francisco what is most serviceable in use and best adapted to their wants. The reason is that the proprietors of founderies and machine-shops in San Francisco and the workmen employed in them are in constant personal intercourse with the mining classes, and learn in that way what works best in practice, at what points special difficulties are encountered, and what are the best means of overcoming them.

If these San Francisco establishments did not exist, with their auxiliary establishments in nearly every town on the Pacific coast, and if the miners were obliged to deal for their mining appliances at arm's-length with Eastern machinists, from whom they are separated by nearly a month's time in the transport of freight, they could never have approximated the mining results which they have actually attained. And this illustrates in what way and to what extent all such industries of the country as require or are facilitated by mechanical appliances would have been kept back if we had consented to a policy under which all our tools and machinery would have been imported from Europe. We should have had no workmen on the spot by whom machinery could be repaired; and as all machinery is subject to breakage and to getting out of order, the users would suffer constant losses from long suspensions of their operations.

Furthermore, the country would have lost the benefit of all the improvements in tools and machinery and of all the adaptations of them to our special wants which have been made by our own artisans. The rapid building up of a great manufacturing industry in that distant region illustrates the wisdom not of a tariff for revenue, but of a high protective tariff. The machine-shops of San Francisco and the Pacific coast would never have been started but for the great cost and delays of freight from the East before the completion of the Pacific Railroad, which, in fact, operated as a tariff much higher than has ever protected the machine-shops of the Atlantic coast.

The people of the Pacific coast are second to no people in energetic self-reliance; but I am sure that they have no wish and do not believe that it is for their interest to divorce themselves from the arts and civilization of America for the sake of delusively cheaper foreign markets to buy in.

Our oil-wells would have remained undeveloped as they have remained up to the present time throughout the rest of the world if protection had not stimulated and built up a great iron industry, with founderies, machine-shops, and especially skilled and ingenious workmen.

No extensive explorations for oil in the bowels of the earth are economically practicable without appliances which were first discovered in America, and which never would have been discovered here if the iron industry had not been previously brought into vigorous existence with ample establishments, well-furnished shops, and above all with a body of mechanics of training, skill, and aptitude. The oil-wells of Pennsylvania and West Virginia are not naturally richer than those of the region between the Black and Caspian Seas, or of various other portions of the world. Indications of petroleum are found in almost every country. It is not improbable that there now exist many other richer regions which are wholly unknown from the lack of the science, tools, and machinery wherewith to explore them and treat their products.

What makes the American oil-fields commercially and practically richer than those found elsewhere is the superiority of American arts and artisans, which provide cheaper and better methods of exploring for, pumping, storing, transporting, and refining oil, and extracting from it by chemical manipulations more valuable products.

The people of the agricultural regions, especially of the West, are urged to resist all tariff impositions upon the theory that the money price of their cereals, beef, and pork is fixed by the money price of the surplus sold abroad; that their own prosperity is absolutely independent of that of any other interest and of all other interests in this country; and that they should insist on buying where and of whom they can buy cheapest for the time being, and with entire indifference as to whether the cheapest markets are found at home or abroad. Appeals of this kind have so far been made in vain. The people of the granary States of the West know that the acres which they till have been substantially a free gift from the nation, which has scarcely received the expense of surveying the public domain, under the policy of school-land, graduation, homestead, soldiers' bounty-land, swamp-land, timber-cultivation, desert-land, and railroad land-grant laws, which has prevailed during the last half century. They know that they are to-day producing the beef which they bring to market in part by the free use of cattle-ranges of which the title remains in the Government.

It is a monstrous suggestion, and by nobody is it rejected with a more patriotic disdain than by the Western agriculturists themselves, that they owe no duty to a country which has not only given them an empire of unbounded fertility and extent, but has aided in the construction of railroads to and through it by munificent grants of credit as well as of lands, and has always employed, and does now employ, more than half its Army and at an enormous cost in protecting the pioneers against the aborignal savage. Nor are they for a moment deceived by that oft-repeated platitude that British markets fix the prices of their grain or of any other thing they produce. They know that neither the markets in England or anywhere else ever did or ever can fix the price of anything; that the office of markets is not to fix prices but merely to ascertain and register them, just as it is the office of the thermometer to indicate temperatures and not to create them; that the prices of everything are fixed by the play against each other of forces of demand and supply, not in any one market, but in all markets which are commercially connected; and no more in one market than another, except as one market is larger than another. They know, of course, that the British demand for grain, beef, and pork is a very large one, and has a corresponding weight in determining their prices; but they know also that large as it is it is much smaller than the demand of the far more numerous population of the United States. They know that any given surplus of either our grain or beef or pork must necessarily be exported and take its fate in foreign markets, to be determined by the total demand of all those markets acting upon their total supply. But they know also that what the amount of any surplus exported by us shall be, or whether there shall be any surplus at all, does not depend upon the policy of other nations, but solely upon our own. They know that if we choose by abandoning our protective policy to force our whole population into farming our exportable surplus of grain and beef and pork would be enormous and that the prices for them will be correspondingly reduced below present rates; and that on the other hand, to whatever extent our people are diverted into manufacturing and mining so as to create a body of home consumers of farm products, the surplus will be diminished in quantity and raised in money valuation.

We are often told that there should be no other protection except what is incidental to duties imposed for revenue. That as a matter of fact revenue duties upon articles which this country is capable of producing necessarily involves some degree of protection is undoubtedly true, but that duties should be imposed for no other direct purpose than revenue is entirely unsound. The tariff bill passed by the First Congress under the present Constitution of the United States expressly declared that protection to manufactures was one of its purposes. That protection, not as an incidental result of revenue duties but as a direct and primary object, is within the powers and obligations of this Government is settled by now nearly a century of uninterrupted practical construction and administration.

In fixing the scale of tariff duties there is an incongruity between the two objects. The degree of protection is measured by the degree of the exclusion of the foreign article, while revenue increases as importations increase, and in the proportion in which a duty proves to be more protective it yields less revenue. It is a haphazard and wholly unscientific proceeding to leave protection to follow as a mere incident of duties levied for another and quite distinct purpose.

Protection as an incident of a duty imposed primarily for revenue is precisely the same thing in principle, although less in the degree of its effects, as protection by means of a tariff framed for the express purpose of protection. If protection is injurious, it is of no consequence how it is given, whether indirectly and as an incident of something else, or directly and as an avowed object. The free-traders, who constantly insist that protection imposes taxes which do not go into the public Treasury, but inure to the benefit of manufacturers by raising the prices of the protected articles, stultify themselves when they favor revenue duties with what they call incidental protection, but with what they ought, if protection does not protect, to denounce as a tariff for revenue with incidental injury, incidental ruin, incidental robbery of the many for the benefit of the few.

I may here remark that there can be no doubt that many Senators sincerely entertain the belief that manufacturers, operatives, and all classes of the community would be more prosperous under a free trade than under the protective policy, that protection is destructive of the objects sought, and that it injures the protected classes themselves. The willingness, nay even the alacrity, with which a majority of the Senators holding these views have accepted and in some cases even demanded for the industries of their own States their full share and even more than their share of the injury which lurks under protection, evinces a

self-sacrificing, fraternal, generous spirit which is as gratifying as it is commendable.

There never was in American politics a more blind, halting, and illogical platform than that of a tariff for revenue with incidental protection. It was devised to please both sides of the tariff controversy. To the protectionists this platform suggests that with our war debt, pension lists, and large expenditures generally, a revenue tariff will give them for an indefinitely long period as high duties as they need to desire. To the free-traders the same platform holds out the idea that duties shall be levied only for revenue, and that if protection results from them it is something which can not be escaped and for which nobody is responsible. The fallacy of the last suggestion consists in this, that while protection is really an unavoidable incident of duties imposed upon articles produced in this country, it is not an incident of duties imposed upon articles not produced here.

It is quite possible to look one way and row another, but it is not possible to look two opposite ways at one and the same time. No man can intelligently and sincerely say that he is in favor of imposing duties first of all for revenue, when he votes for a duty upon articles produced in this country, and therefore necessarily giving incidental protection upon such articles, until he has first imposed or endeavored to impose a duty upon every article not produced here, and in respect to which there could be no incidental protection so that every dollar of the tax would go into the public Treasury. And yet, during the six weary weeks that this bill has occupied the whole time of Congress, not a single one of the free-traders who insist that it is only for revenue that duties can be imposed, has suggested the taxation of tea, coffee, and numerous other articles on the free-list which would yield abundant revenue, while they would involve none of that protection which those free-traders so violently denounce when it is primarily sought after, but so greatly admire as an incident. By no possibility can they escape the charge, that while affecting to look to revenue as the only justifiable and constitutional object of a tariff, they make no effort to collect it by taxes of which the whole proceeds would go into the Treasury, and that while affecting to denounce protection in the abstract they go for it in every possible way as the foreseen incident of other taxes which command their ready support.

Among the reasons for imposing taxes for revenue upon articles not produced here is the very important one that such revenue is tolerably steady and reliable in amount, which is a very essential point as affecting the stability of the public finances. The fluctuations in the revenue under these conditions will not exceed the fluctuations in the amount of the consumption of the articles which will show a substantially steady increase from year to year. Duties on tea and coffee, for example, would vary in their yield only as the consumption of those articles varied. But in respect to taxes upon articles produced here, their yield varies as their home production varies, and they will cease to yield anything whenever the home production becomes equal to the consumption. Taxes upon such articles should be imposed for protection, and if revenue results from them it is something which is incidental and rather to be deprecated than desired. Taxes designed for revenue should be imposed upon articles not produced at home, and for the purpose of avoiding incidental protection, which reduces revenue.

In consequence of the diversity between nations as respects climates, natural resources, density of population, methods of governmental administration, and established social and personal ideas, habits, and customs, there are differences and often very great and marked differences in the scale of comfort in which their people are accustomed to live, and below which they can not fall without suffering and a sense of degradation. The competitions of international free trade, which must constantly tend to equalize the wages of labor in all countries, are therefore essentially unfair, and must be intolerable to the people of countries in which workmen have been habituated to a decent scale of living for themselves and their families. They can not endure conditions with which those are content who have never known anything better.

There is no real equality in free trade between men on one side who have been bred to being the taskmasters of their women and who are unable to conceive of such a thing as expenditure for the education of their children, and men on the other side who are cheered in their labor by nothing so much as the motive of supporting their wives in comfort and of rearing their children and qualifying them for the duties and opportunities of life. Free trade between nations is in its nature and effects wholly unlike free trade between citizens of the same country among whom there is a substantial homogeneity of habits and ideas and where the scale of comfort is nearly the same in all parts of it.

The same general course of reasoning which governs us in determining what laborers we will admit into this country and what laborers we will exclude from it is applicable to and ought to govern the question of admitting the products of foreign labor. We admit European laborers because we know that they are of the same race as ourselves and have the same aspirations, and that with the wages obtainable in this country they will soon advance their standard of living to our own. We exclude the Chinese, as we ought to exclude them, because we know that from the immobility and tenacity of their national habits they will very slowly, if at all, rise above the standard of living which is wrought into their very natures by centuries of servile poverty, and that their presence and competition here will degrade the standard to which our laborers are accustomed.

We are not insensible to the fact that there are differences between different classes of European extraction in respect both to their living at home and to the degree of rapidity or slowness with which they advance it to our own standard after they arrive here. Complaint is made in New England of the Canadian French and in New York of the immigrants from certain parts of Italy, that they remain here in a state of isolation from the community around them and with very little change in their standards of living from what they were at home. Doubtless differences of religion and language have something to do with the evils complained of in these cases, and with retarding their absorption into our body-politic by intermarriages and otherwise.

The possible number of such immigrants is, however, very small, whereas the number of Chinese, if we permit them to come, is enormous and incalculable. Nevertheless, the fact that New England and New York are so sensitive in respect to the Canadian French and Italian immigration strikingly illustrates the clearness with which it is seen and felt that American labor ought not to be subjected here and on our soil to any competition which will diminish its earnings and degrade its scale of comfortable living. But it is surely too plain to require argument that the free admission of the products of the degraded labor of foreign countries is as fatal to American labor as the admission of such foreign laborers as are not likely to adopt readily the customs, manners, and habits of life of our own laborers. Indeed, it is far more disastrous, because the Chinese and all foreigners will work for less in their native homes than after they have immigrated into this country, so that the competition of their imported products is more severe than that of their labor on our own soil.

It has been complained of in times past in respect to certain manufactures, notably of the textile fabrics and of iron, that they were so confined to narrow localities as to amount to geographical monopolies.

New England has been the favorite target for attacks of this kind in reference to textile fabrics, boots and shoes, and various minor industries, but in none of these cases was there really one single feature of natural and permanent monopoly. It was to be expected that the people of a region in which the soil was poor and the natural resources small, while the population was comparatively dense, would be the first to turn their attention to manufactures, from the necessity of looking to new pursuits for subsistence and wealth. But not only the manufactures but the manufacturers of New England began a long time ago to spread over the West, and have now begun to spread southward. It is profit that these manufacturers are after, and they will go where the greatest profit is to be found; that is to say, nearest to the raw materials and to the most numerous consumers, and where food, which is a very important element in the cost of labor, is the cheapest. Ohio, Indiana, and Illinois are bristling with varied manufactories.

The population of Chicago is increasing to-day more from the expansion of its internal industries than from the growth of its commerce in raw material, great as that undoubtedly is. Saint Paul and Minneapolis in the far Northwest are hives of industrial activity. So is Denver, at the western extremity of the great plains; San Francisco on the Pacific coast; Richmond, Louisville, Atlanta, Chattanooga, and numerous other cities in the South. It is impossible that there should be sectional or other monopolies in any industries in such a country as this, whose vast population is homogeneous and speculative, with no deep-rooted attachments to any particular spot, ready at all times to change their residence with the hope of bettering their condition, and where the communications are rapid and easy, and where capital is enterprising to an extraordinary degree.

Down to quite recent times the iron industry was denounced as a monopoly of the single State of Pennsylvania. To-day this industry is prosecuted on a great scale in many States, some of them in the far West and some of them in the South.

Chicago is to-day the leading point for the manufacture of iron and steel rails; a Southern State, Alabama, is generally supposed to possess the greatest combination of natural advantages for the production of iron; and even the youngest of the States, Colorado, has extensive steel-rail mills supplied from its own ores.

With a steady adherence to the policy of protection this diffusion of the arts and the industries will go on until every part of the country is overspread by them. I rejoice to believe so, because it is among aggregations of men and in centers of population that the comforts and enjoyments of life are obtained with the greatest economy, and indeed there are many of them not otherwise obtainable at all. Macadamized roads, paved and lighted streets, sidewalks and horse-cars, are not possible in a pastoral country, and it is only by the multiplication of cities and villages that libraries and exhibitions of art and taste can be made readily accessible to all. It is by a diversification of industries, which, under the protection system, are certain to spread in the near future over all parts of the country, that the humanizing influences of civilization will reach everywhere.

This country should produce everything for which it has natural adaptation, so that the great bulk of our exchanges may be made at home on the basis of a genuine and rational free trade, where competition will be only between those who are on a common plane as to their standard of

living and to whom equality of profits will be assured by the right and power of a free transfer of labor and capital from the least profitable to the more profitable pursuits. It is in that way that the industrial independence of the country will be established and fortified, and that there will be a just and safe distribution of the population among the different branches of production.

The policy of exchanging raw products for foreign manufactures is wasteful and extravagant in every way and in some ways not generally noticed. The raw products exported must necessarily be such staples as will bear repeated handlings and will not be injured by being kept for some considerable time, like cotton, tobacco, and wheat. The finer and more perishable fruits of the orchard, of the vine, and of horticulture can not be transported across oceans. The effect of a policy which discourages the building up of numerous towns, cities, and manufacturing centers, which serve as markets for the sale and consumption of the delicate products of fruit-raisers and gardeners, must be to confine agriculture to a few great staples, with all the necessarily accompanying conditions of sparseness of population and rudeness of labor. We know, as a fact of observation, that those engaged in the production of great staples very rarely produce the finer fruits even for their own use, the stimulus of convenient markets being wanting. Among the bad consequences of such a policy are the general lowering of the standard of the comfort in which the people of a country live, and the loss to the population of the valuable element of thrifty and intelligent gardeners and fruit-raisers. It is true that there will still be left some few and scattered consumers and purchasers of the finer fruits of the land, but the small quantities produced to supply them will always be greatly enhanced in price and deteriorated in quality by a long carriage from the producer to the consumer. Very many of the more delicate products can not be transported long distances at all, and so much of even the more hardy varieties is spoiled by transportation as to raise the cost of the remainder so high as to be beyond the reach of the artisans and laborers of a country, thus inflicting a double loss, the loss of a reliable market to the producer and the loss of a cheap market to the consumer.

The maximum wealth of a country, either in the aggregate or per capita, can not be obtained without a certain aggregation of population. This is shown by any comparison which can be made between regions which are exclusively agricultural and other regions in which varied industries are carried on. Lands, including under that term all their appurtenances, such as mines, timber, and water-power, have no value except what is prospective without population, and their value increases very nearly in proportion to the increase of the density of population. Even in such countries as the United States and Great Britain, where the accumulations of personal property are considerable, a very large proportion of their present wealth is in lands, and of the value of their real estate it is only the smaller part which arises from the structures upon it, while the larger part consists of the lands themselves, and is due to the density of the population occupying them.

This value of lands, due to density of population, is in no sense artificial and unreal, as it is sometimes said to be. As people become numerous lands sell for more because they yield more income, and because occupiers can afford to pay more for their use. The aggregate appreciation of the lands of the Northeast, in cities, towns, and villages, in suburban districts, and in their timber, minerals, and other appurtenances, has been enormous. At the South it has been comparatively trifling, and it is from that difference between the two classes of States that a large part of the present disparity of their wealth has actually arisen.

The population of this country can be made greater and richer by the protective system and the resulting diversification of industries. In the different situation of Great Britain forty years ago, when its corn laws were repealed, it was only by the contrary policy of free trade that its population could be increased. But in the British case, while the free-trade policy has been followed by a large increase of the population and of the rental and value of lands, a great risk has been taken in swelling the numbers of the people beyond any possible home supply of food, from which a great catastrophe may some day result. In our case, the protective policy involves no such hazard, because its tendency will be to bring about a just proportion between the home producers and consumers of both food and manufactured goods. Under the protective policy there can not be in this country an excess of any one element of the population. There may be in the distant future a tendency to an excess in its aggregate population, but that will be restrained by economic laws which will keep the numbers of an enlightened people within the limits of their natural and acquired resources.

The advantages of exchanging raw materials and food for foreign manufactures are illusive and temporary. The advantages of bringing together those who manufacture and those who produce food and raw materials are real and permanent. A just proportion will be established between the numbers engaged in the several branches of agriculture and the numbers engaged in the several branches of manufactures, if the interchanges are made at home, so as not to be affected by the violent changes which are constantly occurring in foreign markets.

How large an amount of wheat Europe may be obliged to import from America in any given year depends upon European harvests, which are as fluctuating as the seasons, but how much wheat will be consumed by the manufacturing industries in America itself depends upon the numbers engaged in it, which are either constant or increasing. If raw materials, food, and manufactures are exchanged at home, where can the loss be? Certainly not in any unfair advantage gained by labor and capital engaged in any one pursuit over any other, because capital and labor can move freely from each pursuit into any other. Where is the gain? Clearly in the general advantage of having raw materials worked up and food consumed at or near the points of production, and in not having the prices of manufactured goods swollen by the charges of long carriage and by the exorbitant profit always gained out of them when they pass through many hands.

I am opposed to a free trade which subjects the people of this country to the very competition to avoid which either they themselves or their ancestors underwent the hazards and hardships of migrating hither.

I am opposed to a free trade which gives to foreigners all the advantages of this country without subjecting them to any of its responsibilities.

I am opposed to a free trade which reduces the wages of the American laborer to the level of the poorest country in the world, whereas he is entitled to such wages as would result from the natural resources and wealth of his own country.

I am opposed to a free trade which deprives any of the people of their full share of the advantages of living in a country the soil of which is fertile and large portions of which are still open to occupation, and lowers their condition to that of old and worn-out countries, where the population is so excessive that its further increase is rendered impossible by starvation and chronic famine.

I am in favor of free trade among our own citizens, where the only competition is between persons whose standard of comfort is the same.

I am in favor of protection because it diversifies industries, brings producers and consumers nearer together, and establishes a just distribution of the population among different pursuits, and enables us to escape the transportation charges and other wastes of foreign trade, except as to the very few articles to the production of which this country is not adapted but which we have acquired the habit of using.

I am in favor of protection because it tends to the elevation of the people, the improvement of machinery, and the ultimate cheapening of products, whereas free trade tends to cheapen the wages rather than the products of labor. Protection cheapens products, while free trade cheapens producers.

I am in favor of the high protective duties which have existed since the beginning of the civil war, because they have stood the best test, that of experience. At no time in our history has the country been so prosperous as it is to-day, and its labor and capital have as a whole never been before so actively and profitably employed. This is proved by the unprecedented immigration of laborers from Europe, and by the extraordinarily rapid accumulation of wealth in all sections.

I am in favor of the protective policy because it sustains the country with all the pillars, buttresses, and girders of civilization, promotes the arts and sciences, and tends to build up such numerous cities, towns, and centers of population as will bring schools, colleges, libraries, exhibitions of art, and all the social enjoyments within the easy reach of the people in all localities.

I am in favor of the protective policy, because, instead of leaving the several sections of the country to be each devoted to the production of some single raw material or class of raw materials, and to rely for the greater part of what they consume upon exchanges with foreign nations, it will finally carry nearly all the industries into every section, so that the bulk of the exchanges of each may be made within itself, and therefore to the best advantage, and by transactions between producers and consumers with the smallest possible number of intermediaries.

I am in favor of the protective system, because it is specially recommended to this country by the greatness of its area, which is equal to that of all Europe, and includes all the habitable latitudes except the intertropical, and every conceivable resource of mines, forests, fisheries, and soils, thus exempting us from any real necessity of encountering the risks, entanglements, fluctuations, and unavoidable costs of foreign trade.

In the discussions upon this bill it has been assumed in many quarters that it is a sufficient reason for lowering or repealing the duty upon any article that it is an article of universal consumption, and that consequently the public interest demands that it should be cheapened in its money price. To deal with a protective system in that way is to destroy it in detail, because in respect to every given article the consumers are always more numerous than the producers, and a majority will be sure to be against a tariff, item by item, until the whole of it is overthrown. It is necessary to protect all the articles coming within the proper rule of protection. To suppose that anything is to be gained by cheapening the money price of particular articles, is to overlook the fact that the purchasing power of the people will decline with any cheapening of prices which is brought about by diminishing the sum of home industries. If it is proper, as it is sometimes said to be, to cheapen articles of prime necessity by importations, it is equally proper to cheapen the prices of all articles by the same method and for the same reasons. The theory of protection is, that whatever may be its

effect upon money prices it increases the purchasing power of the people by promoting all industries in a just proportion as between themselves, so that they mutually support and sustain each other.

If the rule is sound that everything should be produced at home which can be produced here with as small an amount of physical and mental force as is necessary to produce it elsewhere, the only thing to be considered in fixing the rate of a duty is the keeping out of the foreign article. It is conclusive evidence that tariff duties have not been placed high enough on any article which comes within the rule, so long as the importation continues. No duty should be lowered as long as the foreign article is being imported; but on the contrary the duty should be raised until it becomes unprofitable to bring it in, care being taken not to advance the duties too rapidly nor until the home production has become sufficiently developed to supply the wants of the country.

Prohibitive duties may be and are denounced as "a Chinese wall" around the country; but it is just such a wall as we want—broad enough, high enough, and strong enough to keep for our own enjoyment the prosperity and scale of comfort which properly belong to our natural and acquired resources, and to shut out the poverty and the products of the scanty, pinching wages of less favored countries.

It is wholly immaterial whether money prices inside of this wall are high or low. It is sufficient to know that they will be such prices as will result from perfectly free and unrestricted trade between citizens of our own country and from the free exchanges of the product of each industry for the products of all other industries under circumstances which exclude monopoly or special privilege. It is sufficient to know that they will be such prices as will arise from an equalization of profits and wages and opportunities, as between our own people in all their varied pursuits, which insures the only species of competition which is either fair or endurable—the competition between those who are on the same plane as to the scale of comforts to which they are accustomed and of taxes to which they are subjected.

And, finally, it is sufficient to know that they will be such prices as will arise from the highest attainable civilization and from the greatest possible advancement of the arts and sciences and from the just distribution of population and industry. Or, in other words, they will be such prices as arise from the most complete control which man can obtain over the hidden forces of nature, through which more, incomparably more than by the mere exertion of human muscle, are the objects of human desire cheapened and riches multiplied.

Of the pastoral condition, which was that of the primitive ages of the race, the poets have given us pleasing pictures. Nevertheless, it is through the diversification of industries and aggregations of population that the highest civilization is attainable, and that man is most advanced morally, socially, and intellectually, as well as in material wealth. If his vices are not extirpated they become less gross and his selfishness loses some of its repulsive features. Arcadian simplicity is an attractive phrase, but what is described as the state of nature, instead of being the condition in which it is natural for man to remain, is a condition from which all his highest and best aspirations impel him to emerge.

The movement of the race in the path of civilization is not a retrograde but a forward movement. This country should tread in that path with a firm and unfaltering step, until it becomes what its geographical position, its natural resources, and the genius of its people fit it to be, the central and chief seat of all the sciences, arts, and industries which multiply the enjoyments, enlarge the capacities, and cultivate the moral and social sentiments of man.

Reduction of Internal Revenue.

SPEECH

OF

HON. J. RANDOLPH TUCKER,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 19, 1883,

On the bill to reduce internal-revenue taxation.

Mr. TUCKER said:

Mr. SPEAKER: This bill proposes to reduce revenue by relieving the banks of certain taxes and by taking off taxes on matches, checks, patent medicines, &c. Thus far it is the bill passed by this House at the last session, against which I voted because it did not go far enough. It now proposes to add a reduction of tax on tobacco from 16 to 8 cents per pound and a corresponding reduction on cigars, &c.

The reduction of revenue to be effected by this bill, estimating the revenue for the year 1881–'82, will be for those subjects embraced in the bill as at first proposed $18,777,983.77.

The reduction upon tobacco and cigars, &c., will be about $23,000,000. This would afford a great relief to the tobacco-planting interests. But it does not go far enough. I desired to amend the bill by moving an amendment for an entire repeal of all taxes on tobacco and cigars and on all dealers in either. There is no reason why there should be a disturbance of the tobacco trade to make this reduction, to be followed by another disturbance as the inevitable result of a future and final repeal. I believe the whole tax should be repealed in the interests of the consumer, the manufacturer, and the planter.

The only possible objection to a total repeal is the need of revenue. Let me examine this.

The Secretary of the Treasury estimates as the revenue for the current year of 1882–'83 as follows:

Customs	$235,000,000
Internal revenue	145,000,000
Public lands	4,500,000
All other sources	30,500,000
Total	415,000,000

Against this enormous revenue we must charge the expenses as follows:

Interest on debt	$59,500,000
Pensions appropriated for	85,000,000
All other expenses	135,000,000
Total	279,500,000

This would leave a surplus of over $135,000,000. Now, taking off the taxes proposed by this bill and we reduce revenue about $41,000,000. Taking off the whole tobacco tax, including cigars, &c., and the total reduction would be about $65,000,000, and this would leave a surplus still of $70,000,000—more than enough to pay all expenses of Government and a just amount due to the sinking fund.

I object to the bill as it is, because it gives stinted relief to the tobacco interest while it entirely relieves the banks and other interests from all taxation. The time has come for a repeal of this burden on tobacco and for cutting off one limb of this colossal system of internal revenue, whose patronage, influence, and power are sources of individual oppression to citizens and of corruption in elections of the people.

The Democrats of this House in solid phalanx voted for total repeal at the last session against the almost as solid phalanx of Republicans. Partial reduction is not our policy. Total repeal is what the country demands and our tobacco interest needs.

But I can not refuse, as the right to propose an amendment has been denied to me by the chairman of the committee [Mr. KELLEY] interposing his objection, which, by the rules of the House, suffices to exclude my amendment, to vote to relieve the tobacco section from this heavy burden resting on it for more than twenty years. I shall vote for it as partial relief to the tax-burdened people of the country, and hope in some way to achieve the entire relief hereafter so much desired.

I more deeply regret that the persistent efforts of the protectionists of this House to keep up the duties on imports menaces the country with a continuance of the tariff system for another year. I have striven with others during this session and the last to lessen the weight of taxation on the people, not by decreasing revenue so much as by decreasing taxation, for tariff taxation has two reservoirs to fill; the one the Treasury, the other the coffers of the protected classes. When you lessen the revenue to the Government by increasing the tariff, you increase the burden of the citizen by augmenting the bounty he pays to the privileged monopolists.

Let not the people be deceived. When a tariff is so laid as to decrease the revenue it may be done, as the gentleman from Pennsylvania [Mr. KELLEY] said the other day, not by lowering but by increasing the duty. That increase puts into the pockets of the protected classes money which would have gone into the Treasury if the tax had been decreased. Thus the Government would get more by a less burden on the man, and the monopolist only would suffer a decrease of his dividends.

We are willing now to pass any tariff bill which will give substantial relief. But we will not help the passage of any bill which keeps the word of promise to the ear and breaks it to the hope; which does not diminish the revenues of the Government as well as the profits of the manufacturers, and keeps up a system under whose malign influence the consumers of the country are made to pay heavy tribute to the privileged caste, built up and fostered by a government which claims to be one of equal laws under a constitution framed to establish justice and to do right to all.

But if I can not get all the relief the people have a right to demand I must take all that can be wrung from the iron grasp of the greedy horde who use the power of the Government to feed and fatten on the hard-earned means of the mass of the people, under unequal and unjust legislation. For this reason I shall vote for this bill. The following is the amendment I desired to offer to this bill:

SEC. —. That from and after the 1st day of May, 1883, all laws imposing taxes on dealers in leaf-tobacco, on dealers in manufactured tobacco, on all manufacturers of tobacco, on manufacturers of cigars, on peddlers of tobacco, snuff, and cigars, and on retail dealers in leaf-tobacco, shall be and are hereby repealed; and all laws prohibiting farmers and producers of tobacco from selling tobacco of their own growth and raising shall be and are hereby repealed.

SEC. —. That from and after July 1, 1883, all laws assessing and imposing inter-

nal taxes on snuff, smoking and manufactured tobacco, and on cigars which shall be manufactured and sold or removed for consumption or sale on and after the 1st day of July, 1883, shall be and are hereby repealed: *Provided*, That on all original and unbroken factory packages of smoking and manufactured tobacco and snuff, cigars, cheroots, and cigarettes held by manufacturers or dealers at the time such repeal shall go into effect, upon which the tax has been paid, there shall be allowed a drawback or rebate of the full amount of the tax hereby repealed, but the same shall not apply in any case where the claim is less than $10 and has not been ascertained or presented within thirty days following the date of the reduction; and such rebate to manufacturers may be paid in stamps at the repealed rate. It shall be the duty of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to adopt such rules and regulations and to prescribe and furnish such blanks and forms as may be necessary to carry this section into effect.

Death of Hon. R. M. A. Hawk.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 6, 1883,

On the announcement of the death of Hon. ROBERT M. A. HAWK, late a member from Illinois.

Mr. WHEELER said:

Mr. SPEAKER: When a few hours ago I was honored by the gentlemen of the Illinos delegation with an invitation to participate in these mournful ceremonies I felt embarrassed for the reason that I apprehended that without preparation I would be unequal to the task. This reflection inspired me with reluctance to assume so prominent an attitude. But when I recalled the shock which I felt when I heard of the death of our lamented friend, and the circumstances under which I made his acquaintance, which though brief was of the most pleasant character, I could not hesitate in my reply.

In December, 1881, when the Forty-seventh Congress assembled in this Hall, a manly, commanding form could be seen in the row of seats directly in front of the Speaker's desk. There was much in his appearance to attract attention. Ever at his post of duty, he carried with him a sad reminder of the past which he could not conceal—the evidence of heroic service, the badge of honor won on the field of battle.

> But now we miss him in his wonted place,
> And search in vain for that congenial face.

Mr. Speaker, there is an overwhelming sadness in the contemplation of the image of a dead friend, whom we can see in all the vividness of reality, as he lived and moved in our midst, while we know certainly that he has gone away from us forever, that we shall meet him never again upon this earth. But in the language of the sacred preacher:

> "Man goeth to his long home, and the mourners go about the streets."

And in these touching lines we are reminded that nowhere is there exemption from the inevitable decree:

> "There is no flock, however watched and tended,
> But one dead lamb is there;
> There is no fireside, howsoe'er defended,
> But has one vacant chair."

By the providence of God it is so ordered that time gradually throws the veil of oblivion over melancholy memories, while it opens up in dewy freshness all the joyous recollections of the past. So the wounded soldier whose virtues we commemorate to-day, forgetting the gloomy sufferings and agonies of war, cherished only the flower-crowned memories of the march, the bivouac, and the battle.

I hold in my hand a history of the regiment in which Major HAWK was one of the highest officers, and certainly one of its leading spirits. My hurried perusal of this volume shows that our late compeer was one of the brave men who led the front in that almost continuous battle from the Ohio through Kentucky, from the Cumberland through Tennessee, and from the Tennessee through Georgia to the Atlantic Ocean.

With the gallant ROSECRANS he breasted the storm of death at Murfreesborough and under the same intrepid commander led the van in the historic conflict at Chickamauga.

His troops were part of the surging line which charged with such desperation on that bright sunny morning at Kenesaw.

He was in the terrible onslaught at Atlanta, and in the leading column in the march preceding the battle at Jonesborough. In that engagement he fought with unusual bravery, and in the march to the sea, fighting at every step, he earned the commendation of General Sherman, his distinguished commander.

At Macon, Buckhead Church, Waynesborough, Aiken, Averysborough, and on hundreds of other fields, towered the portly form of him who was so lately with us in this Hall; and with the sound of victory upon his ears he fell wounded in one of the last battles of his gallant chieftain, the present honored commander of our Army.

Much that I read in this work I heard from Major HAWK's own lips, who, on our first meeting, spoke of me as one who had often been very near him during the conflicts to which I have referred—on opposite sides, of course, but still near each other on American fields of battle—and this very fact seemed to awaken our mutual sympathies and tended gently but surely to draw us together into cordial relations.

Let no man doubt the real cause of this almost instantaneous cordiality. It is this: We had in fact *never been enemies*. The word enemy is not the word to use in reference to our differences of position. We had simply been arrayed in opposing attitudes. Between the individual people of the North and the South there was no real enmity. Let the historian, the philosopher, the statesman, while he pauses with amazement and admiration, as he contemplates these great, lately-contending hosts laying down their arms and assuming so readily and even gracefully the most friendly relations, find his answer here: There had been no real enmity between these warring peoples.

Our war has no parallel in military literature. It is unlike all other wars in many of its leading features.

The most sanguinary of the English wars comes down to us in history under the softest and sweetest of names. It is called the War of the Roses. Under that gentle and poetic designation lie concealed the hideous features of a strife the most ferocious of any in the annals of modern warfare, waged as it was by brothers and kinsmen. It was, nevertheless, so wholly unlike our war that the distinguishing characteristics of the two may be profitably contemplated, contrasted, and studied.

That too, it is true, was a civil war, a war rendered the more terrific by the personal hostility of the combatants, for into that war entered all the fiercer and darker passions of the human heart, envy, jealousy, hatred, malevolence, malignity, and revenge, the most aspiring pretensions and the most inordinate ambitions, all prompted and urged by the family pride of the nobility and the autocratic prerogatives of royalty.

It was a war waged for nobility, the nobility of persons where titles and place, manors and earldoms, crowns and kingdoms were the stakes; where the result was the tyrannical dominance of family on the one side and individual extermination on the other. While titles and crowns awaited the victors, the frowning executioner stood hard by with his keen ax eager and anxious to chop off the heads of the vanquished.

Let us contrast this picture of war for a single moment with this more recent one of ours.

Our civil war, while it was one of the most sanguinary and terrific that ever employed the arm of the soldier or engaged the pen of the historian, was at the same time one of the most singular and remarkable ever recorded, in this one distinctive characteristic: that, as between the soldiers who met and fought each other so desperately, there was not and never had been, and from the nature of things never could be any individual personal hostility, none of that despicable feeling known as hatred. No revenge, no ambition, no malice, no blood-thirstiness. They had marched and fought and triumphed under the same flag for nearly a century. They had seen their population grow from three to forty millions, and their territories expand from ocean to ocean. Hence, this war of ours did not arouse nor engage nor stir up the dark and fierce passions of the human heart. We met and fought, not in a spirit of anger but in the fulfillment of duty.

It was a war built upon abstractions; not made nor sought nor wished for by the people at large, but rendered inevitable by extraordinary circumstances and by the irreconcilable conflict of opinions. Hence, when this people met each other face to face as foes in war they were amazed, perplexed, and confounded at the most unnatural aspect and felt in their hearts more reluctance than hostility, more regret than revenge, more sorrow than anger.

In such a war the savage instincts of ferocity could have no place, and hence, upon the close of such a war, there could be no revenges to gratify. Hence, also, the instantaneous national reconciliation which so puzzles mankind in the outside world is but the natural result of the reunion of that sentiment (broken but for a moment) which is the real characteristic of American civilization, that is, the design to work out the problem of human liberty and to establish the rights of man by the unity of labor, the unity of mind, and the union of the States.

People of Illinois, allow me to plant the rose and the laurel upon the grave of your departed hero, a soldier brave and determined in war, a citizen loved and respected by all who knew him, and a servant to his people, faithful to every duty. Paladin of an hundred battles, yet the pride and pomp and triumphs of war had not so carried him away as to make him lose sight of the humbler callings of good citizenship; and consequently we see in his career in civil life the same unerring integrity that carried him successfully through the war marking his demeanor as the industrious official, ever at the post of labor, thus commanding confidence and trust and assuring success amid the plaudits of his fellow-citizens, eminently exemplifying Pope's often quoted, but most true words:

> Honor and shame from no condition rise:
> Act well your part, there all the honor lies.

Reduction of Internal-Revenue Taxation.

SPEECH
OF
HON. WILLIAM R. COX,
OF NORTH CAROLINA,
IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 20, 1883,

On the bill to reduce internal-revenue taxation.

Mr. COX, of North Carolina, said:

Mr. SPEAKER: The bill presented for our consideration is one passed at the first session of the present Congress, with an additional section proposing a reduction of the tax on tobacco of about $23,000,000.

As it passed the House at the last session it simply removed the tax on capital and deposits of banks and bankers, stamps on checks, &c., medicines, perfumery, and matches, making a reduction of about $18,000,000. That bill was opposed by myself and others entertaining similar views, inasmuch as it failed to give relief to the laborer and producer, while it sought to relieve those best enabled to bear the burdens of taxation. It was supported by distinguished gentlemen on the other side who to-day oppose this bill upon the ground that it proposes to remove the tax in part from tobacco, a product not grown in their localities.

As is well known, I have always been an earnest advocate for the repeal of all internal-revenue taxation, believing it to be anti-republican in its tendency and burdensome and oppressive in its mode of collection. It has never been resorted to in this country except in cases of extreme emergency, and surely when this repeal is recommended by the President in his annual message, as well as by the Secretary of the Treasury, and there is a surplus revenue of over $150,000,000 annually collected, there can be no valid reason urged for its continuance.

The bill under consideration is not altogether satisfactory. It does not go sufficiently far in its measures for relief. It still proposes to leave the present cumbrous and irritating machinery for collecting these taxes in existence. It continues a system of espionage, information, and oppressive agencies which frequently leads to conflicts and even bloodshed, and proves most oppressive to that class who are least able to bear the expenses of litigation.

But I will not dwell on that subject at present. Suffice it to say that amidst numerous propositions which have been for months discussed looking to a relief from taxation this bill comes nearer relieving the farmer, the producer, and those directly connected with him than any other one proposed. It grants to manufacturers and dealers a drawback on all original and unbroken packages on hand at the time the law shall go into effect where the claim shall amount to $10. It permits farmers and producers to sell tobacco of their own raising to consumers to an amount not exceeding $100 annually, and reduces the amount of tax on retail dealers and peddlers.

There is no industry of my State which has suffered more in consequence of this agitation of tax relief without some final action than the tobacco interest. With the continual agitation of the proposition to remove the present tax of 16 cents per pound on tobacco the manufacturer has been virtually paralyzed. His factory hands were necessarily discharged or continued on meager wages, and great suffering followed. The farmer has found great difficulty in finding a purchaser when the manufacturer was left in doubt at what time the tax might be removed and a large stock left on his hands with the uncertainty of a rebate being allowed.

Now, while this bill does not afford the relief demanded by the country, yet it is a movement in the right direction, and wisdom would dictate that in such an exigency when you can not get the whole you had better accept the half loaf. There is but one voice among all parties in my State in regard to the question of internal-revenue taxation, and that voice demands its total abolition. While there are subjects taxed under this system in which they are not interested, yet on principle they desire to see them relieved, recognizing the justice of granting the same measure of relief to others which they demand for themselves. The Republican party in this Congress has shown itself incapable of dealing with the problem of tax reform, and I fear unless we accept this inadequate measure of relief none whatever will be secured at their hands.

The session is now drawing to a close; but few more working days remain. Appropriation bills and other important matters of legislation now stand in our way, and what right have we to expect that a party which consumed eight months without effecting any reform, only appointing a Tariff Commission to roam about the country to gather testimony and formulate a plan for our action, which when brought forward was at once repudiated, while the very committee which was declared in the last Congress incapable of dealing with this question presented a substitute for the action of the commission which has been discussed up to this time without a conclusion—I repeat, what right have we to expect any other relief at the hands of this party? If this measure should be adopted the present revenue machinery and officers may be dispensed with at the meeting of the next Congress, and if they are not we will have at least reduced the surplus revenue of the Treasury, which stands as a continual invitation to corruption and extravagance.

In view of the foregoing I can see but one thoroughfare of escape, which is to support the bill and leave to a Congress fresh from the people, in harmony with their views, and selected for reform the matter of making such additional modifications of the present system of taxation as the necessities of the country demand.

I have purposely refrained from consuming the time of this session in a discussion of the various propositions in regard to taxation which have from time to time been presented for our consideration, but have been content to express my approbation or disapprobation of measures by my vote. The Republican party is responsible for the legislation of this Congress. I was willing for it to have full rope, to aid it in every just measure of relief, and not to obstruct it in its efforts to secure proper legislation. It is a matter of regret that thus far it has not done more to command support. While I have grave doubts as to any good it may accomplish, yet I trust it may still do more to relieve the burdens of the people than it has thus far given promise of.

Death of R. M. A. Hawk.

SPEECH
OF
HON. ANDREW G. CURTIN,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 6, 1883,

On the announcement of the death of Hon. ROBERT M. A. HAWK, late a member from Illinois.

Mr. CURTIN said:

Mr. SPEAKER: The story of the life of our dead colleague has been faithfully told, and in the few remarks I have to make I shall not attempt to repeat it.

I learned to know Major HAWK early on my first entrance into this Hall as a member and knew him well and was honored by his friendship. It would be false to his memory if I were to attempt to exalt him into a great orator or statesman or philosopher. Much better and more useful in all the avocations of life, he was an honest, pure-minded, upright man of broad common sense and gentle, kind nature.

I am quite sure it is proper for me to refer to one circumstance in his official conduct which illustrates his unselfishness and his delicate estimate of propriety when he had a personal interest in the result of his action. When the committee of which I was a member had under consideration the bill introduced into this House, and to the honor of its members passed unanimously, to give a pension of $40 a month to those who had lost an arm or a leg in the military service in the late unhappy civil war Major HAWK refused to vote. I tried to persuade him that he was quite too sensitive; but, offering as a reason that it would add to his income $200 a year, he refused. And that bill was carried through the committee and reported to this House in his absence.

It was a pleasant exhibition here, which we have just had given us [referring to the remarks of Mr. WHEELER] from a gallant soldier below the line, who has just paid a tribute so beautiful and truthful to the memory of our late colleague, supplemented by the eulogy of his commander (General ROSECRANS), soldiers who were enemies and now in friendship paying the homage of respect soldiers must feel for martial virtues. The history of his life and his services, the exhibition of the purity of his character is creditable to his colleagues and his friends and has been fitly spoken.

His attachment to his family, the sorrow of that home circle, is a subject quite too sacred for the formal demonstration on this occasion. There we should not enter. God struck the husband and father and God will pour balsam and balm into the wounds he has inflicted on the bereaved family, and nothing that can be said here can in the least relieve their deep sorrow.

It is for mortal man to die, as we have been frequently reminded during this Congress. It is for those who live to so discharge their duties, personal and relative, that when they die their memory will be preserved. When a good man dies there is a void in society, an aching void which it seems impossible to fill. But when a man dies who has failed to fulfill his duties to man and his country and those who surrounded him in life there is but a modicum of regret at his departure, and he is soon forgotten. But whether high or low, whether statesman or peasant, whether rich or poor, the man is to be most remembered who patiently works in his allotted sphere and faithfully discharges his duty.

I found Major HAWK to be a man of that kind, and this House properly honors the memory of a Representative who was honest and faithful and true in all the relations of life; who had strong convictions

and pursued them; who had the courage to perform his duty and follow the right, and well he knew what was the right. Over his grave, from a short acquaintance with him, I desire to express sorrow at his death and gratification that his memory is to be embalmed, as we are told, in the community where he lived and by a constituency he faithfully served on this floor.

I say that we have been called often in this Congress to mourn the dead taken from this Chamber, so many during these short two years, men of long, useful, public service, and some who had scarcely reached the meridian of life. Who can tell when the portals of this Hall shall again open to the great destroyer who may enter and seize another victim? Who knows who that victim will be, whether old or young, whom we may be called upon again to mourn and pay these formal fitting ceremonies? When that time shall come I trust that over the dead body of another member of this House it may be said, he died an honest man, the noblest work of God, a sentiment never too old to be repeated.

Mr. Speaker, all humanity is made of one family—the living and the dead. Those who go before us shed their benefactions upon us by their good works. If they have worked patiently in their allotment, if they have discharged their duties, personal and relative, if they have dealt honestly with their fellow-men, if they have sustained and supported the Government of their country as did our dead colleague in its dark hours of distress and necessity, and have acknowledged their allegiance to Almighty God, they will shed their benefactions upon us.

When we have filled our allotted time and the destroyer comes to us, may it be said that we have so discharged our duties that when we are gone we will leave something that posterity may imitate. That is all of life; it is all of death; it is all of humanity. Well did Major HAWK fulfill his duties and leave to his family the priceless legacy of a useful and blameless life.

I render this brief tribute to his memory; a generous, kind-hearted, upright man. He was maimed in the service of his country and day and night he suffered constant pain, which he bore with the fortitude of a soldier and resignation of a Christian. To his memory as a soldier, as a member of this House, and higher and holier emotion of the heart, to his memory I yield the homage of my respect, because he was my friend.

Commercial Relations with Central and South America.

SPEECH

OF

HON. JAMES B. BELFORD.

OF COLORADO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883.

On the bill (H. R. 7529) to promote our commercial relations with Central and South America.

Mr. BELFORD said:

Mr. SPEAKER: On the 5th day of the present month I had the honor of introducing in this House a bill to promote our commercial relations with Central and South America. The bill itself is in all respects identical with the one contained in Mr. Hinton R. Helper's memorial to Congress which, with the fullest approbation and pleasure, I had previously introduced in this House, as may be seen by reference to our proceedings here on the 17th day of January.

The memorial and the bill, both of which should be considered in connection with each other, are characterized by a length and breadth and depth of meaning and purpose which amid many other matters of more than ordinary interest and importance may not as yet have secured merited attention. The objects ultimately sought to be achieved by the bill are supremely commercial and pre-eminently American; and by the use of the word "American" in this case I have reference to all the countries and all the peoples of the two great continents which, so far as land is concerned, constitute the bulk of the Western Hemisphere. According to the geographical designations found in our best maps and atlases, the three grand divisions, or rather sections, of land to which I allude are specifically known as the three Americas, North America, Central America, and South America.

Railway intercommunication between all the independent and contiguous countries of the two great American continents, as a measure indispensably necessary to the full development of their wonderful natural resources and their perfect rescue and future freedom from a species of commercial thralldom to which they are still subjected, as they have always been subjected, by certain portions of the Eastern Hemisphere, is substantially what the memorial and the bill seek to accomplish. I have already, in other places and on other occasions, professed myself warmly in favor of the intercontinental highway thus projected because I believe it will bring about a more perfect assimilation of the legitimate aims and aspirations and secure a more thorough unification of the individual and national interests of all the peoples of the western world. It will impart new zest to the intercourse and comity of nations, and its influence will be universally favorable to the successful inception and prosecution of internal improvements of every sort.

While it will greatly facilitate direct and rapid communication between the inhabitants of distant sections of our own continent, it will also open avenues, everywhere ornamented on both sides with the delightful and enduring evidences of peaceful industry, to the still more distant dwellers of our sister continent. Besides creating large demands for our manufactures and other commodities, it will stimulate the growth and increase the strength of our sadly crippled mercantile marine. It will more clearly and conspicuously than ever before demonstrate the incomparable superiority of civil pursuits and greatly diminish the tumultuous and deleterious incentives to war. By gentle methods and friendly examples, rather than by rash or violent proceedings, it will afford far better protection and security to life and property, and its civilizing effects will be recognized and appreciated in the remotest as also in the nearest abodes of all kindly-hearted and thoughtful men.

Shall the feasibility of this gigantic enterprise, its desirability, or its indispensability, viewed from the standpoint of enlightened prudence and patriotism, be seriously called in question? It has been stated as a fact that from the very dawn of history the most beneficial and unselfish undertakings have been almost invariably regarded at first with peculiar distrust and shyness, principally perhaps for the reason that they were but imperfectly comprehended. A few notable instances of human incredulity, not of ancient nor of mediæval times, but of very modern occurrence, may be fitly alluded to in connection with the proposition now made for opening railway communication between the United States and Central and South America.

Benjamin Franklin was slandered and shunned as an impious man because he boldly attempted to control and utilize the electric forces of atmospheric and ethereal space, it being feared that he was profanely intrenching on one of the mysterious and sacred properties of heaven. Later, while more successfully engaged in the same line of investigation and experiment, Professor Samuel F. B. Morse was looked upon with profound pity, if not contempt; and one of the grave and benevolent statesmen of the day, to whom the electrician had respectfully appealed for reasonable co-operation in his efforts, was considerate enough to suggest that a permanent home should be provided for the Professor in a lunatic asylum. Robert Fulton believed and declared that he could successfully apply steam to the purposes of river navigation; wherefore it was said that the man was evidently crazy, and the question arose whether it might not be unsafe to permit him to go at large.

Dr. Dionysius Lardner, able and eminent as he was in several branches of science, solemnly warned the world against the wiles of the evil one in whispering steam as a substitute for wind in ocean navigation. When the learned and practical chemists of London and Edinburgh first asserted the possibility of illuminating those cities well and cheaply with gas, Sir Walter Scott laughed at them and ridiculed and denounced them as no better than alchemists or mountebanks, who, under plausible but fallacious representations, harbored sinister designs of making their own fortunes out of smoke! George Stephenson, the first projector and builder of a railroad, was for a long while thought to be the victim of a hopeless self-delusion. Early in the year 1845, Asa Whitney, one of the most worthy and far-sighted patriots of his day, projected and earnestly advocated the Pacific railroad; but being regarded as a semi-demented enthusiast, he failed, through no fault of his own, but through the fault of his countrymen to enlist proper attention to his most meritorious scheme. Less than thirty years ago Cyrus W. Field bravely and wisely undertook to establish a line of submarine telegraphy between the United States and Great Britian. People shook their heads and smiled, and complacently repeated the old proverb, that "a fool and his money are soon parted." But the fool in that case was certainly not found in the person of the daring and successful layer of the Atlantic cable; for he still lives in health and honor, and his wealth to-day, though possibly overestimated, has been figured out at not less than $50,000,000.

According to William Appleton, of Boston, the Legislature of Massachusetts, in 1829, when Stephenson's projected iron road from Liverpool to Manchester was still incomplete, appointed a survey to ascertain whether it was practicable to construct a railroad from Boston to Lowell; the distance, over a comparatively level country, being only about twenty-five miles. Another duty imposed upon the surveying party was to estimate and make known the probable cost of building the road, provided it could be built at all, so as to carry freight and passengers with reasonable safety and expedition. To defray the expenses of the survey, the Legislature was liberal enough to appropriate the sum of $250! The surveyors, who, for those railroadless days, must have been good engineers, reported the scheme as feasible, and estimated that the cost would not exceed $400,000. New surveys and estimates were demanded by the promoters of the enterprise, who appointed a committee of their own to perform the desired services. In 1831, two years after the action of the Legislature, the private committee virtually confirmed the report of the State officials; but so marked and gen-

eral was the lack of confidence on the part of capitalists at that time touching a project of this kind that the requisite amount of stock was not subscribed until long after the books for that purpose had been opened.

From 1845 to 1862, during the progress of the discussion in Congress of questions affecting the proposed Pacific Railroad, many of the ablest speeches and reports made upon the subject, in point of mere intellectual ability, were extremely hostile to the measure. It was argued that the project was neither desirable, feasible, nor politic; that the plains between the Mississippi River and the Pacific Ocean were bewilderingly monotonous, sterile, uninhabited, and uninhabitable; that the mountains were perilously elevated, irregular, rugged, and insurmountable; that the valleys were devoid and always would be devoid of water, fuel, soil, food, and population; that the higher peaks of the mountains, some of which would need to be ascended and passed over by the road, were covered with snow eight months in the year; that for a distance of 1,500 miles or more there would be no "way business;" that the enormous sum of at least $400,000,000 would be required to build the road; that the whole enterprise was only a scheme of financial absurdity, if not something worse; that utter bankruptcy would surely overtake the project, and that if persisted in it would inevitably entail upon the Government of the United States an ever-increasing and ruinous expense

Yet notwithstanding all the raven-like croakings and discouragements uttered by even the ablest enemies of progress, the good common sense of our people finally prevailed, the Central Pacific Railroad was built, and it has been in most successful operation ever since 1869. Not only so, but it was soon found that one transcontinental road alone was quite insufficient for the amount of largely increasing business between the great and growing West and the gorgeous East. A second leading latitudinal line, the Southern Pacific, has but recently been completed; a third, the Northern Pacific, is in rapid progress of construction; and a fourth, the Canada Pacific, will be ready to convey freight and passengers from ocean to ocean within the next three or four years. Mexico, too, an adolescent giant of splendid promise in the family of nations, will soon have in operation at least one Pacific railroad.

It may be safely inferred that it is only a question of a few years when from Mexico to the Argentine Republic, inclusive, every Spanish-American commonwealth, following the example of the United States, will have its Atlantic and Pacific outlets for trade and travel by rail, all the latitudinal lines tapping or crossing the great longitudinal line already denominated the Three Americas Railway. To hasten that day, a day not of small things but of great things, is the object of the memorial and the bill for which I am now speaking. That glorious day which will be certain to render the long-mooted Monroe doctrine a grand reality will indeed be a day for the mutual rejoicing of two continents, for the joint jubilation of seventeen nationalities, for the uplifting of the harmonious and happy voices of 100,000,000 of free, enlightened, and progressive American citizens, as if bedecked in holiday attire and holding each other hand in hand in a sort of merry-go-round, from Chili to Alaska. This expression, Mr. Speaker, may sound slightly poetical, but it is less so in fact than will be the simple consummation of what is contemplated in the bill before us; for in this case, as in so many others, truth will again prove itself to be stranger than fiction and deeds infinitely more weighty and worthy than words.

What are some of the most important results which have followed the building of so many railroads in the United States, and what will probably be the effect upon other American nationalities by undertaking and carrying out successfully corresponding improvements? An excellent reply to the first part of this inquiry, and inferentially a good reply to the second, is contained in the last edition of Poor's Railroad Manual, from which I make the following quotation:

The enormous increase of our foreign commerce is due almost wholly to the increased exports of provisions and breadstuffs, the products of those portions of the country most distant from markets and in which railroads have had their widest and most rapid development. In 1880 our exports amounted to $823,946,353, which shows an increase of about $447,000,000 over our exports in 1870.

Of this great increase the sum of $330,000,000 was made up of the provisions, breadstuffs, and other products of our Western States, whose wonderful prosperity and progress are almost wholly due to the construction of railroads within them. These deductions might be carried to almost any length without losing any of the interest attached to them. They afford a striking illustration of the resources of the country and of the enterprise and material thrift of the people. Their eagerness to construct railroads arises from the peculiarity of their position. As they moved inland, and they have been constantly moving inland, their markets have always remained within a narrow belt of territory extending along the Atlantic coast from Baltimore northward. Within this belt, with two exceptions, New Orleans and San Francisco, are all the great sea-ports through which our agricultural products, except cotton, chiefly find their way to foreign lands. The reaching of these sea-ports cheaply and expeditiously has consequently been a matter of prime importance with our people at every stage of their progress.

The internal commerce of the country, in all its vast magnitude, is a direct creation of our railroads through the reduction they have effected in the cost of transportation. * * * The great Rocky Mountain region presents no extraordinary obstacles to the construction within it of railroads, and its mineral wealth bids fair to compensate for any lack of agricultural resources. The total extent of lines of railroad constructed and to be constructed for the whole country may be safely estimated at not less than 500,000 miles. With 104,813 miles of railroads in 1881 (the number of miles now amounting to about 115,000), our people appear to have only begun the construction of works which are to be their common highways. Railroads in this country now precede the movement inland of our population, in order to provide the means for such movement and outlets for its products. The gross earnings of all the railroads in operation in the country in the past year, 1881, were $725,325,119, being an increase over the previous year of $110,000,000, the rate of increase having been nearly 16 per cent. The earnings equaled $13.60 per head of our population. Their net earnings were $276,654,119, an increase of $21,500,000 over those of 1880.

The amount of interest paid during the year on their funded debts was $128,887,002; the amount paid in dividends was $93,344,200. The cost of operating our railroads for the year 1881 was $449,565,071, or 62 per cent. of their gross earnings. The total amount expended in the construction of new lines and in operating and improving the old roads was over $750,000,000; the greater part of which vast sum was paid in wages. The number of persons employed in operating the roads during the year averaged fully twelve to the mile of operated line, or 1,200,000 in all. The number employed in the mere construction of our railroads equaled 400,000, increasing the total number of employés to 1,600,000, or about one thirty-second part of our population, estimated at 53,200,000. The freight transported on all the railroads in the country in 1881, though not ascertainable with definite exactness, can not have been less than 3,500 tons to the mile, or a total of 350,000,000 tons. At an assumed value of $50 per ton the value of the tonnage moved, on all the railroads of the United States the past year, less one-third for duplication, was, say, $12,000,000,000, or more than $200 per head of our whole population. * * * The total cost of all the railroads and railroad properties in the United States in 1881 was $5,577,996,931.

Too great significance can scarcely be ascribed to Mr. Poor's declaration, backed as it is by incontrovertible statistics, that "the internal commerce of the country, in all its vast magnitude, is a direct creation of our railroads, through the reduction they have effected in the cost of transportation." This is a feature of the general subject deserving special consideration in connection with the proposed Three Americas Railway, the very idea of which is based upon calculations in perfect accord with the eminently satisfactory experiences and results announced in the extract just read.

The importance of cultivating more intimate relations of trade and of social and political intercourse with Mexico, and with Central and South America, is, or soon will be, a proposition too plain to be argued; and to state that a larger share of the commerce of those nations than we now enjoy is highly desirable were only the utterance of a truism. Yet there is much reason to apprehend that few among us fully realize the present and prospective magnitude of the interests involved. We are too prone to think of Spanish America as hopelessly anarchical, or to form our estimates of the resources of those vast regions from the little we have seen of them.

It is now but little more than sixty years since these young republics threw off the colonial yoke of old Spain. It was the policy of that country to monopolize the commerce of all her colonies, and to exclude almost entirely their direct intercourse with the outer world. For three centuries their trade had run in the groove that was cut for it by the mother country. Their raw products were sent to Spain in Spanish ships, and were then exchanged for Spanish manufactures. Habit is said to constitute a sort of second nature; and this routine of trade, and this colonial dependence upon Europe, was only interrupted, not broken, by the revolution which separated the Iberian colonies from Castile. It is true that the trade was mostly transferred from Spain to England and other European countries; but the habit of dependence upon the Eastern continent for whatever is the product of skilled labor still remains. At the epoch of the Spanish-American revolutions the people of the United States had not yet entered upon a career of manufacturing. The great and peculiar interests of New England were commerce and the fisheries. Mr. Webster was himself a free-trader, and made able and eloquent speeches in opposition to the protective policy which was championed by Mr. Clay and Mr. Calhoun. This country was not, therefore, in a situation to supply the demands of the South and Central American republics for manufactured goods; and their trade naturally fell into the hands of the Europeans, chiefly the English.

Prior to our late civil war the commercial development of this country was proceeding at a rate perhaps never before equaled in the history of the world; and our mercantile marine was second only to, and rapidly gaining upon, that of Great Britain. Our rising manufactures, which had kept pace with the general progress of the country, had then a fair chance to be distributed over the globe, and they were gradually making their way into many of the largest and most distant markets. But the confederate cruisers, countenanced and encouraged by the ungenerous and sinister policy of England and France, destroyed or blighted our splendid commercial prospects; and although it is now almost eighteen years since the last defiant flag was furled or sunk beneath the waves, yet we seem almost as far as ever from the period of perfect recuperation. In all else the devastations of the war have been effaced.

The country at large is twofold, perhaps threefold, more wealthy to-day than it was before Fort Sumter was fired upon, in 1861. Even the Southern States themselves have well recovered from their overthrow, and from the hasty and violent destruction of slavery; but our American commerce, or more properly speaking, our American shipping, sinks lower in rank from year to year as compared with that of other nations. Our commerce in truth has ceased to be our own; and, humiliating as is the fact, it both comes and goes to enrich the foreigner. Of our total exports of domestic merchandise in 1882, amounting in

value to $733,239,732, the comparatively pitiful sum of only $94,162,013 was exported in American vessels! The total value of our imports of merchandise during the year 1882 was $724,639,574; of which large amount only $130,266,826 was brought in American bottoms.

Still, the sturdy character of our people has not changed. The same resolute and daring energy is yet active among us, and there is now throughout the country vastly more capital, at a lower rate of interest, seeking profitable investment. The failure as yet to recuperate our commercial marine must therefore be traced to other reasons. The obstructive causes which have conspired to retard and keep down our commercial aspirations are said to be twofold, the one originating in the policy pursued by the Government and the other in a change of the material of ship-building. As an alleged encouragement and protection to American ship-building the Government has seen fit to prohibit the registration of foreign-built ships, while, at the same time, wooden ships have ceased to be highly valued in competition with those constructed of iron. It is true that America has more iron and coal in her mines than all the rest of the known or civilized world, but owing to the high wages necessarily paid for labor in this country it has thus far been found to be impracticable to build iron ships as cheaply as they can be built in Europe.

Another hinderance to successful American commercial competition with Great Britain and other European countries is the fact that they pay large subsidies to lines of ocean steamships, which are thus enabled to carry on commerce with countries whose trade, without such extraneous support, would not justify the venture. By force of long usage and by virtue of full and undisputed possession of the field the English, French, and German merchants have strongly intrenched themselves in the channels of southern trade, and it would now be very difficult for Americans, even with the aid of subsidized lines of steamships, to compete successfully with their European rivals. Experience has shown that in this country subsidized lines of steamers have but a feeble hold on the popular confidence. They are almost certain to come into disfavor and to bring odium upon the party which yields to their overtures.

Justly or unjustly they furnish prolific themes for clamor and denunciation by ambitious politicians; and sooner or later they are abandoned by the very party that voted the subsidies or they are unceremoniously put aside by the opposing party in triumph. If it were a question of commercial intercourse with a country or countries entirely separated from us by wide seas, the reliance upon subsidized lines of steamships would or might be an absolute necessity in competition with similar devices of other nations. But as regards North and South America no such valid plea can be advanced. The views and language of the projector of railway communication with Central and South America, as found on the fourteenth page of his printed memorial to Congress, are wholly pertinent in this connection. He says:

> Europe, with her large, long-established, and liberally-subsidized lines of ocean steamers, is now, as has already been stated, far ahead of us on the high seas, and may continue so for generations to come; but the land itself, the very basis of all solid things in this world, is open to us, as it is not and never can be to Europe; and herein and hereon, if we will but avail of the vast vantage ground which nature herself has so kindly given us, we shall indubitably achieve the grand success at which we aim. Our own shipping interests, our water-way possibilities, no less than our railway extensions, will be greatly stimulated and advanced by carrying out the intercontinental enterprise thus advocated. Orders for our manufactures and other commodities will in most cases be given in person or by letter speedily brought by railway, but much of the heavier kinds of merchandise so ordered will doubtless be freighted to its final destination, or taken far on its way thitherward, by steamers or by ships under sail. This increased and ever-increasing business between American merchants and between Americans in general—between Americans of the far South, Americans of the far North, and Americans of intermediate latitudes—will, in the very nature of things, create such a demand for American bottoms as never existed before and which will doubtless soon afterward be supplied from our own ship-yards.

The obvious dictate of common sense is to invest the subsidy in a form which will be permanent. Subsidies paid to lines of steamers perish in the using. They are as evanescent as the ephemeral track of the ship itself over the sea. Like the horse-leech, their cry is unabatedly, "Give! give!" But a subsidy to a railroad (if subsidy it shall be called) is fixed, and is once for all. If granted at all, it need be granted only once. Its effect is to nourish a perennial plant which will fairly and continuously compensate the authors of its existence. In addition to certain valuable land grants, the Government of the United States advanced $16,000 per mile to aid in the construction of the Pacific Railroad; advanced it once only, not twice nor oftener, not annually for a period of twenty or thirty or forty years, as aid to lines of ocean steamers must generally be given. Nor was the advance of money to the railroad by any means an unconditional gift; it was only a loan, which is now being properly repaid.

I have said that we are too apt to underrate the great value and importance of commercial intercourse with the Spanish-American countries; and in this remark I may include Brazil, whose dominant race is of Portuguese origin. The most recent official statistics of the foreign trade of those countries are highly interesting and encouraging, since they give evidence at once of the improvement in the social and business conditions of the peoples, of greater stability in their governments, and of a constant but still too limited increase of our trade with them. This is particularly true as regards Mexico, our nearest neighbor, in whose welfare on every account we have the greatest interest; and whose people are now beginning to realize the fact that, whatever their grievances may have been in the past, they have no longer any reason to look upon the American people otherwise than as sincere friends.

Between the United States and Mexico there has been a marked improvement in commercial intercourse within the last dozen years, and especially so within the last four or five years. It is besides a most encouraging and gratifying fact that this improvement has been the consequence of the construction and operation of railroads within her own borders. These enterprises there, though, are still in their infancy. No perfect connection has yet been found between the roads of that country and the roads of the United States; but a vigorous impulse has been imparted to the spirit of trade and friendly intercourse by the approximation of the termini of the American and Mexican iron highways; just as the electric spark leaps from the end of one wire to that of another before they are brought in actual contact.

The following tables, made up from official reports, will exhibit conditions of trade which have existed between the United States and the several countries named from the year 1867 to the present time. The tables in the Statistical Abstract of the United States from which these are abridged contain the returns of each successive year, but to avoid too much detail I have taken the returns of only four or five years in each case at intervals of three or five years from each other. The tables show the value of merchandise imported into and exported from the United States, Mexico, Central America, and the several countries respectively of South America. Mexico being our nearest neighbor, she will be placed first in order. For the same reason the trade with that republic will be given with somewhat greater detail than will be exhibited with the other countries.

Mexico and the United States.

Year.	Mexico.	
	Exports to.	Imports from.
1867	$5,395,796	$1,071,926
1873	6,264,901	4,276,165
1878	7,460,704	5,251,502
1880	7,866,493	7,209,593
1881	11,171,238	8,317,802
1882	15,482,582	8,461,809

The foregoing table of exports and imports to and from Mexico includes only merchandise, as contradistinguished from gold and silver and precious stones. The latter commodities, gold and silver especially, go backward and forward from country to country, like water seeking its level; and they should not be taken as exponents of the balance of trade, since such balances are often settled by a triangular trade with another or several other countries. We generally export gold and silver to Great Britain, because we produce great quantities of those metals, and yet the balance of trade is generally largely in our favor. In like manner Mexico is a large producer of the precious metals.

In 1871 she exported to us more than fifteen millions of gold and silver; while the balance of trade in our favor as against her was only a fraction over four millions. A hundred or more such illustrations might be given. In exhibiting the commerce of the two nations it is unnecessary, therefore, to include the exports and imports of the precious metals. The table given exhibits an almost uniform growth of trade between the two countries during the past fifteen years, which has been principally due doubtless to the better and more stable government of the Mexican people; but during the last three or four years the very rapid growth of the trade can be reasonably accounted for only by the introduction of railroads south of the Rio Grande.

Next in order comes the table of our commerce with the Central American republics. In the (official) "Statistical Abstract of the United States" the five small republics known as Guatemala, Honduras, Salvador, Nicaragua, and Costa Rica are all lumped together as Central America.

Central America and the United States.

Year.	Central America.	
	Exports to.	Imports from.
1867	$618,448	$907,752
1873	961,810	1,974,968
1878	1,254,757	2,968,996
1881	1,625,738	3,159,786

These figures, like those relating to Mexico, show a rapid development of our commercial relations with Central America; but unlike those, they present a very considerable balance of trade against us. Both at the beginning and at the end of the series of years this was the case; while the proportionate balance is larger in 1881 than it was in

1867. The extension of railroad communication through those republics would very soon equalize the accounts of exports and imports; while in all probability it would augment them ten or fifteen fold. Colombia now claims our attention:

Colombia and the United States.

Year.	Colombia.	
	Exports to.	Imports from.
1867	$4,207,739	$1,990,040
1873	5,373,773	6,148,840
1878	4,495,322	5,848,043
1881	5,383,138	5,991,890

This table, showing our commercial relations with Colombia, exhibits a steady and promising trade with that republic, with a healthy reciprocity in the enterchange of commodities.

Now comes Venezuela:

Venezuela and the United States.

Year.	Venezuela.	
	Exports to.	Imports from.
1867	$904,690	$1,754,548
1873	1,573,647	5,512,910
1878	2,804,665	7,310,297
1881	2,768,604	6,601,817

It thus appears that there has been during the last fifteen years considerable improvement in our trade with Venezuela, notwithstanding the fact that the balance is too greatly against us.

Of Ecuador our Secretary of State, Mr. Frelinghuysen, in his recently published lengthy letter upon "the commerce of the world and the share of the United States therein," says:

> As far as our customs returns are concerned, it would appear as if there were no direct commercial relations between the United States and Ecuador. The name of that republic does not appear in the reports of the Treasury Department showing our imports from and our exports to the various countries of the world. It is doubtless principally owing to this omission that Ecuador, up to a very recent period, was almost wholly neglected by the manufacturers and exporters of the United States, thus leaving the field almost clear for European manufacturers and traders.

The Secretary adds, however, that—

> Notwithstanding the fact that our customs show no direct trade with Ecuador, Consul McLean gave a long list of American imports received at Guayaquil, during the year 1879, consisting principally of manufactured articles, to the value of $1,150,000, while he computed the value of exports therefrom to the United States at more than $1,000,000.

Trade with Bolivia since she has been at war with Chili is carried on chiefly through the ports of the Argentine Republic; and Secretary Frelinghuysen is able to hazard only conjectures as to the foreign commerce of that republic. Yet no tangible or definite guess is ventured as to the extent of Bolivia's trade with the United States. It is said, however, on the authority of Consul Baker, at Buenos Ayres, that during the year 1880 there was considerable demand for cotton goods from Bolivian merchants, the orders coming direct to Buenos Ayres, instead of going to the Pacific ports, as in *ante bellum* days. In most cases these Bolivian merchants asked for American cottons, which could not be had, because in consequence of the brisk demand for the same fabrics in the United States the American cotton manufacturers refused to fill orders.

The table in regard to Peru shows a declining state of trade with that country, owing, it may be safely inferred, to the terrible war which has prevailed there with Chili during the last several years.

Peru and the United States.

Year.	Peru.	
	Exports to.	Imports from.
1867	$1,730,914	$1,701,987
1873	2,864,948	1,186,161
1878	1,005,638	1,531,591
1881	97,530	760,536

The commercial and other civil pursuits of both Peru and Bolivia have been seriously crippled by the war with Chili, and it is for this reason that such commerce as the Bolivians have recently kept up with the outer world has been carried on for the most part through the Argentine Republic, bordering on the River Plata and the Atlantic coast. Our commerce with Chili, though she has been victorious in the war, has suffered seriously, as appears from the following table:

Chili and the United States.

Year.	Chili.	
	Exports to.	Imports from.
1867	$2,891,559	$1,287,176
1873	2,308,236	1,070,007
1878	1,989,961	670,466
1880	967,776	1,254,736
1881	1,614,836	1,435,970

The commerce between the United States and Brazil, as appears from the table of exports and imports, is, to our own disadvantage, quite a one-sided affair. We import from that country at least five times the value of the merchandise which she imports from us. Brazil has an Atlantic coast thousands of miles in length, and her ports of entry are nearer to New Orleans, Baltimore, and New York than to any European port. Yet England, France, and Germany send to Brazil almost an equivalent of manufactured goods for her raw products and for her coffee and sugar.

Brazil and the United States.

Year.	Brazil.	
	Exports to.	Imports from.
1867	$5,099,387	$19,100,300
1873	7,197,722	38,540,376
1878	8,686,704	42,968,973
1881	9,252,415	52,782,536

In the Argentine Republic the balance of trade is also against the United States, but not to anything like the extent that is so humiliatingly apparent in the case of Brazil.

The Argentine Republic and the United States.

Year.	Argentina.	
	Exports to.	Imports from.
1867	$2,591,506	$5,842,717
1873	3,234,992	7,587,843
1878	2,152,109	4,948,016
1881	2,427,813	5,669,240

Uruguay, which is a small republic situated at the mouth of the River Plate (in Spanish El Rio de la Plata), has a considerable and growing trade with the United States, and, like most of her neighbors, she has a large balance in her favor.

Uruguay and the United States.

Year.	Uruguay.	
	Exports to.	Imports from.
1867	$597,008	$1,518,488
1873	1,917,565	3,571,376
1878	1,093,432	2,437,102
1881	1,612,618	4,164,663

Paraguay, owing to the prolonged and wofully ruinous war which several years ago she waged single-handed against the Argentine Republic, Uruguay, and Brazil, is still so disorganized in her civil vocations that she has now but little trade beyond her own boundaries. Of the very limited foreign commerce of this country no statistics have been tabulated. As regards soil and climate, Paraguay is one of the richest and loveliest countries upon the face of the earth.

I now offer some general statements in regard to the foreign commerce of the Central and South American commonwealths and the distinctive nature of much of that commerce. It is remarked by our Secretary of State, in his elaborate report on "the commerce of the world and the share of the United States therein," to which reference has already been made, that no aggregate statement of the commerce of Mexico is attainable; but from the returns of the British, French, and American officials it appears that their aggregate exports to that country in 1879 amounted to $16,737,000, of which the share of the United States was $7,866,000, or nearly equal to that of both her great rivals.

In 1880 the aggregate exports of these three countries to Mexico was $23,381,000, of which the United States furnished $11,191,000, or nearly as much as both England and France. To the American these are gratifying facts. In 1882, as has already been shown, the exports of the United States to Mexico amounted to $15,482,582. Our imports from Mexico consist of a variety of articles, of which the principal are hides and skins, coffee, jute and other grasses. Our principal exports to Mexico consist of cotton goods, metals, hardware, machinery, and mill materials, and latterly almost everything pertaining to the building and equipping of railroads.

The estimated value of the foreign commerce of the Central American republics in 1880–'81 was, of imports, $10,100,000, and of exports, $14,328,000. The share of the United States in this trade has been stated in a table already given. Great Britain exported to and imported from those republics about twice as much in value as this country. The principal exports are coffee, sugar, indigo, gums, and dyewoods.

During the same year, 1880–'81, the trade of Great Britain, France, and the United States with Colombia amounted to $15,696,000 of imports and $16,385,000 of exports. This trade was nearly equally divided between the countries named. Our own country excelled slightly in the value of imports, and France in exports. Colombia exports Peruvian bark, raw cotton, india-rubber, ivory-nuts, silver ore, coffee, and many other articles.

In 1877, according to our Secretary of State, the imports of Venezuela were estimated at $13,990,000 and the exports at $14,985,000. In supplying Venezuela with her imports, England had the largest share; next in order came the United States, then France, and then Germany. The largest value of exports from Venezuela came to the United States. Coffee and hides are among the articles chiefly exported from Venezuela.

It has already been stated—and we should feel the full weight of the statement—that the people of the United States import from Brazil at least five times the value of all the merchandise which they send back in return. The Americans are great coffee-drinkers, and took from Brazil in 1881 nearly 316,000,000 pounds of coffee, free of duty, at a cost of $29,520,151. This of course is by far the largest item in the trade; but we also purchased and brought from that country $8,193,000 worth of crude india-rubber, and $8,446,000 worth of sugar. The English generally are not a coffee-drinking people. Their favorite table beverages are tea and beer; and hence the imports of coffee by Great Britain from Brazil are insignificant in amount as compared with ours, while her exports of manufactured goods to that country are threefold greater than ours. The French have the balance of trade against the Brazilians, while the Germans enjoy an almost reciprocal trade. The Brazilian balance of trade against Great Britain amounts to about 25 per cent.

The foreign trade of the Argentine Republic in 1880 is stated to have amounted in value to $44,067,000 of imports and $56,497,000 of exports. Of the imports, $8,025,009 were furnished by France, $12,103,000 by Great Britain, and only $3,121,000 by the United States. Belgium, Germany, and Italy were but a little way behind us. The exports from Argentine went in larger measure to France and Belgium than to other countries.

The imports into Chili in 1880 amounted to $27,000,000, of which $12,200,000 came from Great Britain, more than four millions from France, and a like amount from Germany. The United States contributed only one and a half million.

The foreign commerce of Peru in 1879 is estimated to have consisted of imports of the value of $28,000,000 and exports of the value of $44,600,000. Great Britain had, as usual, the lion's share of this trade.

The bill now before the House looks to the early establishment of regular and continuous railway communication from the northernmost settlements in the British American provinces and in the United States to and through Mexico, through Central America, and also through South America, down almost to the southernmost settlements in the Argentine Republic. When the suggestion of such extended railway communication was first made, or the thought conceived, some sixteen years ago, we had no finished lines of railroad west of the Mississippi and the Missouri Rivers, spanning the continent from north to south, from near the British line to the borders of Mexico. Then the Union and the Central Pacific Railroads were still in embryo; and the idea of penetrating Mexico and our still more southerly sisters with railroads was too remote from realization to engage the attention of practical men.

But behold what has been accomplished within half a generation! More than one-third of Mr. Helper's magnificent prophecy and project of an intercontinental railway is on the point of fulfillment; perhaps not precisely as it was first outlined and announced to the world, but still in substantial accordance with the original proposition. Even now we have railroads penetrating the far northern regions, where they will soon connect with the Canada Pacific, west of Lake Superior, and, running southward to the Rio Grande, they will ere long meet and unite with a road leading to the City of Mexico. The Mexican road will be pushed forward within a few years to the southern boundary of that republic, there to spread onward the salutary and delightful impulsions to corresponding progress in Central and South America.

In view of these startling yet cheerful facts already, as we may say, more than half accomplished, it were treason to the true spirit of the age to doubt the timely realization of the design of opening a line of continuous railway communication through North and Central and South America; ay, and a generation or two later on all the way from Alaska down even to the most austral limits of civilization. Already the Three Americas Railway has been brought within the range of the practical common sense and business calculations of the American people. Whatever obstacles may have hitherto been deemed insuperable in the way of engineering have disappeared in the presence of the actual results of railroad building in South America itself. The mighty Andes have been scaled, and are traversed daily by the iron horse. In illustration of this truth I will here read a brief passage from the brilliant essay of William W. Archer, written in vindication and advocacy of this splendid enterprise. He says:

> Upon the very threshold of the entrance to Colombia, the first obstacle deserving the name presents itself, for here the Andes are to be crossed. But this can not be deemed impracticable; for Peru, alone and unaided, has achieved the more gigantic feat of crossing the towering range where its height is much greater. At half past 7 o'clock every morning the train leaves the Pacific coast for Lake Titicaca, 12,800 feet above the sea. On the route passengers take dinner at Vincamayo, the highest village in the world, at an elevation of 14,443 feet.

The Oraya Railroad from Callao, on the coast of Peru, to Chicla, its present Andean terminus, has already overcome an altitude of more than 12,000 feet. This cloud-reaching road is to be extended to the rich silver mines of Cerro de Pasco, which are still 2,000 feet above the village of Chicla. It is idle, therefore, it is vain, it is silly to talk of impossibilities in connection with the proposition to unite by means of railways the remotest habitable portions of North and South America.

As has already been suggested, however, there is a proneness in the human mind to regard every uncommon enterprise as well as every new invention the object of which is to make machinery do the work of human hands as altogether visionary and impracticable. Yet there would seem to be but little excuse for this species of mental shortsightedness in an age and country wherein have been witnessed so many miracles of progress in the subjugation of the elements to the will of man. But if there be present any skeptics of this kind, permit me to point them to the wonderful events of recent date. Marvels of genius and marvels of science have followed each other in such rapid succession that the generous and sympathetic mind, in full sympathy with the ameliorating tendencies of the times, is ready to believe in the feasibility of almost any scheme or device of human acumen that is not physically impossible.

During the present century many great things have been achieved which the foremost minds of less than one hundred years ago would have declared to be utterly impracticable. To say nothing of the remarkable triumphs of steam by sea and by land, who would have thought it really possible to "girdle the earth in forty minutes" by the delicate adjustments of scientific discovery and invention? Who but the incomparable Bard of Avon, born in 1564, would ever have even dreamed in his own day of the daily and hourly and ever-continuous realization nearly three hundred years afterward of such an astounding yet veritable miracle?

The youngest man in this House can remember when the feasibility of building and operating a railroad across the continent of North America from the Atlantic to the Pacific was persistently doubted, ridiculed, and denied by many otherwise intelligent and practical statesmen. Indeed, most of our practical and common-sense men of a generation or two back of us were but too apt to regard their indifference and incredulity in opposition to new enterprises as a sterling virtue. Fortunately, though, both for the present and for the future, the young men of our own day are being educated out of strange and dogged adherence to the inadequate things of the past.

A brief recurrence to the history of railroad building in the United States should at once dispel every doubt in relation to the feasibility and the prospective advantages of the grand scheme which is contemplated by the bill now before the House. It is only about fifty-two or fifty-three years since the first mile of railroad was operated in this country. At the end of the year 1830 there were but twenty-three miles in operation; in 1846, when the war with Mexico was declared, there were but 4,930 miles; in 1861, when our own great war began, there were in operation only 31,286 miles; so late as 1870 there were but 52,914 miles; the same being less than half the present number. At the close of the year 1881 there were 104,813 miles, to which was added during the year 1882 about 11,000 miles, making an aggregate of more than 115,000 miles at the beginning of the present year. It further appears that in the United States we have nearly as many miles of railway as all the other countries combined. In this most essential element of modern progress the New World is indisputably ahead of the Old World.

In view of all these incontrovertible facts can it be intelligently doubted that our grand North American railway system, which, from first to last, has already cost our people nearly or quite $6,000,000,000, will, under a sort of irresistible destiny, prudently push itself forward through Mexico, through Central America, and through South America? Where else can American capital and American energy and enterprise so fitly go? Where else can our people find at once on so large a scale peaceful, equitable, and remunerative occupation? In casting

about for honorable business, mutually advantageous to themselves and others, where are they so likely to secure it as in the beautiful and balmy southland, whose inexhaustible fertility of soil and limitless resources of mineral wealth have been the inspiriting themes of explorers from Humboldt to the latest adventurous travelers who have penetrated and passed over the vast interior on muleback? It were an endless and overpowering task to enter upon the subject of the vast undeveloped wealth of Central and South America. With unstinted beneficence nature has endowed those tropical and transtropical regions with soils of unsurpassed fertility, with forests and fruits and flowers of unrivaled excellence for all the uses of man, and with mines of wealth unimagined until they were actually discovered and opened through the unfaltering energies of a conquering and invincible race.

The benefits and blessings which railway communication between North and South America is destined to confer will be, as they should be, reciprocal. Among them will be immense if not incalculable additions to the commercial, the manufacturing, and the agricultural interests of all the nations through which the grand longitudinal railway and its numerous branches will pass. Relatively the less developed countries will be the greatest gainers. They will find good markets for their superabundant products of the soil, for the flesh as well as for the skins of their countless herds of cattle, which in many places are now killed only for their hides and horns, or are permitted to roam at random over the grassy plains without ever contributing in the least to the comfort or well-being of mankind. Then, too, the inconceivably rich mines of the precious metals in those countries will be worked to far greater advantage to their owners and to the people in general than they have ever been worked heretofore.

Capital from the United States and from Europe will constantly seek investment in those countries, in mining, in railroad building, in merchandising, in the mechanic arts, in agriculture, and also in many branches of manufacturing industry, especially by machiney which can be very economically and profitably used where the raw material itself is first obtained. Best of all, the masses of the Central and South Americans will find infinitely more desirable and elevating occupations than fraternal strife. Their governments will gradually acquire permanent strength and dignity. Assiduity in the various vocations of civil life will lead to the general accumulation of wealth, and the potential voice of well-ordered society will everywhere demand and receive protection against that class of lawless and desperate men who have hitherto been accustomed to rob in the name of revolution.

Among all classes of the people education and literature will be honored and diffused, and a liberal and tolerant spirit, ready at all times to welcome the stranger of whatever clime or religion, will take the place of the narrowness and bigotry which are inseparable from the isolation in which largely preponderating majorities of the good people of Central and South America have lived for so many generations. I need not dwell longer upon the varied and comprehensive benefits which American commerce, manufactures, and general industry will undoubtedly derive from the very extensive international communication thus sought. It is not so much that we shall obtain a vastly larger share of Spanish-American trade than other northern nations will be able to secure, but the intercontinental railway, with its many branches and connections, will probably increase the present value of the trade at least tenfold, so that the United States, while deserving and receiving the greatest share, will perhaps still leave the Europeans in possession of even a larger amount of business with the southern continent than they now enjoy.

Finally, Mr. Chairman, the more than ordinarily careful thought and investigation which I have bestowed upon this subject leads me to make an emphatic expression of the opinion that the bill before us ought to be passed; it ought to be passed very soon; it ought to be passed now. Procrastination in this case, as in so many other cases, is both unwise and perilous, not to say imbecile. Europe is every day strengthening her hold upon the great and growing commerce of Central and South America, and if we ever succeed in securing for ourselves the large, if not the largest, share of that commerce which naturally belongs to us, we must first earn it; and our most prudent and vigorous efforts in that direction should not be any longer delayed.

Let us learn a lesson or two from one or more of the European nations. Only a few days ago a telegraphic dispatch from Berlin announced the fact that the German Reichstag had just voted 100,000 marks for exploring a portion of Central Africa. On the 27th of last December the committee in the French Chamber of Deputies at Paris, having under consideration the proposed De Brazza expedition to the Upper Congo, in Africa, reported favorably, estimating that the work in contemplation could be finished within two years, and asking an appropriation of 1,275,000 francs (about $255,000) for the successful carrying out of the enterprise. On the very next day every franc asked for was voted almost unanimously; and De Brazza is already on his way to the Upper Congo, or, in any event, will soon be there.

In that timely and statesmanlike action of France, where the prospects for profitable returns are so small in comparison with the liberal grant, we should experience no difficulty at all in finding a precedent—if we need a precedent—for similar promptness of proceeding where the advantages in prospect are at least twenty times greater and far more likely to be realized, but where, notwithstanding, the amount asked for the requisite service is very nearly ten times less. For a special commercial and railway commissioner and assistant to Spanish America for a period of two years, a sum of only $26,000 is necessary; not for only one country, and that a savage country, destitute of any sort of intelligent or peaceful industry, but for fifteen fairly civilized and enlightened countries, having organized governments, civil methods, and regular pursuits. In the name of American commerce, American manufactures, American progress, American statesmanship, American honor, and all American interests, I again ask for the early consideration and passage of the bill.

The Tariff.

SPEECH

OF

HON. JOHN S. RICHARDSON,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 10, 1883.

The Committee of the Whole having under consideration the tariff bill (H. R. 7313), the question being the tax on iron and steel cotton-ties—

Mr. RICHARDSON, of South Carolina, said:

Mr. CHAIRMAN: I will not at this time undertake to discuss the question before the committee on its merits. To do so would only be to repeat what has already been said over and over again during this discussion. I shall confine my remarks to a single point, on the decision of which the action of the committee seems to depend.

It has been asserted by those in favor of the high tax asked for by the manufacturers on cotton-ties that the tax is not paid by the producers of cotton, but on the contrary that the producers pay only 4 or 5 cents per pound for the ties and sell them for whatever they get per pound for their cotton, 8, 10, or 12 cents, as the case may be. While at first sight this may appear to be the case, it is in reality not so. This error has been exposed by several members, but so far as I know no one has mentioned a most important fact, which, if considered, will at once expose this fallacy of the advocates of the high-tax theory. It is known and admitted that three-fourths of our cotton finds its market in Europe and that the price of cotton is fixed in that market. Now, the producer of cotton in this country has to have his cotton baled before he can ship it; he has to buy his cotton-ties before he can prepare his cotton for market. He pays the cash for his cotton-ties, and that expense comes out of his pocket before it reaches the market. It is then shipped to Liverpool and there it has to compete with cotton which has no such tax imposed on it. The cotton from the East Indies has no tax on its cotton-ties, is in short free cotton, and the price for our cotton is there fixed by the price paid for this free cotton. This being the case (and no one can deny it), it seems to me to be too plain for argument that the price paid for our cotton-ties is a dead expense to the cotton producer.

I might say much upon the injustice of putting this burden upon the whole laboring class of the South for the sake of a half-dozen manufacturers and at most a few hundred operatives, but this has been fully commented upon and exposed.

I conclude what I have to say on this question with asking the Republican majority, who seem determined to impose this tax upon the South, if they do not see that their course on the question now under consideration must convince and satisfy the country that the charge is true which is now being made by the press of the country that it is the purpose of that party that no tariff bill shall become a law; that they do not want the tariff changed, and they do not intend that the people shall have any relief from the enormous burdens which have robbed them so long of their hard earnings.

I do not say that your tariff bill would or could command many votes from the members representing the cotton belt. That would depend upon how much relief it gave to the people when we get through with it. But I can tell you now that if your bill, which professedly is one to reduce and equalize the burdens of taxation, shall instead of reducing the burdens imposed on the producers of cotton increase the tax on cotton-ties to more than double what it now is, you will assuredly drive off every one who may be disposed to pass some tax bill. You force them to vote against your bill. It may be true that this is what you want. If it is, you are insuring it by raising the tax on cotton-ties. No member from the cotton belt can afford to go home to his constituents and tell them that while all other sections and all other laborers had their burdens lightened, they voted to increase the burdens on the producers of cotton.

Signal Service.

SPEECH
OF
HON. FRANK E. BELTZHOOVER,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 3, 1883,

On the bill (H. R. 7190) fixing and defining duties of the Signal Service.

Mr. BELTZHOOVER said:

Mr. SPEAKER: I introduced a bill some time ago "fixing and defining the duties of the Signal Service." It provides that so much of the business of the Signal Service of the Army as relates to meteorological observations, storm signaling, and forecasts, together with the civilian employés engaged therein, be transferred to the Interior Department, and the enlisted men now in the Signal Service shall be discharged and their places filled by their employment as civilians, or the employment of other persons in their stead at rates of compensation not to exceed those paid to the enlisted men now doing signal duty. It also provides that there shall be one chief signal officer of the Army, with the rank of colonel, and one assistant, whose duties shall relate solely to military duty and telegraphing; and the lieutenants now in the service of the Signal Corps shall be assigned to regiments of the line before June 1, 1883.

The object of the bill is to separate the Signal Service and the Weather Bureau which are now operated under one head, and relegate the work and duties of each to the legitimate and proper sphere to which they belong. The Signal Service of the Army is as distinct and independent of the weather and meteorological bureau as any other two departments under the Government. There is no natural relationship between the two and no reason why they should be combined. There are on the contrary plain and convincing reasons why they should be separated.

IS IT CONSTITUTIONAL?

The first question which arises with any honest and intelligent legislator in the discussion of any public measure is, Does the Constitution authorize it? The Signal Service is so plainly and appropriately a part of the Army, and therefore authorized under the power to raise and maintain an Army, that it would be useless to argue it. The right, therefore, to legislate in every reasonable way to promote the efficiency of the Signal Service is undisputed and clear.

How is it with the establishment and support of a great scientific meteorological department for the study and classification of weather and all the multifarious questions which are immediately and remotely connected with it? Does the Constitution give us the power to vote the people's money out of the Treasury for such a purpose? Does the Constitution commit the subject of meteorology and electricity and their kindred sciences to Congress? If it does we then have the power to establish and maintain a bureau of mathematics and astronomy and navigation and law and theology. The question of constitutional power and construction has received the most elaborate and exhaustive discussion in the judicial and parliamentary history of the country, and it would be a work of supererogation to repeat the arguments.

The greatest legal luminaries have ranged themselves on both sides of the question as they severally contended for a liberal or strict construction of our fundamental law. I desire to be found with those who seek to contract rather than enlarge the sphere of objects for which to spend the people's money. I believe this view is in conformity with the genius and spirit of our institutions, which authorize the taxation of the people solely and exclusively for the purposes of government and the exercise of the necessarily incidental functions of government which relate to the regulation of those subjects committed to it by the Constitution. The only clause in the Constitution on which a meteorological and scientific bureau could be reasonably claimed to be supported is that which provides for the regulation of commerce. But in no instance has that power ever been stretched to cover the establishment of any such institution as the weather bureau as it is now run, and with the wide and ever expanding power which it claims and the great and ever increasing sums of money which it expends. This bureau, as it is now constituted and operated, is grasping within its scope all the natural sciences and aims to become a great educational and experimental institution, in which, at the expense of the National Government, all the great mysteries of nature shall be unraveled. Surely on the theory on which our Government is founded its functions do not extend to and embrace such subjects. I do not believe that we have the right to vote money for the support of such an institution.

But waiving the question of constitutionality for the purposes of this discussion, is it not a fraud and false pretense to annually vote a million and a half of dollars for a Weather Bureau which is purely civil and wholly unmilitary under the disguise of the power conferred on us by the Constitution to raise and support an army? If a great scientific institution is to be maintained at the expense of the Government, let it be done in such a way that the people may know under what authority of law their money is taken. If we are to assume under an utterly unlimited construction of the Constitution that we have the power to legislate on the subject, let us assert and exercise it in a fair, open, honest way like men. Let us make the Army responsible only for the control and management of the departments and duties which properly belong to it under the law. Do not let us smuggle in under the skirts of the power to support the Army a purely civil bureau which hangs around the neck of the Army like the old man of the sea and which all real soldiers pray, in the name of God, we may deliver them from.

THE REASONS FOR A TRANSFER.

If the Weather Bureau is to be maintained, every argument is in favor of its transfer to some civil department. This transfer will put it where it naturally and properly belongs; it will immensly cheapen its cost of management; it will largely increase its efficiency and usefulness; it will correct the almost incredible frauds and abuses which have constantly attended its management as a military bureau; it will meet the almost universal demand of the Army, which does not want the incubus, and satisfy scientists, to whom its principal duties should be committed; it will be in the interest of honest and fair legislation, which should not tolerate the support of one measure under the thin disguise and name of another.

It needs no argument to prove that all the duties of the bureau are civil and scientific and wholly unmilitary, and that there can be no earthly reason, therefore, why they should be committed to soldiers. Its proper study is the meteorology of the country. This is one of the great unexplored sciences, the outer boundaries of which have barely been touched by scientists. To ever understand the mysteries of weather nature must be watched long and faithfully in all her fitful, varying moods. Spies must be set upon her daily action, who will follow and shadow her for long years and glean from her the secret lines which, after patient watching, it is supposed she will be found to follow. Civilians do all the important work in the bureau now and must of necessity continue to do it. It requires students and scholars who make their life's work to delve into the mine of knowledge and bring up from the depths the treasures which are hidden from the every-day gaze of the world. Those who argue for the continuance of the military system forget that the life and habits and character of the soldier do not fit him for such work. The pursuits of the soldier and those of the student and scientist are widely apart in all their characteristics. The life of the one is stormy and turbulent, and filled with the passions of revolution; the other courts the silence and repose of seclusion and peace. The very last argument printed and issued by the Signal Bureau in behalf of the military system which it wishes to maintain declares:

> It is further necessary that such a corps should be composed of men of more intelligence than are willing to enlist in the line of the Army, for it can not be created in a day; it must be the result of study, selection, and practice.

If it is to be composed in all respects of better men than enlist in the Army, why keep the bureau there? If it can not be created in a day but must be the result of study and practice, why not intrust it exclusively to those whose education and life's pursuits fit them for it? The country is swarming with thousands of bright, earnest, and intelligent young men who come from our hundreds of colleges annually, who are thoroughly equipped and ready for just such work. Besides, if it is so that the men of the bureau can only become efficient by years of study and practice, what becomes of it in time of war? Are men of long study and intelligence, who have spent years in the investigation of science, to be torn away to swing flags on battlefields when there are thousands of men in active service in the Army all the time who can do it better, and thousands more who can be taught to do it in a few weeks? Is it not a fact that a few military martinets who want to slink away from their duty in the field are trying to hide this gorgeous military Weather Bureau under the thin disguise of the Signal Service? It is an insult to every intelligent man in the Signal Bureau to say that the observers will not do their duty except under the constraint of military law and discipline.

Is it credible that these observers whom the Chief Signal Officer has said are men of "excellent character," of a "superior class," "carefully selected," "graduates of colleges," &c., are so devoid of principle, so lacking in sense of duty, so deficient in conscience that nothing but fear of punishment prevents them from neglecting their duty? It is an insolent slander on the class of men who are qualified for the duties of such a great scientific service to say that they know no law of duty but that of brute force and compulsion. The mysteries of nature never have been and never will be unveiled by those who are sent to their work like dumb driven cattle. There are thousands of men competent and anxious and willing to undertake the work of the Weather Bureau at the same compensation now paid who will work for the love of science, who will watch nature in her marvelous moods because they earnestly desire to know her secrets. Nine-tenths of the best school-teachers in the country to-day do not get as much pay as the weather observers do. The volunteers who go to the north pole and accompany the expedition to Lady Franklin Bay go with their lives in their hands; but even with this extreme and unusual peril there are thousands who would voluntarily go for the love of science alone.

What kind of observations do you suppose come from Alaska and Pike's Peak and Mount Washington, made usually under the present system, by men who are banished to those inclement regions for petty

offenses or because they do not bow and truckle at the beck and nod of the petty autocrat who struts in all his military glory at the head of the Signal Bureau? What kind of scientific work can you expect anywhere from men who are willing to bear the insolence of such military domination? Just such work as the Signal Bureau has been giving to the country for the last few years. Such work as makes it the laughing-stock and the by-word of the people and the disgrace of the Army, on whose skirts it hangs, and the jest of scientists everywhere. It is conceded on all hands that a Canadian adventurer, unaided and alone, hits the weather oftener and infinitely better than our million-and-a-half-dollar shoulder-strapped and brass-buttoned concern.

The life and discipline which are necessary and proper in the highest degree for the efficiency and strength of the Army should be confined to the Army. The instincts and culture of the age are against the extension of the sphere of that arbitrary and summary law which must of necessity govern in war. War is a science and occupation of its own, and there is nothing in common between it and any of the other peaceful pursuits of the world.

We next maintain that a civil administration of the Weather Bureau, besides being clearly more convenient and better adapted to its duties would also be vastly cheaper and more economical. It is no reflection in any degree on the integrity and honor of the Army to say that it is not adapted to and does not like the duty of disbursing or managing any funds but its own. Military administration is the very last one which should be saddled with the performance of civil duties, and especially so when there are so many other departments which are constituted for the care of the commercial, financial, agricultural, and other interests of the people. It is the constant challenge of the Signal Bureau to compare it with those of other countries and mark the difference between our military system and their civil ones. We answer, compare the cost. The Admiral-Fitzroy system, established in England in 1862, is purely civil, has as many stations as we have, and gives great satisfaction, and only costs $50,000 per annum. Ours costs $1,550,000. The one is cheap and adapted to its duties; the other is a grand military pageant for the glorification of a few officers who like hanging around Washington better than fighting.

What would the English system, controlled by its brains and sustained by a million and a half dollars, do when compared with the complacent idiocy which runs the machine here? There is no nation on the face of the earth that ever dreamed of spending such a vast sum of money on meteorology. England, the greatest commercial nation of all the ages, contents herself with moderate meteorological service, but has the grandest navy and the bulk of the commerce of the world, and leaves to us to spend countless millions upon the rottenest frauds of ships and a Weather Bureau even rottener and weaker than our ships, all in the interest of commerce. That a mighty progressive, energetic, erratic, and restless people should run foolishly after Oscar Wilde and Mrs. Langtry, estheticism and its very opposite, within the same moon is perhaps to be expected in a popular government; but that a great legislative body like this should vote millions to a fraudulent institution to look after the interests of commerce and not have any commerce of their own to be interested in surpasses even the folly of the people. The system is utterly extravagant and foolish in its expenditures. It is known that President Orton, of the Western Union, said in his lifetime that their company could run the whole business, take all the observations, and give all the information with infinitely greater accuracy and certainty at a cost of $200,000 per annum, less than one-seventh of the present expense.

At present the pay of officers and men, their food, and room allowances, their medical bills, their transportation expenses from place to place, the cost of maintaining Fort Myer, the rent of the Signal Office buildings, &c., all are drawn from the sum appropriated for the Army. The specific yearly appropriations of several hundred thousand dollars, erroneously believed by many Congressmen to be the entire cost of the Signal Service, pay for instruments, telegraphing, &c. As a civic bureau it could be much more efficiently conducted with the same equipment in all respects at a cost not much greater than $500,000 per annum.

The expensive military telegraph lines, now operated by enlisted observers, should go to the Quartermaster's Department. Their business being very light, they could be operated by soldiers at an expense of $13 per month for salaries, instead of from $80 to $100 as at present. As a rule, the soldiers in the Territories, which these lines traverse, have little to do, and would welcome the new work. As it is, many operators and repairmen on these lines are soldiers temporarily detached from their command. No reason can be advanced why the Quartermaster's Department could not operate these lines. At present each little station on them, only a few miles apart, is fully equipped with expensive instruments for meteorological work that is entirely unnecessary. A few meteorological stations, about one to every ten of those now established, could be judiciously located and would answer all the needs of the Weather Bureau. In difference of salaries paid, reduced cost of equipping, transportation, &c., an annual saving of from $150,000 to $300,000 would be effected by the transfer of these lines.

The coast telegraph lines properly belong to the Life-Saving Service. They could be operated, when necessary, by its employés, who could also attend to the limited amount of signaling done on the coast. It is absurd and expensive to have two different sets of Government employés stationed in the same locality, often dwelling in the same building, and engaged in almost identically the same pursuit, namely, the protection of life and property. By this transfer an annual saving of from $50,000 to $75,000 per year in salaries, equipments, &c., could be effected. This does not include some $50,000 or $60,000 annually paid the Western Union Telegraph Company for the lease of their Washington and Norfolk line.

Fort Myer is a very costly toy. It is a rendezvous for some forty men and half dozen officers. It is maintained ostensibly as a "school of instruction," but in reality it is a place for the keeping of private horses, cows, pigs, chickens, conservatories, &c., by those who should be ashamed to so pettily defraud the Government.

This fact is a strictly military feature of the Signal Service, and its maintenance costs, salaries of officers, stablemen, gardeners, milkmaids, cooks, laborers, &c., included, not less than $50,000 per annum. A tremendous price to pay for running this summer resort, and nothing is said either about the enormous value of this property and the yearly interest thereon, which the Government might save by renting the property.

A general reduction in the salaries of employés should be effected, which can not be done under a military system. Minors are not enlisted in the Signal Service. At many stations a boy living with his parents could be employed at from $15 to $20 per month to perform work that an enlisted man is now paid $65 for doing. Some $50,000 a year could be saved in this manner.

There should be a large reduction in the number of stations of the Signal Service. They are too closely located in many instances. One station in every two hundred and fifty miles square is ample for meteorological purposes. Such stations as Port Huron, Toledo, Sandusky, Newport, Wood's Hole, and Port Eads could be placed in charge of displaymen who would, upon orders, hoist and lower the storm-flag. These displaymen would receive a small compensation for services when rendered. It is estimated that with a force of two hundred and fifty men and with not more than one hundred stations the meteorological work of the Signal Service could be performed by the Interior Department with far greater efficiency than is now the case. The experiment is worth trying at all events. With no reduction in the number of observers or stations, no transfer of military telegraph lines, with Fort Myer remaining a "school of instruction," still the proposed transfer of the control of the bureau would effect a saving, inasmuch as the appropriations would be more wisely expended. Certainly nothing that can be done with the bureau will render it more valueless to the general public than it is, will increase the general dissatisfaction felt at its methods of management, or add one misery to those now endured by its observers who for years have prayed for deliverance from despotism, who have mourned at the prostitution of the bureau for the base uses of its officials, and have viewed with apprehension the increasing boldness and selfishness of the military priesthood in the office of the Chief Signal Officer of the Army.

THE COST FOR THE NEXT YEAR.

Let us look at the demands of the Signal Bureau for the coming fiscal year. They ask—

For miscellaneous	$1,234,299
For printing	35,000
For building	150,000
For Office Chief Signal Officer	10,500
For buildings, Signal Office	8,540
For salaries at Signal Office	116,800
Total	1,555,139

Let us examine in detail some of the items of these expenditures. For clerical and other work under head of salaries at Signal Office to be performed at Signal Office, $116,800. One hundred and twelve civilian employés are asked for. These are to be exclusive of such enlisted men of the corps as the Chief Signal Officer may see fit to detail at his office. Why this necessity for so many civilian clerks? How can discipline be maintained according to the arguments of the Chief Signal Officer in advocating the necessity of a military organization for the corps if so large a body of non-enlisted men are on duty in his office? Why is it not necessary that military laws shall govern the men on duty in his office as well as those on station?

The argument that the observers of the Signal Corps must be held to their duty by oaths of enlistment is effectually answered by the Chief Signal Officer when he proposes to fill his office with civilians. If one hundred and twelve civilian clerks, closely associated in their daily work under circumstances where the temptation to idle is great and residing in a city where the temptations are proportionately greater than in any other city in the country, can be kept under good discipline without being amenable to army rules and regulations, why can not the several hundred observers scattered over the country, one here, one there, most of them married and settled in life, be kept under equally good discipline as civilians? It is proposed to create fifty clerkships for this office but not to decrease the number of enlisted men. In other words, to add fifty men to the present unnecessarily large force in this service. A mere dodge to increase the force through the popularity with which the proposition for civilian clerks would generally be received. Six of

these civilians are to be "professors and computers." What necessity exists for these? The Chief Signal Officer says that his present officers are indispensable to the Weather Bureau. It could not survive without them. They have become "learned and proficient in meteorology," and their places could not be supplied. What does this "learning and proficiency" amount to, after these ten or twelve years they have spent on detached duty, if six "professors and computers," at an average annual salary of $2,200 each, must be employed to perform the scientific work of this bureau? What are these officers for? What has been gained, scientifically, by their many years' retention on meteorological duty? More than four hundred civilians are now employed, directly or indirectly, by the Signal Service. To this force fifty more well salaried clerks are to be added.

Nearly as many civilians in the service as elisted men, and yet we are told that thirty-five generals, majors, and captains must be assigned to their charge to maintain discipline among the enlisted half of the force. This discipline is to be maintained among men scattered from Maine to Oregon, from Michigan to Texas, by a few officers located here in Washington. How absurd the idea. These "skilled and efficient military scientists" do not exist for the benefit of the Weather Bureau but the Weather Bureau exists for their benefit. A very little dog is trying to wag a very big tail. In a nutshell, nothing but personal influence, socially exerted, has kept the Weather Bureau in the Army and nothing but self-interest has kept up this continued opposition to a transfer on the part of the officers who have been detailed on duty in the bureau for many years. It shows the weakness of the position taken by them when their yearly struggles against judicious legislation for the bureau are remembered. Their false arguments, so frantically repeated each year, show how unstable is the ground they take.

Six press boys are asked for. What is the nature of and necessity for the printing done at the Office of the Chief Signal Officer that its quantity requires six boys to feed presses?

The clerical force, it is true, has been increased some 25 per cent., but there is no evidence that the benefits of the service have been increased even that much. What necessity exists for this increase of office accommodations? Is it true, as charged, that the military system of conducting office work and a desire for greater show and more luxurious surroundings have increased the cost of rent 100 per cent.?

Under head of Office Chief Signal Officer, purchase, equipment, and repair of field electric telegraph, instruments, &c., $10,500. Four thousand dollars for a field telegraph. When and where is this telegraph used in time of peace that $4,000 should be required merely to keep it in order? Six thousand five hundred dollars for field-service apparatus. Where, when, and by whom are these instruments used? Is not $10,500 a large sum to spend annually upon the repair and preservation of Signal Service equipments, when it is considered that there is no war, no necessity for signaling, and not a member of the Signal Corps is engaged upon signal duty? How is this sum expended?

Is the necessity for so large a force of printers explained by the deluge of pamphlets that are being constantly sent out, in penalty envelopes, from the Office of the Chief Signal Officer to block, through newspaper and other influence, proposed wise legislation for this service?

Rent of office buildings, $7,000.

Why has the rent paid for office buildings by this bureau doubled itself under the present administration? Two years ago but $3,580 were annually paid for rent,* and now $7,000 is asked for.

Signal Office building, $150,000.

Rent of such a building, as rents are estimated, $15,000 per annum. One hundred and fifty thousand dollars for accommodations for 140 clerks, or more than a thousand dollars' worth of building per clerk. The Pension Bureau employs 1,530 clerks and stores a much greater amount of records than the Signal Service. To accommodate 140 clerks the Chief Signal Officer proposes to pay rental of $15,000 per annum, while for 1,500 clerks the Pension Bureau pays a rental of $38,000, and there is light, air, and comfort for everybody.

Printing, $35,000.

In addition to his large printing division, employing some thirty men, equipped with a steam printing and steam lithograph press, the Chief Signal Officer makes a modest request for $35,000 of Government printing. Thirty-five thousand dollars asked for out of $170,000 estimated for the whole War Department with its ten bureaus! Nearly twice the estimate made by the Quartermaster or Chief of Ordnance, more than is asked for by either the Adjutant or Surgeon General, and as much as is asked for by the Secretary of War, Quartermaster, Commissary, and Paymaster-General combined. What is the necessity for so much printing? To whom do these publications go and what is their nature?

Observation and report of storms, $310,000.

This is the legitimate work of this bureau and the work for which it was created. How small a proportion this sum bears to the others asked for! Seven hundred thousand dollars for military show and $300,000 for meteorology.

For five hundred and eighty-four enlisted men, pay and allowances aggregating $568,941, or $974 per annum each, are requested. For thirty-five officers $126,186, or $3,605 each, are requested. The officer averages four times as much as the enlisted man, and yet we are told the Signal Service observers are men of intelligence, education, and scientific attainments. We know that there are among them the graduates of academies and colleges, members of families of high social position, and we know that the requirements for Signal Service work bar out the ignorant and the immoral. Out of about $760,000 required for officers and men, thirty-five officers receive nearly one-fifth of the entire amount. We can see now why the "Weather Bureau must be kept in the Army," and why it is necessary that these "old and experienced officers" should be permanently retained in the bureau and promoted to higher grades, with much greater salaries, as is provided for by the "M. and C." bill. It is readily seen why these officers find it profitable to yearly spend time and money to thwart legislation that would place this important bureau under control of scientists and return them to their regiments.

HOWGATE AND HAZEN.

This bureau should be tranferred, because its past and present history and management do not justify the belief that it is honestly and economically conducted.

The administration of the bureau under Howgate is now conceded to have been the most disgracefully and vulgarly corrupt and felonious and wicked that has ever existed in the annals of government, civil or military. Howgate's larcenies were large and bold and defiant. They were committed under the very noses of men who pretend to be intelligent and sagacious. Their fruits were notoriously expended on yachts and houses and prostitutes, &c., under the daily gaze of men who were close to him and still retain their places. They amount to $200,000 at least, and God only knows how much more. Why do we not know? Why have we no audit? Why have we no account? It is boldly charged in the public prints, and never has been denied, that a Congressional committee appointed to investigate Howgate was bought up, and that the work of that committee was assigned to a clerk who was borne on the rolls of the Signal Office for years at $125 per month, and never did any work for that bureau but to aid in that fraudulent investigation.

It is charged that $3,000 was paid at one time to a member of Congress for professional services. Now, how is this relevant to the matter in hand? I will tell you: The whole Department is run now exactly as it was under Howgate. It is run on the same system and under the same laws and by the same men as it was when Howgate ruled and reigned. What change has been made in men or measures or management since Howgate left? Every assistant he had is there still; all his right bowers are on hand. Do intelligent, honest, candid men believe that in all that reign of riotous living and larceny and licentiousness and forgery and fraud and crime that no one of the prominent officials around the Signal Bureau headquarters knew of these things? It would be an insult to common sense and common intelligence to harbor such a belief. And yet when General Myer died we have Lieutenant Greely printing the most fulsome eulogy of Howgate's brilliant career in the management of the finances and affairs of the bureau. This eulogy was printed at the Signal Bureau headquarters at the expense of the Government and circulated by thousands all over the land, asking to have Howgate put in Myer's place. Read the Greely circular.

What had all the other men around the Signal Office to say in regard to these matters? Why did they not cry out instead of joining in such a circular? Why in the midst of such a career did they stand mute? Why are they all kept in their places now? We need not name them; any one can take the list and read it. They are all there, these adjutants and aids and compeers of Howgate. But why is Howgate not prosecuted? Ay, there's the rub! With the bureau all smothered in fraud, with the newspapers of the capital teeming with flagrant charges, with the reputation of the whole establishment at stake, why no sign of bringing the great culprit to trial? Nay, much more than that. Why does the whole headquarters of this institution tremble in its boots when it is proposed to investigate Howgate? For no other offense than that I tried to probe this Howgate sore, the Chief of the Signal Bureau sent one of his miserable underlings as a spy to my room to carry thence a silly tale, which he publishes at the expense of the Government, and thrusts upon the attention of Congress and the country. Fear is always mean.

Why does this hero of Shiloh fly into a frenzy because I try to bring Howgate to justice? Why does this petty shoulder-strapped legatee of Howgate tremble like a felon and grow green with rage when the notorious name of his fugitive predecessor is mentioned? I never attacked Hazen, and yet he violates the laws of war of which he seems to know as little as he does of war itself, and drags my name into his petty, truckling, begging circulars to Congress. I neither sought nor want a quarrel with this military martinet who is universally despised and loathed by every respectable soldier in the country; this general without a battle; this commander without a history; this soldier who compromised the charge of base and ignoble cowardice and struts upon the stage and wears the muniments of war shorn of all that makes it honor-

*1720 G street, $180; 1722 G street, $600; 1718 Pennsylvania avenue (1 room in this building rented during Myer's time), $636; 1741 G street, $720; 2021 H street, $636; 1731 Pennsylvania avenue, $420; 1 room 1719 Pennsylvania avenue, $25; 1 room extra, $203; total, $3,420. These have all been rented since Myer's death in 1881.

able or justifies a soldier's life. "God made him, and therefore let him pass for a man."

HAZEN'S "COMMERCIAL" AGENTS.

But the Signal Bureau has not only forfeited the confidence of the people and of Congress and justifies its transfer to another Department and the placing it under a new head and honest administration, but it corruptly spends thousands of dollars annually appropriated for its legitimate duties in blowing its own horn and lauding the pre-eminent greatness of its petty chief. In the fall of 1881 the Chief Signal Officer called upon the Secretary of War for a detail of four regular Army officers to make trips around the country and to the principal cities "for the benefit of commerce and agriculture." When four were refused, he asked earnestly for one to visit the principal cities "to look after certain commercial interests." What did Hazen want these officers for and what did those do who went out in the interest of commerce and agriculture? They were wanted and Hazen sent them out to bore and importune boards of trade and chambers of commerce and prominent men and to work up public sentiment in this way and through the newspapers in the interest of corrupt legislation which he then had pending before Congress. There never was a baser and more contemptible and criminal false pretense practiced on the country or attempted to be practiced and palmed off on Congress than this. Under the guise and pretext that he wanted to look after the interests of commerce and agriculture he asks the Secretary of War for a detail of United States Army officers, whom he intended to use as manipulators and electioneerers and political managers, supes and log-rollers to impose on Congress the belief that the country was crying out for more signal service. Read Hazen's own confidential letters. Read the marvelous letters of his "commercial" agents, Powell and Allen and Swift, and compare them with the *resolutions* of chambers of commerce, &c., of which they severally give the history.

I will print all the letters in full in the appendix, but it may be interesting to give a very brief outline of their contents and drift.

It must be remembered that the majors and captains' bill was before Congress and the chief had set his heart on passing it. Powell was out and working like a beaver in all the larger towns of the country. The time for action had arrived with the meeting of Congress and the work had to be hurried up. Therefore it was thought best to re-enforce Story, who was "to look after certain commercial interests" in the principal cities, and the great chief writes:

[Confidential.]

CLAPP: Get word to Powell to work up our friends in the four large cities of New York, Boston, Philadelphia, and Baltimore, without regard to Story's expected visit.

W. B. HAZEN.

And Powell did "work 'em" up in good style.

From Pittsburgh he writes, November 21, 1881, that he was doing his level best with the chamber of commerce, and particularly requires that "all action should appear spontaneous on their part."

From Chicago, November 22, 1881, he writes:

Papers will at time of convening of Congress publish editorials. I have left word for the editorials to be sent to you, and thought after we got them all in you could have copies printed and sent to each member of Congress.

He then gives the whole method of his operations, and says he requests members of board of trade, &c., "not only to vote with the committee of board, but to make individual effort with their member of Congress to secure desired result."

From Indianapolis, November 24, 1881, Allen writes:

The Signal Corps has done no end of begging, and when we only want resolutions and no dinners they respond heartily.

This is rather humble work for a first lieutenant of the Third Cavalry, United States Army.

At Toledo, December 5, 1881, Powell says:

I have left nothing undone to put our case in the best light. It is somewhat of a job to overhaul every one, and in some cases argue for an hour or more as to the wisdom of keeping the service under military control.

Here Powell had hard work, but succeeded after long and arduous labor in capturing an editor. He concluded, however, that "everything is swimming."

Powell's letter from Erie, December 11, 1881, is a sad one, but worth reading. "Some of the zeal was taken out of him."

At Buffalo, December 13, 1881, he was "working day and night" and moving on Vermont in the grand Signal Service spontaneous crusade. He succeeded here, however, in "changing the tune of a hard-headed editor, who intended pushing them a little in an unfavorable way."

Three days later he writes from Buffalo, December 14, 1881, that the resolutions which are being passed at various places have "too much shop" in them. This should be stopped, he thinks. He says:

My aim has been to make these resolutions appear as spontaneous action of business men.

On December 15, 1881, Allen struck Montgomery, Alabama, the worst place he had found that year. He calls for the military committees of House and Senate.

At Rochester, December 16, 1881, Powell saw editor of Express, "who had intended to go for the service," but "after a long conversation bound him to our interests." The "other papers he had no trouble with." He says:

We have certainly reached the delegations from Wisconsin, Michigan, Illinois, Ohio, Pennsylvania, and New York.

Pretty good work.

From Albany, December 24, 1881: Powell writes that he is "glad Story intends visiting these cities." Hazen had named them to Story. He thinks he could have saved Story his Boston trip. He says:

I think we will certainly deluge the delegates from this State (New York) with resolutions.

He believes there are thirty-eight members from New York, but he was a little at fault in that; but then he is only a second lieutenant.

At Portland, January 2, 1882, he ran afoul of "a chairman of a meteorological committee." This was bad. The Signal Bureau does not prosper among meteorological people, and Powell here "swallowed a bitter pill."

At Salem, Massachusetts, June 11, 1882, Powell found out that the Portland meteorological man was a "consummate ass," and referred him to General Hazen.

At Boston, January 16, 1882, Powell saw "Tom, Dick, and Harry," and also that there was a "little feeling here against offering anything before the board relative to the bureau." He says:

They got themselves into a box with Howgate and are a little timid.

He inclosed Hazen "some real good editorials which, with my [his] usual good luck, I was able to 'wheedle' out of the papers." This is a little hard on the Boston editors if we understand this word "wheedle." He would like to have staid at Boston a few days, but he knew they were "all desirous for him to reach New York." He found his "ammunition" short here also, and reports that he is "pretty good at 'shouting,' but wants something to back it." A little call for more "ammunition."

At Newport, January 20, 1882, he suggested the man who could do the resolution business at Galveston, Texas. Here, he says, he could only "reach two Senators and two Representatives, but every little helps." Here he met, also, Hon. Mr. Mitchell, who said he "controlled ANTHONY and ALDRICH and the two Representatives."

From New Haven, January 30, 1882, Powell writes that "he ought to be in New York, Philadelphia, and Baltimore." He also says he wrote Glassford, and warns the Department a little against "Swift." Glassford, it seems, was not wholly loyal and Powell began to suspect Swift.

From New York, February 2, 1882, Powell predicts "that there will be some hard fighting, and thinks he could help if he was in Washington, especially with the men." He says:

I have laid my wires so well that if resolutions are not passed at every station where I have asked them I know the men had something to do with it.

Powell does not seem to have as much confidence in the men as Hazen's last circular would seem to justify.

Powell's next letter is from the Saint Nicholas Hotel, New York, February 3, 1882, and must be read in full to be appreciated. Among other things, he says:

The president of the board of underwriters is an old fossil, to whom I had to give about two hours of valuable time of explanation. He was afraid it was something would do him an injury. He turned me over to the vice-president.

The vice-president attended promptly to the whole matter of resolutions, and promised to throw into the bargain the distinguished member of Congress from his district on the Military Committee.

Here he got a letter from Story telling him to vary the resolutions, and describes what reams of paper he used up in attempting to get a change of phraseology and prevent too much "shop" in these spontaneous effusions from chambers of commerce, &c.

On February 3, 1882, the great chief himself writes to Captain Clapp and directs him to "write Powell that the third section is necessary, but the men on the corps will come in first when they deserve it, as he certainly will. Also that after visiting Philadelphia to keep us informed, and when time for action comes I will have him come here, finishing his tour afterward." The faithful Powell had become dissatisfied with the bill he was working so hard to help, and the chief wanted to encourage him.

On February 4, 1882, Powell writes from New York again that "the board of underwriters had prepared a most magnificent resolution [letter] * * * addressed to McCook." This whole letter of Powell should be read and compared with the letter and resolutions of the board of underwriters, which bear the same date.

The crowning letter of the lot is from Lieutenant Swift, whose loyalty had been doubted. He writes to Hazen from Fort Myer, February 7, 1882. Swift is only a second lieutenant, but he says:

I can pull a pretty heavy oar in both the Senate and the House.

He names a large number of prominent Senators and Representatives whom he holds in hand, and several Congressional delegations. He not only has the Rhode Island Senators, but says, "I can pull their solid constituents."

Powell's last letter is from Philadelphia and is addressed to Story, February 8, 1882, wherein he seems to have fixed up the New York Herald and got a solid hold on KELLEY and RANDALL, &c. This is a

good letter from Hazen's faithful mercantile agent. He concludes by admonishing Story as follows:

I tell you, Story, a bottle of wine and a dinner go a long way sometimes.

These very brief extracts from the letters, which I give in full in the appendix, afford but a bird's-eye view of the influences which Hazen and his aids brought to bear all over the United States for the majors and captains' bill.

Here are regular Army officers, while they are drawing large salaries from the Government for services to the public, who prostitute their places to the infamous work of getting up bogus resolutions to impose upon Congress and induce it to vote more money to build up a grand soft nest for just such scalawags to creep into. They can not dishonor themselves, but they bring reproach upon the most distinguished service in the world. Howgate stole the people's money like any ordinary forger and thief; but here is a refinement of rascality by which the "commercial" agents of the Signal Bureau steal the appropriations in working upon Congress for still larger sums to be again stolen, with a zeal and offensiveness hardly equaled by Mr. Randolph's "rotten mackerel by moonlight, which shines and stinks and stinks and shines."

SOME PETTY FRAUDS.

But this is not all. These bogus resolutions are printed at the Government's expense, and mailed in Government envelopes at the cost of the Government. Buncombe articles are published in newspapers indorsing the Signal Bureau, and paid for as advertisements out of the Signal Service fund. One of these laudatory frauds was published in a paper in France called Nature, at a cost of 2,000 francs, which was paid out of the storm fund. This article from Nature, and similar ones from other papers, are republished in pamphlet form by thousands, under the direction of Hazen, to prove to an admiring country what a great weather prophet and rival of Vennor we have? Hazen and Vennor—*par nobile fratrum*. Besides these things, a paid editor is employed to arrange and varnish up these stale puffs of the Signal Bureau. What is Sergeant Finley doing at Johns Hopkins University in Baltimore? What is Sergeant Spriggs doing at Morgantown College, and Sergeant West at the University of Champaign, Illinois? What law authorizes Hazen in his discretion to send young men to college? Perhaps this is what he wants $4,000 for incidentals for. What does he want with the electric clock, which cost $1,000, in the cellar of his unique establishment?

But it would be a fruitless task to specify all the petty frauds and misappropriations of this remarkable bureau. The Secretary of War, General Sherman, and every military man of any distinction scouts the idea of the Weather Bureau being any part of the Signal Service. They all say it is eminently scientific and wholly unmilitary. They protest in the strongest possible language that it should be disconnected and divorced from the Army. They are tired of the company and the longer the bond of union is continued the more irksome it will become.

Army signaling is learned in a few weeks, and there are 5,000 men in the Army to-day who are better signalmen than those in the Signal Corps. The teaching of signaling is not the purpose, and certainly not the practice of the bureau which passes under that name. The Signal Service proper was a necessary and legitimate outgrowth of the late war.

In 1866, by the act of 28th July of that year, putting the Army on a peace footing, it was enacted that the Signal Service should have a chief with the rank of a colonel of cavalry, six officers of engineers, and not to exceed one hundred privates. The appropriation for the service of that year did not exceed $100,000. In the sixteen years that have intervened between that time and the present current year it has grown by the most devious and sneaking "rider" legislation until it cost in 1882 $1,141,629, and demands for 1883 the sum of $1,555,000. Where is the thing going to end? From very small beginnings it has grown until with its immense appropriations it has been enabled to establish advertising bureaus, control boards of trade, invade Congress and expect almost anything it may ask.

If we are to have a splendid and expensive Weather Bureau which will be the pride of the country and the glory of science let us establish one on an intelligent and statesmanlike basis so that we will have reason to expect results beneficial to the commerce and agriculture of the nation as well as to the knowledge of the world. Not one step has been made forward in the last ten years of the existence of our shoulder-strapped toy. What work has Hazen or any of the men under him published during his administration except petitions, resolutions, &c.? Hazen and Abbe and Upton and Waldo *et id genus omne*, in the receipt of enormous salaries, have not given to the world one single new development in the science of their department. Old Commodore Maury, almost unaided, did more for meterological science in a few years and at absolutely inconsiderable expense than our shoddy military Weather Bureau has done in many years or is likely to do forever.

APPENDIX.

A.

The following letters from General Hazen and Lieutenants Powell, Allen, and Swift show how boards of trade, chambers of commerce, &c., were induced to pass spontaneous indorsements of the Signal Bureau and how public sentiment was worked up so as to affect legislation favorably to said bureau, and particularly the majors' and captains' bill.

To facilitate the understanding of said letters it may be proper to say that the following are officers on duty with the Signal Service: W. B. Hazen, brigadier-general and chief of bureau; Joseph S. Powell, second lieutenant, Signal Corps; J. Allen, first lieutenant, Third Cavalry; W. H. Clapp, captain, Sixteenth Infantry; L. V. Caziarc, first lieutenant, Second Artillery; J. A. Swift, second lieutenant, Signal Corps; W. A. Glassford, second lieutenant, Signal Corps; J. P. Story, first lieutenant, Fourth Artillery.

DECEMBER 31.

[Confidential.]

CLAPP: Get word to Powell to work up our friends in the four large cities, New York, Boston, Philadelphia, and Baltimore, without regard to Story's expected visit.

W. B. HAZEN.

PITTSBURGH, PA., *November* 11, 1881.

MY DEAR GENERAL: I have been extremely fortunate with the matter of organization at this place. If I meet with such success at other places there can be no doubt of the result.

I have been promised a resolution by the chamber of commerce, the city council, and the Boatmen's Protective Association, the latter a very influential body. Not only this but individual influence will be brought to bear.

The papers here are enthusiastic about the matter, and will publish editorials from time to time calling attention to the matter. In my conversation with various parties I have clearly defined your position, and in few words, so as to avoid misunderstanding. I have also impressed them with the idea that all action should appear as spontaneous on their part, believing that more could be accomplished in that way. I will keep you informed of my success elsewhere. Trusting everything is moving smoothly, and that you are in good health, I am,

Very sincerely, yours,

JOS. S. POWELL.

PITTSBURGH, PA., *November* 11, 1881.

MY DEAR CAPTAIN [CLAPP]: Have secured promises of resolutions by chamber of commerce, city council, and an influential body here called Boatmen's Protective Association. Newspapers are going to keep ball rolling. Have been more successful than I anticipated. Hope you are well and having as much work as you can do.

Yours, very truly,

POWELL.

MILWAUKEE, WIS., *November* 18, 1881.

MY DEAR CAPTAIN: Am glad you sent me those tables. Have made good use of them and they are appreciated by all. The chamber of commerce at its next meeting will pass resolutions in our cause. Newspapers will also take a hand. Hope you are well and remember a poor devil up here in the cold work when you take your afternoon nip. Give regards to Story, Caziarc, Judge, and Craig. Tell Caziarc I saw an interview in the Post which I suppose represented him. I will some day repay him for the interest he takes in us.

Sincerely yours,

POWELL.

GIBSON HOUSE, CINCINNATI, *November* 19, 1881.

DEAR CAPTAIN: I find out that as usual when one wants anything they must know exactly what they want and then ask for it. Both boards here are willing to pass such resolutions as we want, but they would like to have them written out.

I wish you would attend to this for this city, and send me a copy to Indianapolis, and if you can send me several different ones, so that I can have a variety for the different cities, I would like it. John J. Pearce, care of J. T. Blackburn, secretary Board of Trade and Transportation Company, will attend to that instruction. He says "make it strong." In writing call attention to my having interviewed him, and that it is sent because he desired us to state definitely what we wanted. He says he "can pass *anything*." For the merchants' exchange write to C. L. Howe, room 6, Pike's Building, Fourth street. He called on me this a. m. at signal office, and said if I would write out what we wanted passed he would put it through. He said, "we will give Hazen a lift if we can." In case there is any hitch, write Sergeant Watkins. He is well liked. He was with me at West Point, I think, eight years ago, and is reliable, I believe. Or if you don't feel like writing him send me what you want said to him. Don't forget to send me a *variety* of resolutions.

Yours, sincerely,

JAS. ALLEN.

CHICAGO, ILL., *November* 22, 1881.

MY DEAR CAPTAIN: Received your letter yesterday, which was addressed to me at Milwaukee. In regard to the names of parties at Pittsburgh who will take action relative to our organization, I am sorry I can not remember them, with the exception of the secretary of the chamber of commerce, Mr. McHenry; but I am sure there will be no necessity for writing them. I have received information from that station that resolutions were presented by Mr. McHenry to the chamber of commerce and referred to a special committee for action. The protective (boatmen's) association has also passed resolutions. The coal dealers' exchange will do so at its next meeting. The papers will at the time of the convening of Congress publish editorials. I have left word for these editorials to be sent you, and thought after we get them all in you could have copies printed and sent each member of Congress.

At Milwaukee the whole meteorological committee, Colonel Hathaway, Mr. Merrill, and the secretary of the chamber, Mr. Langsley, will push the matter. You may rest assured I have left no station without placing matters in such a way that there can be no getting out of the action being taken which we desire. For instance, I prepare carefully a set of resolutions all ready for passage by the chamber. I then visit as many of that body as possible and explain the whole thing verbally or else in writing, and tell them the committee have these resolutions in hand and will present them at next meeting, and want them not only to vote with committee but make individual effort with their members of Congress to secure the desired result. This gives them an opportunity to "spread" themselves on a subject which before they knew very little about, and as all mankind are ambitious, they will endeavor to push the matter to show their familiarity with science. Thus far I have been exceedingly successful. The meteorological committee here, composed of Mr. Walker, Mr. Trench, and McDermit, have presented resolutions in the chamber this day. At this hour (4 p. m.) they are still in session. I have seen so many that there is no doubt of the passage of the resolutions. They have told me that they could secure the passage of the same by the Legislature, but really the board here would have more influence. They have also promised me to write personally about the matter to Senators and Representatives. The papers here are going to take hold, and I might say have done so.

Inclosed are slips cut from Inter-Ocean, one of which is an editorial. Other papers will follow example. I have had copies of the editorials printed here and will use them at other stations. All papers have published tables sent me. Everything upon the subject will be sent you. Between Abbe's desire to get correct elevations and this matter it keeps me on the run all the time, so your little reference wishing me a pleasant time, though appreciated, might be construed as containing a wee bit of sarcasm; but I know your good, generous soul had no such thought. Please let me know, when I get further on, the stations in the East which have been visited, so I will not rehash the business. With kindest regards,

I am, sincerely, yours.

POWELL.

GRAND HOTEL, INDIANAPOLIS, IND., *November* 24, 1881.

DEAR CAPTAIN: That interesting compilation, "Proposed Legislation for the Signal Corps," was just the thing. I can now give them all the "whereases" and "resolves" they want; I will attend to the Cincinnati and Louisville matter, as I judged from your letter that you would not want them. I will send guarded epistles, though I do not think it will do any harm to have people know what we intend to do. I tell these people it is bound to go through any way, but that we want their help to "fix it sure." The Signal Corps has done no end of begging, and when we only want resolutions and no dinners they respond heartily. I met two members of Congress yesterday. One of these asked me if I was "working the boys up," and said it ought to go through, as he had no doubt it would.

I leave to-morrow for Saint Louis.

Kind regards to the future captains and majors of the Signal Corps.

Very truly, your friend,

JAMES ALLEN.

BOODY HOUSE, TOLEDO, OHIO, *December* 5, 1881.

MY DEAR CAPTAIN: Received your letter at Port Huron. You may rest assured that I leave nothing undone to put our case in the best light. It is somewhat of a job to overhaul every one and in some cases argue for an hour or more as *to the wisdom of keeping the service under military control.* Thus far I have been more than successful in coming out ahead. In Detroit, for instance, an editor of the "Post" I only won over after about an hour's work. His editorial I inclose. You may think it strange that I go for the papers, but it is in just such cases where I desire to close their mouths, if, after the passage of resolutions, they should want to take the opposite stand, which I am sure some would do. After coming out in an editorial favoring our organization they could not "eat their own words." Don't you think I am right? I met nearly all the board of trade in Detroit, and the president, E. K. Norton, gave me his word the resolutions would be passed there to-day and copies forwarded you and members of Congress.

Resolutions will be passed here in a day or two. It would take too much paper to give you full particulars, but I think everything is swimming. Inclose resolutions passed in Chicago and editorials of Detroit papers. Please print me some copies of each and forward me; the resolutions especially.

Yours, very truly,

POWELL.

ERIE, PA., *December* 11, 1881.

MY DEAR CLAPP: I inclose copies of resolutions passed at Detroit and Toledo. To-morrow the Cleveland Board of Trade will take action. Mr. R. K. Winslow will present them. I know from conversation with other members they will go through all right. I understand Milwaukee has passed resolutions, but have no copies. Have you heard from Pittsburgh? Thus far we have Chicago, Milwaukee, Detroit, Toledo, and I may say Cleveland, to my certain knowledge. I wish you would tell the general for me that I have worked faithfully in this matter, but had no idea when I started I was signing my death-warrant. Have just seen in the Republican, of Washington, a copy of bill to be introduced. The fourth section says "that second lieutenants of the Signal Corps may be transferred to the line of the Army." Well, that means, I suppose, "step down and out."

If I had known the general desired it I would long ago have made request for transferral. I do not want to be an obstacle to the advance of the service and will most willingly take a back seat. But I think it is a little rough on a fellow who has tried as hard as I have to please—and the work I have done I believe will bear witness of the fact—to be set adrift just at the time he imagined his future would be secured. The third section of the bill says "that after the appointments have been under section 1 [that is, by transferral] from appointments of civilians and appointments of the first lieutenants now serving with the corps, vacancies in the grade of first lieutenants shall be filled by competitive examination of the second lieutenants in the corps and of other corps and regiments," or in other words, "a free race for all." I have served my time in examinations and stated the last one would finish me. I think I have had about six since I entered the service, and if I did remain in the corps would not feel it to be just to require me to go through another competitive examination to secure promotion. But the general is boss of the ship and knows what he wants, so there is no use of complaining. If they will allow me three months' leave before joining regiment, will be satisfied.

I have written freely to you about this matter and will never refer to it again, but I feel that some of the zeal has been taken out of me. You may rest assured that whether I am to remain in the corps or not I will at every station during the remainder of my trip exert the same energy to secure action to meet the general's wishes on the part of chambers of commerce, boards of trade, &c., as I have done heretofore. As soon as I get Cleveland resolutions will forward them. Apologizing for consuming so much of your time with my private affairs, and trusting that ere long the seed sowed in good ground will yield an abundant harvest, I remain,

Very sincerely yours,

JOS. S. POWELL.

BUFFALO, N. Y., *December* 13, 1881.

MY DEAR CLAPP: I received your kind letter here, inclosing printed copies of resolutions passed at Chicago and also informing me that the bill printed in newspapers is not the one proposed to bring before Congress. I am glad this is not the case, as it is a most unjust thing. This bill has been extensively copied by newspapers and is provoking very unfavorable comment, so much so I am in receipt of two letters from sergeants stating that under the circumstances if I said so they could secure from chamber of commerce resolutions deprecating the passage of that measure. I understand that a paper in this city has published an editorial upon the subject, viewing it in the light of unjust discrimination. Now, nearly all of our observers have considerable influence, both with newspapers and members of board of trade, and they can make it warm for us in a quiet way if they felt so disposed, and I think some statement from the Chief Signal Officer to the press that this bill purporting to come from him is not true. I am afraid its publication has hurt us, to what extent I know not, but leave it to your better judgment to take such steps as you think best to remedy the evil. *This is confidential between us.* I suppose that damned fool Commegys had his finger in the pie.

At Erie I secured the promise of members of the board of trade to pass resolutions, which will be done this week; will name Mr. Messinger, Mr. Beckman, and Mr. Rindernecht. Here I have good reason to believe everything will go smoothly, and will let you know result when I finish.

In one of my letters I asked you to let me know what eastern stations had been approached in this matter, so I would not put my foot in it. Please do not forget to so advise me. I am working night and day at each station in order to push ahead and get as many stations through as possible. By this means I think I will reach Burlington, Vermont, and have resolutions passed there before bill is acted on, giving us Buffalo, Rochester, Oswego, and Albany, in this State. It would be wise, I should think, when I arrive in Albany to drop down to New York on this business alone, if some one has not been there already. I can make it by or before Xmas.

I inclose an editorial cut from a Toledo paper which has been sent me by Sergeant Buell. Perhaps the general would like to see it. To-morrow I have got to go down and have a talk with an editor of a paper here who intends pushing us a little in an unfavorable way. I have succeeded thus far with some of these hard-headed fellows in changing their tune in our behalf, and I hope to have the same success with this fellow. I hope that the parties you mentioned in your letter will get along amicably. They are both excellent men, and I am sorry they fall out so often. Give my kind regards to the general and all of the boys. Tell the latter I hope they will keep a warm place in their hearts for the absent. Tell Story I have had presented to me a book entitled "Memoirs of Catharine of Russia," and if he would like it will send it to him. I selected him because I know he is not a wooden man.

Very truly, yours,

JOS. S. POWELL.

BUFFALO, N. Y., *December* 14, 1881.

MY DEAR CLAPP: Have just received copy of resolutions to be introduced in Saint Louis. A stop should be made to this, as it partakes too much of "shop," and does not look like resolutions drafted by business men. I am afraid it will make us look ridiculous; of course you and others may have different opinions in regard to it. My aim has been to make resolutions appear as spontaneous action of business men.

Yours,

POWELL.

MONTGOMERY, ALA, *December* 15, 1881.

DEAR CLAPP: I have not heard from you for some time, but I trust everything is going along O. K. You ought to begin to receive some returns from the different boards by this time. I have received promises of hearty support everywhere. I will soon be back and in time to stir them up if they do not respond. I leave to-night for Atlanta. This is the worst place I've struck on the trip. How does it look in D. C.? Please send me names of both military committees. Give my regards to the majors.

Very truly, yours,

J. ALLEN.

ROCHESTER, N. Y., *December* 16, 1881.

MY DEAR CAPTAIN: Have just received your kind letter. I am very thankful for the kind feeling expressed by you in regard to my letter from Erie. I took matters in a general light and not individual. I am promised at Buffalo the cordial support of the entire board of trade. Mr. Alonzo Richmond will present resolutions this week, and I know they will pass O. K. Saw the editor of the Express, who had intended to go for the service, and after a long conversation bound him to our interests. He will publish from time to time editorials upon the subject until matter is settled. The other papers I had no trouble with.

You speak of resolutions coming in slowly. I thought they were, as far as I was concerned, going through quite rapidly. I inclose action taken by Cleveland board and expect to hear in a day or two from Erie and Buffalo. I have written about the matter to Pittsburgh and believe by this time it has been passed. We have certainly reached the delegations from Wisconsin, Michigan, Illinois, Ohio, Pennsylvania, and New York shortly. I don't know how Allen is making out, but presume he is doing well. He is a fellow that will take with every one, and I feel certain he is making a success.

In reading your letter I am filled with regret that you should have missed your calling. Theology blooms in every word, and I know if you had only followed the dictates of your heart you would now be a parson saving (ahem!) many souls from perdition. Inclosed you will find editorials from Cleveland papers. I don't believe I will have any trouble here. Thanking you for your kind interest, I remain,

Yours, sincerely,

POWELL.

OSWEGO, N. Y., *December* 21, 1881.

MY DEAR CAPTAIN: There being no regularly organized board of trade or chamber of commerce at Rochester, I saw the chairman of meteorological committee of the city, and he promised to have resolutions signed by a number of prominent business men and copies forwarded to Congress. I have just left the members of board of trade here and they promise to take action to-morrow or next day. Have received news from Pittsburgh. Inclose copy of resolutions. Milwaukee you have doubtless heard from. Sincerely wishing you a merry, merry X-mas, I am,

Yours, very truly,

POWELL.

ALBANY, N. Y., *December* 24, 1881.

MY DEAR CAPTAIN: The board of trade here will pass resolutions next Tuesday. Am glad Story intends visiting those cities. I could have saved him his Boston trip, as I will reach there in time. I believe all that remains for me are Burlington, Portland, Bangor. Will Springfield, Newport, New Haven, and New London be of service—that is, in point of time? You had better give me some points at Portland about this. I think we will certainly deluge the delegations from this State with resolutions. I believe there are thirty-eigt members, and when they receive Buffalo, Rochester, Oswego, Albany, and New York they will think the people of this State are for us. Inclosed are newspaper slips.

Yours, very truly,

POWELL.

PORTLAND, ME., *January* 2, 1882.

MY DEAR CAPTAIN: I have had considerable work here owing to an animosity existing toward the service on the part of a Mr. Farley, chairman of meteorological committee. I was told that it would be useless to have any resolutions presented before the board of trade which did not emanate with or were backed by Farley. So I swallowed the bitter pill and went to see him. After two hours' work he consented to introduce resolutions and guaranteed their passage. Other members have given me their word should Farley not come to time they will take the matter in hand. The trouble with this man is, we had an office in his building and removed it. I am sure we have him all right. He is a prominent man in the board and I was desirous of securing him and used extra exertion to do so. I made the trip to Mount Washington and it has nearly killed

me. I have made no complaints, and General Hazen and no one else will ever know how much I have suffered from this most unnecessary hardship. I inclose newspaper slips of date unknown and Oswego resolutions.

Yours, truly,

POWELL.

ESSEX HOUSE, SALEM, MASS., *January* 11, 1882.

MY DEAR GENERAL: On my return to Portland, *en route* from Thatcher's Island, I saw in a paper the proceedings of the board of trade at Portland and the report of the meteorological committee of which a Mr. Farley is the chairman. I directed our observer to forward you the paper. I saw this Mr. Farley when I visited station and assured him that the complaints made by him would be submitted to you, and anything practicable you would attend to. On the back of this he presented to the board of trade a report purporting to be report of meteorological committee, but which I ascertained was not signed by any one but himself. In plain words, this man is a consummate ass, and his animosity toward the service has arisen from the removal of our office from his building to the custom-house. He had promised me on his honor, after about two hours' conversation, wherein I had explained many things, and contradicted and proved the absurdity of others, that at this meeting he would present resolutions relative to our organization and his action incensed me somewhat. Yesterday I saw him, but found him very obstinate. I have well supplied other members of the board with data and copies of resolutions, and they have assured me at the next meeting they will be passed. I will reach Boston on the 13th.

Very truly, yours,

JOSEPH S. POWELL.

BOSTON, MASS., *January* 16, 1882.

MY DEAR CAPTAIN: I have seen Tom, Dick, and Harry of the merchants' exchange here, and am promised that our resolutions will be passed at the next meeting. There is a little feeling here against offering anything before the board relative to the service. They got themselves into a box with Howgate and are a little timid now. I feel confident that resolutions will go through all right. They may have a meeting to-morrow or next week, just as it happens. Mr. Howard, the secretary, and Mr. Burt and Captain Spooner are the principal parties who will look after the matter. This merchants' exchange is the only organization here or I would secure action by others. I inclose some real good editorials which, with my usual good luck, I was able to "wheedle" out of the papers. They no doubt will be of service to you.

I would like to stop over here just one day when I have nothing to do but to look around; but I know you are all desirous for me to reach New York as speedily as possible; so I will forego the pleasure of a day of recreation and hasten on. Don't forget to send me at New York at least a dozen of those pamphlets. I have hard work keeping up ammunition, and am often compelled to write out copies of certain things. Any data you may have which will be of service send me, for I am in need of it. I am pretty good at "shouting," but want something to back it.

Yours, truly,

JOS. S. POWELL.

NEWPORT, R. I., *January* 20, 1882.

DEAR CAPTAIN: Received your kind note here. Have acted upon your suggestion and written Sergeant McInerney at Galveston. He will do anything in the world for me, and you may rest assured of the action of the board of trade there. I saw in a paper where the President of the Senate submitted resolutions of Board of Trade of Portland. "So you got those fellows, after all," Mr. FARLEY said. I feel prouder of that, because it was so much work calling for extra exertion to overcome the influence of FARLEY. Doubtless Boston has taken action ere this. The meteorological committee here promise a speedy passage of resolutions. They will reach only two Representatives and two Senators, but, as you say, "every little helps."

While at Boston I wrote to the observer at Indianapolis, and also to some friends of mine belonging to the board of trade, and expect you will hear from that board soon. Must hurry to catch boat for Block Island. With kind regards to all, particularly to yourself,

Yours, most truly,

POWELL.

NEWPORT, R. I., *January* 24, 1882.

MY DEAR CAPTAIN: Have just returned here and have found meteorological committee signing their names to resolutions which will be sent off to-night to members of Congress and Senators. Will have sergeant to send you a copy. I met several members and senators of the Legislature, one of whom, Hon. B. B. Mitchell, says he can get resolutions passed by Legislature, but as he controls both ANTHONY and ALDRICH and the two Representatives he would write them personally, and says that their votes may be counted upon.

Yours, hastily,

POWELL.

SPRINGFIELD, MASS., *January* 28, 1882.

MY DEAR CAPTAIN: Have the promise of passage of resolutions by the Business Men's Association here on Monday or Tuesday. This organization is similar to board of trade in other cities. General H. C. Lee and Mr. Demey, the secretary, will push the matter. I have worked around members, so I believe there will be no opposition. I guess you are getting tired of my notes, but I have no other way of keeping you advised. Give kind regards to all.

Yours, very truly,

POWELL.

NEW HAVEN, *January* 30, 1882.

MY DEAR CAPTAIN: The chamber of commerce here will take action on our matter this week. They were very anxious to see resolutions of other chambers before their meeting, and that is the reason I telegraphed for one of those pamphlets. I inclose a slip from New York Tribune of to-day's date.

I ought to be in New York now, and from there should go to Philadelphia and Baltimore instead of traveling down the New Jersey coast. Some places, such as Barnegat, Delaware Breakwater, and Chincoteague, are not on the mainland, and I may be detained several days at these places, waiting for an opportunity to cross. I came near being laid up crossing to Thatcher's Island in a row-boat. The wind was blowing thirty-six miles an hour. Will hurry along as fast as possible and get through with what has been a pretty hard job. I telegraphed to Glassford and have also written him. Saw article in Washington Gazette. I think I could find out the man if I was there. Between us, unless you have explained bill to him, look out a little for Swift. At Thatcher's I and I heard he had written the sergeant asking if Hon. B. B. Mitchell was there. Now, Mitchell is the man who promised to secure Rhode Island delegation for us, and Swift became quite intimate with him when laying cable. His idea in writing and asking that question may be only an ordinary one or may be to secure Mitchell's favorable action for passage of bill, and perhaps I may do him wrong in supposing it might have been to oppose it. I did not think anything about it until this affair of Glassford's came out, and it has made me suspicious that perhaps Swift is following in his footsteps. I hope I am wrong. With regards,

Yours,

POWELL.

NEW YORK, *February* 2, 1882.

DEAR CAPTAIN: These letters will explain themselves (accompanying letters from Sergeants Finn and Schutze). Have written to Indianapolis giving all necessary directions. The newspaper slip is from Boston Traveller of 27th ultimo. Had you not better have copies printed? I also send a pamphlet which you may not have seen. I would give $100 to know who the man who wrote it is. Can you not send me some more of those pamphlets? I am doing first rate here and will give you a good report in a day or two. A good portion of my time is taken up with answering letters from observers. I did not imagine I have so much influence with the men. Must say I don't like the third section of that bill. It sticks in my throat, but I won't let my private opinion as to its justness interfere with giving the bill all the help I can. Be sure to let me know if any stations have missed fire, and send pamphlets or anything you may have. I tell you candidly there will be some hard fighting, and I think I could help things along if I was in Washington, especially with the men.

The articles in Gazette have been sent to every station, and the men on station believe they represent the feelings of the entire force at O. C. S. O. I have laid my wires so well that if resolutions are not passed at every station where I have asked them I know the men have had something to do with it. I wish you would send Schutze one of those pamphlets if you could spare one. He will do all he can.

Yours,

POWELL.

SAINT NICHOLAS HOTEL, NEW YORK, *February* 3, 1882.

MY DEAR CAPTAIN: The chamber of commerce will pass resolutions about the 1st of March. They have monthly meetings. Yesterday they had one and I did not know of it until about an hour before meeting. I tried to rush them through, but had not time. Cotton exchange will act on Monday; the maritime exchange on the 13th; the produce exchang some time next week, but they want a copy of the bill, so you had better send one to the superintendent produce exchange, New York. I met a number of them, but do not remember initials of their names. The superintendent's name is Grant, but a letter directed to him as I have given will reach him.

I saw the president and vice-president of the board of underwriters to-day. The former is an old fossil, to whom I had to give about two hours of valuable time of explanation, &c. He seemed afraid it was something that would do him an injury. After seeing him he turned me over to the vice-president. The vice-president was very pleasant and said he would have matter put into shape this afternoon, and I could come around to-morrow and make any necessary changes. He said to not feel alarmed about MCCOOK. He would bring influence to bear on him. Please tell Story this. I think I have seen nearly everybody; but if there are any more organizations you wish action taken by let me know. Story wrote me to vary resolutions. If you only knew how many sheets of paper I have wasted you would think I had endeavored to do so. They all want to see resolutions passed by some other body, and then they throw my poor manuscript away and follow the set example. I think there will be sufficient change here. You must keep me supplied with some of those pamphlets. Story sent me a good one. Am about played out to-night and long for a rest at home.

Kind regards to all.

Yours, hastily,

POWELL.

CLAPP: Write Powell that the third section is necessary, but the men in the corps will come in first when they deserve it, as he certainly will. Also, that after visiting Philadelphia to keep us informed and when time for action comes I will have him come here, finishing his tour afterward.

W. B. H. [HAZEN.]

FEBRUARY 3.

NEW YORK CITY, *February* 4, 1882.

MY DEAR CAPTAIN: Have just left board of underwriters. They have prepared a most magnificent letter, which is now being sent round for signatures by members of the board. Mr. Dennis, the vice-president, had it addressed to MCCOOK and will have certain prominent merchants, political as well as personal friends of MCCOOK, sign it. He says MCCOOK can not well get out of giving the measure his earnest support. This letter will be sent to General Hazen on Monday. They suggest he have copies printed and furnished each member of Congress, but send original to MCCOOK. They also request that six of the printed copies be sent to Mr. Dennis for file in records. They want the general informed they take a live interest in the service, and anything he would like done to call upon them. The letter will speak for itself, and I think will strike MCCOOK in the right place.

Yours, hastily,

POWELL.

Will leave here Monday for Philadelphia, as I believe the general wants me to do.

FORT MYER, VA., *February* 7, 1882.

MY DEAR GENERAL: I can pull a pretty heavy oar in both the Senate and House for the bill, but I do not know your line of action or wishes in the matter. I do not even know that you approve the pending bill, therefore I have remained silent and quiet. Senators Maxey, Sewell, Gorman, Groome, Vance, and Ransom; Representatives Spooner, Crapo, Townshend, and the Maryland delegation, also Senators Anthony and Aldrich, are very friendly to me. Besides, I can pull their solid constituents. It seems to me that you should bring all pressure possible to bear, in order to get the bill through. In this I would like to take a hand, as you well know I will stand by you through thick and thin. A man that would not stand by his chief would have but little respect from me.

Yours, very truly,

JOS. A. SWIFT.

PHILADELPHIA, *February* 8, 1882.

MY DEAR STORY: Your letter received, and I thank you for the contents. I did not want my orders changed, but simply to come to Washington on my own hook should the general desire me to proceed from here to Baltimore. I am afraid just at this time to do anything which the War Department might think was disobedience of orders, which it certainly is coming to Philadelphia from New York, instead of going to Sandy Hook. I have written the inclosed letter, which you can hold or file, just as you think best. It will be my authority for coming to Washington for a few days. Also inclosed is a copy of resolutions passed at Albany. Please give it to Clapp.

I saw in New York Herald of last Sunday an article opposed to our bill. Have taken the matter in hand, and am promised a favorable editorial in a few days. I think Randall and Kelley will offer no opposition. My letter to Clapp will explain. The delegation leaving here to-day will make a personal appeal to Senators and Representatives for passage of bill, and certain particular friends of

Randall will "do" him. I tell you, Story, a bottle of wine and a dinner go a long way sometimes. Inclosed find newspaper article published in Boston Herald of February 3, 1882. Anything you have to suggest, why send it along. Clapp did not send me sufficient copies of bill. Have him send me some more at Baltimore. Am surprised that certain organizations passed resolutions without knowing for what they were petitioning. Can't do that any more, as they seem to know a bill has been presented and want to see copies. Trusting I will see you soon, I am,

Yours, hastily,

POWELL.

The following are some of the fruits of the conspiracy and negotiations fully explained in the foregoing letters. The resolutions are reprinted bodily, head lines and all, from a pamphlet printed by the Signal Bureau and widely circulated by it:

RECENT RESOLUTIONS AND COMMENTS ON THE SIGNAL SERVICE OF THE ARMY.

METEOROLOGICAL COMMITTEE, CITY OF NEWPORT,
Newport, R. I., January 24, 1882.

In recognition of the valuable services rendered by the Signal Service in the past, and believing that greater efficiency can be secured by the permanent organization of the Signal Corps on the same basis as the Engineer and Ordnance Corps: It is, therefore,

Resolved by the Meteorological Committee of the City of Newport, That we signify our desire for the said permanent organization, and request the Senators and Representatives of the State of Rhode Island in Congress to take such action as will secure the desired result.

That copies of these resolutions be furnished to each Senator and Representative from this State.

SAM. C. BAILEY, *Chairman*,
S. W. MACY,
STEPHEN H. NORMAN,
THOS. COGGESHALL,
Meteorological Committee.

PORTLAND BOARD OF TRADE,
Portland, Me., February 6, 1882.

The following resolutions were adopted:

In recognition of the valuable services rendered by the Signal Service in the past, and believing that greater efficiency can be secured by the permanent organization of the Signal Corps on the same basis as the Engineer and Ordnance Corps: Be it, therefore,

Resolved by the Portland Board of Trade, That we signify our desire for the said permanent organization, and request the Senators and Representatives of the State of Maine in Congress to take such action as will secure such desired result.

That copies of these resolutions be furnished to each Senator and Representative from this State.

NEW HAVEN CHAMBER OF COMMERCE,
New Haven, Conn., February 14, 1882.

An interesting and important meeting of the chamber of commerce was held this noon at the office of the Security Insurance Company, President Thomas R. Trowbridge in the chair. It was a special meeting called apparently at the suggestion of ex-Mayor Lewis, who made a somewhat lengthy speech on the advantages which the Signal Service had been to the commerce of this port, and the still further advantage it would be were its facilities more extended. At the conclusion of his remarks Mr. Lewis introduced the following:

Resolved, That in our opinion the Signal Service has fully demonstrated its usefulness and importance, and we ask that its efficiency may be increased by its reorganization as a permanent bureau and by increased appropriations, to the end that a large number of stations may be established.

Resolved, That the secretary be requested to send a copy of these resolutions to each Senator and Representative from this State in Congress.

The resolution was discussed, there being but one opinion expressed, and that was in favor of the passage of the resolutions. They were then unanimously passed.

HENRY PRESCOTT, *Secretary.*

ALBANY, N. Y., *February 6, 1882.*

Recognizing the valuable services rendered by the Signal Service, and believing that the efficiency of the service would be greatly increased by Congress adopting an act effecting a permanent organization on the same basis as the Engineer and Ordnance Corps: It is, therefore,

Resolved by the Albany Board of Trade, That we signify our desire for said permanent organization, and request the Senators and Representatives from the State of New York to take such action as will secure the desired result.

That the secretary of this board be, and is hereby, directed to furnish a copy of these resolutions to each Senator and Representative from this State.

E. A. DURANT, JR., *President.*
H. LACY, *Secretary.*

OFFICE OF THE BOARD OF UNDERWRITERS,
New York, February 4, 1882.

DEAR SIR: The undersigned, underwriters and merchants of the city of New York, ask your particular attention to the importance of securing the permanency and success of the United States Signal Service.

The great importance and incalculable benefits of this service to the commercial and agricultural interests of the country have already been fully demonstrated, and the service is now regarded as a public necessity.

The request is made of you as representing the interests of this city—the chief commercial and shipping port of the United States—and in view of our experiences of the practical benefits of the work to ourselves and to the nation at large.

It is our opinion that this service should be established and maintained upon a permanent basis, and it is believed that this can best be done by establishing it as a separate branch or corps of the Army, such as the Engineer Corps or the Ordnance Corps.

It is also our opinion that such appropriations should be made as may be necessary to maintain this branch of the public service at the highest point of efficiency.

The undersigned especially deprecate any want of care in permitting this service to fail or to be embarrassed or crippled by want of proper support at this important juncture of its progress; and they respectfully urge upon you and the other Representatives of this city, and the Representatives of the State generally, to give their attention and best efforts to guard and advance the interests of this service as one which has done well and is deserving of support.

We have the honor to be, respectfully, your obedient servants,

Charles Dennis, Vice-President Atlantic Mutual Insurance Company; Alfred Ogden, Vice-President Orient Mutual Insurance Company; John P. Paulison, President Sun Mutual Insurance Company; T. B. Bleecker, jr., President New York Mutual Insurance Company; W. J. Comes, President Commercial Mutual Insurance Company; J. Raymond Smith, Vice-President Great Western Insurance Company; Higgins & Cox, attorneys for subscribers at U. S. Lloyds'; H. & C. L. Despard, Agents for Boylston Mutual Insurance Company; Catlin & Satterthwaite, Attorneys for Insurance Company of North America and China Insurance Company; J. Bertschmann, Attorney Switzerland Marine Insurance Company of Zurich and General Insurance Company of Dresden; R. M. C. Graham, Manufacturers' Insurance Company, Boston; H. H. Thayer, Manager Thames & Mersey Marine Insurance Company, limited; Stephen Crowell, President Phœnix Insurance Company; Herbert Fuller, Vice-President Boston Marine Insurance Company; Whipple & de Bermingham, Attorneys for South and North American Lloyds'; Willoughby Powell, Agent Providence & Washington Insurance Company; S. G. Smith, Agent Security Insurance Company of New Haven, Connecticut, Equitable Fire and Marine Insurance Company of Providence, Rhode Island; Hugo Menzel, General Agent Swiss Lloyds'; Paul William Cæsar, Agent Rhenish Westfalian Lloyds'; Jones & Whitlock, Agents Union Marine Insurance Company; G. Bentham Rae, Agent C. Insurance Company, limited; John G. Dato, Attorney for British & Foreign Marine Insurance Company, limited; Lewis de Bebian, Compagnie Générale Trans-Atlantique; Henderson Bros., Anchor Line Steamers; A. Emilius Outerbridge & Co., Agents Quebec S. S. Company; F. Alexander & Sons, New York, Havana & Mexican S. S. Line; Austin, Baldwin & Co., Agents State Steamship Company; Peter Wright & Son, G. A. Red Star Line; Williams & Guion, Liverpool & G. W. Steam Company; Vernon H. Brown & Co., Cunard S. S. Company; James E. Ward & Co., New York & Cuba M. S. S. Company; James E. Elwell & Co., Ship Owners and Agents for Vessels; Fabbri & Chauncey, Shipping Merchants; Brett, Son & Co., Shipping and Commission Merchants; Clarke, Dodge & Co., Bankers and Brokers; Chas. L. Wright & Co., Steamship and Ship Agents; Snow & Burgess, Shipping and Commission Merchants; Thos. J. Owen & Son, Shipping and Commission Merchants; Thos. Dunham's Nephew & Co., Shipping and Commission Merchants; Grinnell, Mintern & Co., Shipping and Commission Merchants; C. H. Mallory & Co., Texas and Florida Steamers; Tapscott, Bros. & Co., 83 South street; Sutton & Co., 82 South street; Slaght, Bailey & Co., 78 South street; Isaac R. Staples, 66 South street; Drexel, Morgan & Co., 23 Wall street; Fisk & Hatch, 5 Nassau street; Hatch & Peters, 25 Pine street; Brown, Bros. & Co., 58 Wall street; Maitland, Phelps, & Co., 24 Exchange Place; W. T. Hatch & Sons, 14 Nassau street.

Hon. ANSON G. MCCOOK,
House of Representatives, Washington, D. C.

OFFICE OF THE BOARD OF MARINE UNDERWRITERS,
Boston, Mass., February 7, 1882.

The great value of the United States Signal Service to the shipping and other interests of the country has been amply demonstrated by experience.

In its present condition it is greatly embarrassed for want of a sufficient number of experienced, permanent officers, which want the passage of the bill for the organization of the Signal Service, as now introduced in Congress, would overcome.

Believing that the almost universal acknowledgment of the usefulness of the Signal Service is the strongest argument in favor of its permanent organization and extension, and that its value would be greatly enhanced and the scope of its usefulness be greatly enlarged if a permanent organization could be given it, the undersigned, marine insurers of Boston, beg respectfully to urge on Congress the passage of this bill.

Toward the attainment of this end they ask the co-operation of every member of Congress from Massachusetts.

China Mutual Insurance Company, by William Perkins, President; American Insurance Company, by Francis Peabody, President; Mercantile Fire and Marine Insurance Company, by George R. Rogers, President; Manufacturers' Fire and Marine Insurance Company, by Samuel Appleton, President; India Mutual Insurance Company, by John H. Dane, President; Boylston Mutual Insurance Company, by T. W. Balch, President; Boston Marine Insurance Company, by B. B. Fuller, President; Washington Fire and Marine Insurance Company, by Frank E. Sweetser, Vice-President; Neptune Fire and Marine Insurance Company, by George F. Osborne, President.

OFFICE OF THE MARINE UNDERWRITERS,
Baltimore, February 10, 1882.

To the Senators and Representatives of the State of Maryland:

The undersigned, underwriters of the city of Baltimore, ask your particular attention to the importance of securing the permanency and success of the United States Signal Corps.

The great importance and invaluable benefits of this service to the commercial and agricultural interests of the country have already been fully demonstrated, and the service is now a public necessity.

The request is made of you as representing the interests of this State, and in view of our experiences of the practical benefits of the work to ourselves and to the nation at large.

It is our opinion this service should be established and maintained upon a permanent basis, and it is believed this can best be done by establishing it upon the same basis as the Engineer or Ordnance Corps.

The undersigned especially deprecate any want of care in permitting the service to fail or be embarrassed by the want of proper support at this important juncture of its progress, and they respectfully urge upon you, the representatives of the city, and the representatives of the State generally, to give your attention and best efforts to guard this service as one which has done well and is deserving of support.

Very respectfully, your obedient servants,

Jas. Carey Coale & Cunningham, Marine Insurance Agents; F. W. Wilson & Son: Birckhead & Son, Agents Insurance Company of Philadelphia; C. Morton Stewart, Agent Orient Mutual Insurance Company; Wilkinson & Sirick, Agents Boston Marine Insurance Company; Harry Gilmor, Agent Shoe and Leather Insurance Company; George B. Coale, president Merchants' Mutual Insurance Company of Baltimore; Charles H. Reeves, Agent Insurance Company of North America, of Philadelphia.

BOSTON SCIENTIFIC SOCIETY,
Boston, Mass., January 25, 1882.

[Extract from records of meeting, January 25, 1882.]

Mr. E. F. Sawyer then put the following motion: That the opinion of the members of the Boston Scientific Society be expressed as favoring the adoption of such measures as shall secure to the Signal Service the permanent attachment of those officers into whose charge the important departments of the service shall be given.

After comments by other members the question was voted upon and passed by a unanimous vote.

GEO. H. ELSON,
Secretary Boston Scientific Society.

GULF, COLORADO AND SANTA FÉ RAILWAY,
Galveston, Tex., February 18, 1882.

SIR: In connection with the bill now before Congress for the permanent organization and consequently increased efficiency of the Signal Service Bureau, I take pleasure in informing you, on behalf of the Gulf, Colorado and Santa Fé

Railway, that any legislation in that direction will be very heartily indorsed by the officers of this road.

Very truly, yours,

F. P. KILLEEN,
A. G. M. and Secretary, G., C. and S. F. Railway.

General HAZEN,
Chief Signal Officer, United States Army.

GALVESTON COTTON EXCHANGE,
Galveston, Tex., February 17, 1882.

SIR: Seeing that Congress is about to enact some law for the permanent organization of the Signal Service, I am authorized to express to you the hearty approval of the members of the Cotton Exchange of this city for any legislation that secures the permanent organization of a branch of the public service that is now indispensable to the country. There is no interest more deeply concerned than the cotton; hence our desire to see the Signal Service placed on an enduring basis. It may, perhaps, not be out of place to let committees having this matter in hand know what the sentiments of the cotton merchants of this city are on this subject. If this view meets your approval you will much oblige the gentlemen for whom I speak, as well as myself, by using this communication in such manner as to you seems best.

Yours, respectfully,

J. D. SKINNER,
Chairman Committee of Information and Statistics, Galveston Cotton Exchange.

General HAZEN,
Chief Signal Officer of the Army.

COTTON EXCHANGE, NEW YORK CITY,
February 24, 1882.

In view of the fact that a bill is now pending before Congress which has for its object permanent organization of the Signal Service as a branch of the War Department and which provides for a permanent assignment of its officers, we, the undersigned, representing the Cotton Exchange of the city of New York, do hereby recommend the passage of said bill, believing that such an organization and equipment of this important branch of the public service would increase its efficiency and would render still more valuable in the future that work which it has so well performed in the past.

ROB'T TANNAHILL, *President.*
J. YEOMAN, *Vice-President.*
WALTER T. MILLER, *Treasurer.*
G. E. MOORE, *Secretary.*

BUFFALO BOARD OF TRADE,
Buffalo, N. Y., February 27, 1882.

Whereas this board of trade fully recognizes the valuable services rendered by the United States Signal Service in the past, and believing that greater efficiency can be secured by the permanent organization of the Signal Corps on the same basis as the Engineer and Ordnance Corps: Therefore,

Be it resolved, That we signify our desire for the said permanent organization, and request our Senators and Representatives in Congress to take such action as will secure such desired result.

Resolved, That copies of this preamble and resolution be furnished to our Senators and Representatives in Congress.

OFFICE PHILADELPHIA BOARD OF MARINE UNDERWRITERS,
Philadelphia, February 20, 1882.

The Philadelphia Board of Marine Underwriters, recognizing and appreciating the great benefit which the United States Signal Service has rendered to the maritime and commercial interests of the country, is of opinion that the establishment of this service upon a more permanent basis would increase its efficiency, and is, moreover, much gratified to learn that there is a bill now before Congress having this end in view: Therefore,

Resolved, That this board heartily approves the said bill, and hopes that it will receive the favorable action of Congress.

Resolved, That the secretary be requested to transmit a copy hereof to each of the Senators from this State and each of the Representatives in Congress from this city.

A true copy from the minutes.

HENRY D. SHERRERD, *Secretary.*

VESSEL OWNERS AND CAPTAINS' ASSOCIATION,
Philadelphia, March 3, 1882.

At the annual meeting of the Vessel Owners and Captains' Association, held March 1, 1882, the following resolutions were unanimously adopted, namely:

Resolved, By the Vessel Owners and Captains' Association that they recognize the importance of the services of the United States Signal Corps to commerce, and regard it as of the greatest benefit to the maritime interests of the country to have that corps enlarged and improved in the status and attainments of the officers conducting the Signal Service.

Resolved, That, earnestly holding these views, this association respectfully urge upon Congress the importance of passing the bill now pending before the Military Committee of the House for increasing the efficiency of the United States Signal Corps.

Extract from the minutes.

CHAS. LAWRENCE, *President.*

Attest:

CHAS. H. STEELMAN, *Secretary.*

COMMERCIAL EXCHANGE OF PHILADELPHIA.

Resolved, That we recognize in the Signal Corps a most valuable organization in protecting the interests of commerce, agriculture, and the industries generally, by forecasting the approach of storms and other important meteorological changes.

Resolved, That we believe greater efficiency can be secured by placing the corps upon a permanent basis, similar to the Engineer and Ordnance Corps, and preventing changes in its officers, under present laws likely to occur at any time.

Resolved, That we urge upon Congress the passage of a law making said corps a permanent organization.

Resolved, That printed copies of these resolutions be sent to the Senators and Representatives of Pennsylvania, with request that they will individually assist any measure to secure desired result.

Passed February 9, 1882.

GEO. W. PIERIE, *Secretary.*

PHILADELPHIA BOARD OF TRADE,
Philadelphia, February 20, 1882.

The United States Signal Service having been, under its present organization, of much benefit to our country generally, and, what is more especially within our knowledge, of great use and benefit to its maritime interests, this board is decidedly of opinion that the organization of the service should be strengthened and perfected so that its usefulness may be increased and extended: Therefore,

Resolved, That the Senators and Representatives of our State in Congress be, and hereby are, requested to support and aid in the passage of a bill (H. R. 2253) "to increase the efficiency of the Signal Corps of the Army," introduced in the House by Mr. HENDERSON, January 9, 1882.

Resolved, That the secretary be instructed to send to each of the said Senators and Representatives a copy of the foregoing resolutions and preamble.

GEORGE L. BUZBY, *Secretary.*

GALVESTON, HOUSTON AND HENDERSON RAILROAD COMPANY,
Galveston, Tex., February 23, 1882.

General HAZEN, *Chief Signal Officer, U. S. A., Washington, D. C.:*

SIR: *Seeing that Congress* is invited to pass a law for the permanent organization of the Signal Service, I take this opportunity to state that the passage of any law designed to increase the efficiency of that useful and popular branch of the public service will meet with the hearty approval of the officers of this company.

Yours, very respectfully,

W. H. HARDING, *President.*

MEXICAN NATIONAL CONSTRUCTION CO., NORTHERN DIVISION,
Galveston, Tex., February 23, 1882.

General HAZEN, *Chief Signal Officer, U. S. A., Washington, D. C.:*

SIR: *Understanding* that there is bill now before Congress intended to increase the efficiency of the Signal Service Department, I wish to convey to you my appreciation as to the great advantage that branch of the service has already been to our people here and how earnestly we desire that such legislation may be had as tends to still further perfect it.

Very respectfully, yours,

M. QUIN, *General Agent.*

HOUSTON AND TEXAS CENTRAL RAILWAY COMPANY,
Houston, Tex., February 23, 1882.

SIR: Learning that a bill has been presented to Congress with a view of increasing the efficiency of the Signal Service Department, I desire to convey to you my appreciation of the importance to the people in the cotton-belt of having every facility afforded them by furnishing correct meteorological information to govern their actions. Fully realizing the benefits already derived, I believe it to be the earnest desire of all intelligent producers that such legislative enactments be made to still further tend to fully develop the agricultural interest.

Very truly, yours,

A. H. SWANSON,
General Superintendent.

General HAZEN,
Chief Signal Officer, U. S. A., Washington, D. C.

BALTIMORE BOARD OF TRADE, *Baltimore, Md., March 7, 1882.*

At the monthly meeting of the board, held yesterday, the following report was accepted and the resolutions annexed adopted.

GEO. U. PORTER, *Secretary.*

Report of Committee.

The meteorological committee beg leave to report that the United States Signal Service is of great benefit to the commercial and agricultural interests of the country, and it is important to secure its permanency and continued success, and they therefore submit the annexed resolutions.

R. W. CATOR,
D. L. BARTLETT,
FRANK JENKINS,
GERMAN H. HUNT,
Committee.

Resolutions adopted, as submitted by the committee, are as follows:

Resolved, That this board fully appreciates the great value of the Signal Service to the commercial and agricultural and other interests of the country, and desire that it shall be placed upon a permanent basis and organized as a separate corps of the Army, similar to the Engineer and Ordnance Corps, believing that changes in the officers, as now under present laws liable to take place, will materially injure its efficiency.

Resolved, That the Senators and Representatives from Maryland be requested to take such action as will secure a permanent organization of the corps.

Resolved, That copies of these resolutions be furnished each Senator and Representative from this State; also the Chief Signal Officer.

B.

Letter of General Sherman.

HEADQUARTERS ARMY OF THE UNITED STATES,
Washington, D. C., December 30, 1881.

SIR: I beg to acknowledge receipt of the letter of General W. B. Hazen, Chief Signal Officer, of December 12 instant, referred to me by indorsement of your office of December 16, calling for report and my opinion of the merits of the several recommendations therein made.

I now avail myself of this opportunity to invite your special attention to the ruinous effect on the Army of having the Chief Signal Officer scanning the list of our officers, picking out the best for signal duty, and exalting that duty above the legitimate office of the line officer. General Hazen refers to the enlarged sphere of action of the Signal Office since last spring, and the consequent necessity for more officers. The law provides only one signal officer for the whole Army, with a provision to promote annually two second lieutenants from his enlisted force, yet at this moment he has sixteen captains and lieutenants of the line, whose proper companies suffer in discipline and care for want of these very officers. No part of the enlarged sphere of action referred to is in any sense military, but purely civil or scientific. *All that is military in the Signal Bureau is in conveying orders by signals, and this art is now taught at West Point, at Fortress Monroe, and Fort Leavenworth, so that as far as the Army is concerned the establishment at Fort Myer is superfluous and should be abolished. It has outlived its usefulness, and instead of being of advantage to the Army it is a detriment by drawing from the Army officers who are needed with their companies.*

If the Signal Service be of such infinite use to the agriculture, commerce, and civil interests of the country as claimed by its friends, surely Congress will provide the necessary agents, military and civil, without making so large a draft on the Army, already staggering under a load so heavy that our best young officers are tempted to escape duty to find employment in these fancy corps.

I am, with great respect, your obedient servant,

W. T. SHERMAN, *General.*

Hon. R. T. LINCOLN,
Secretary of War, Washington, D. C.

C.

Letter of Secretary Lincoln.

WAR DEPARTMENT, WASHINGTON CITY, *May 12, 1882.*

SIR: I have the honor to acknowledge the receipt of your communication of the 4th instant, asking my opinion as to the propriety of maintaining the Signal Service establishment entirely from appropriations to be made in the sundry

civil bill, and affirmatively providing that no moneys appropriated in the Army appropriation bill shall be expended in its support, and requesting also to be advised in what amount the appropriations for the support of the Army can be reduced, in the event of such action by Congress, and from what branches of the appropriations in the Army bill the reductions can be made.

In reply, I beg to inclose to you a copy of a letter addressed by me on the 20th of February ultimo, to Hon. S. B. MAXEY, of the Committee on Military Affairs, United States Senate, in which this general subject is discussed somewhat at length.

It is my opinion that the Weather Bureau should be wholly separated from the Army, and that this could be accomplished by the simple process of a legislative enactment so directing, with an appropriation equal to the present actual expenses of the service.

The enlisted men are now compensated under several heads—current pay, pay on discharge, rations, commutation of rations, commutation of fuel, commutation of quarters, medicines, and clothing, all of which could more easily be paid in one item as salary.

The persons in the service other than enlisted men who have special knowledge of Weather Bureau work are, I understand, only eight in number, of whom Professor Cleveland Abbé is the chief. All other officers are merely administrative. Such of them as belong to the military service could, I think, be easily replaced by civilians within a limited period. I have learned, since my letter of 20th February last was written, that the actual force is much larger than I then supposed. I have procured returns which show that on the 1st of April last there were maintained under the Chief Signal Officer: 6 officers of the Signal Corps, 16 officers detailed from the Army, 491 enlisted men of the Signal Service, 57 enlisted men detached from the Army, 388 civilians in various capacities, making, with the Chief Signal Officer, 959 persons.

If, however, the "Signal Service is to be maintained as now constituted," in the reiterated words of the annual appropriation bills, I think it important that the appropriations for its support should be distinct, so that the bureau would have an interest in counting the cost of its widely-varied enterprises, ranging from Arctic expeditions to observations on the ravages of locusts, *all of which maybe useful to* the public, *but are certainly not military. In my opinion, an element of responsibility and accountability would thus be introduced which would reduce the expenses of the service by a considerable amount.*

I have recently learned that an extraordinary blunder, or series of blunders, was committed by the clerk in my office who compiled the consolidated table printed in H. R. Document 128, present session, which was made up of many fragmentary reports from various bureaus. In some cases, after giving various items, he added a separate general item, which was, in fact, a footing of certain previous items already inserted. These errors have been corrected in a communication which I addressed to the Speaker of the House, and which was, on yesterday, ordered to be printed.

In response to your request I inclose an estimate in the usual form for so much of the expenses of the service as are now paid out of Army appropriations, based on the expenditures out of those funds for the year 1881. This estimate amounts to $597,129.96, and would be required in addition to the special appropriations asked by the Chief Signal Officer for the next fiscal year, aggregating $544,500, the items of which may be found on pages 69, 181, and 182 of estimates for the next fiscal year, these together making estimates for the Signal Service in all its branches, as now conducted, of $1,141,629.16.

In answer to your inquiry as to the extent to which the regular appropriation for the support of the Army could be reduced, in the event of the action by Congress suggested in your letter, I have the honor to state that the reductions would be as follows:

Pay, &c., of the Army	$236,500 00
Subsistence of the Army	142,000 00
Regular supplies, Quartermaster's Department	55,600 00
Incidental expenses	30,150 00
Barracks and quarters	80,879 96
Army transportation	57,000 00
Medical and hospital department	5,000 00
Total	597,129 96

Very respectfully, your obedient servant,

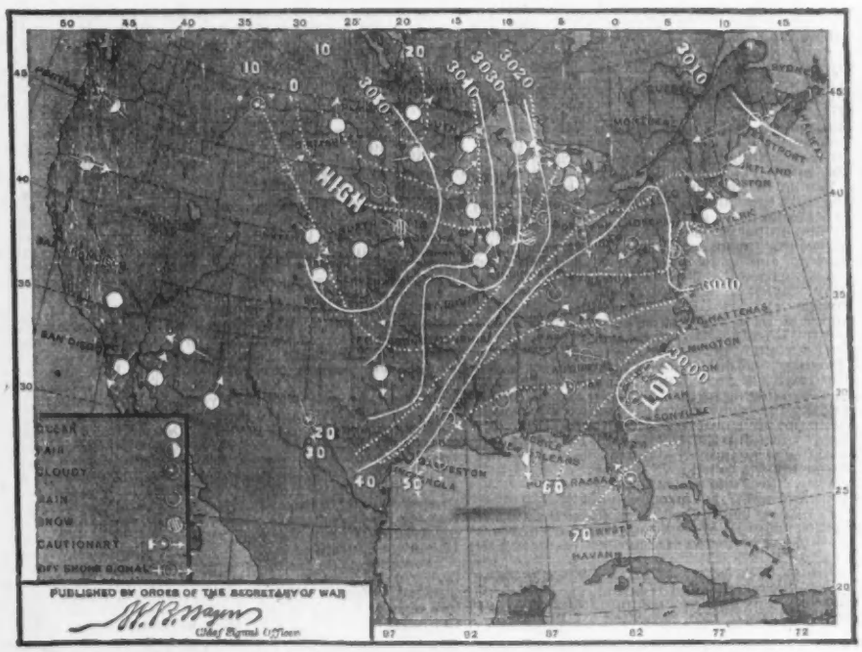
ROBERT T. LINCOLN,
Secretary of War.

Hon. FRANK HISCOCK,
Chairman Committee on Appropriations, House of Representatives.

D.

WAR DEPARTMENT WEATHER MAP, SIGNAL SERVICE, UNITED STATES ARMY.

Charted in New York, 10 a. m. Costs $5,000 per annum.



White lines, lines of similar pressure; dotted lines, lines of similar temperature. Long arrow points the direction to which the storm is moving; small arrows fly with the wind. * Shows location of storm center. –/– Path of storm. *– – – – – – – – * Distance between stars shows the movement in 8 hours.

E.

Hazen-Stanley court-martial.

WAR DEPARTMENT, *Washington City, February 6, 1883.*

SIR: In accordance with your request under date of the 1st instant, I have the honor to inclose herewith a copy of General Court-Martial Orders No. 35, Adjutant-General's Office, June 18, 1879, publishing the findings, sentence, &c., in the case of D. S. Stanley, colonel Twenty-second United States Infantry.

The proceedings in the case have not been published.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN, *Secretary of War.*

Hon. F. E. BELTZHOOVER,
House of Representatives.

HEADQUARTERS OF THE ARMY, ADJUTANT-GENERAL'S OFFICE,
Washington, June 18, 1879.

[General Court-Martial Orders No. 35.]

I. Before a general court-martial which convened at Governor's Island, New York Harbor, April 10, 1879, pursuant to Special Orders No. 66, dated March 20, and No. 69, dated March 22, and at New York city, April 12, 1879, pursuant to Special Orders No. 85, dated April 9, 1879, Headquarters of the Army, Adjutant-General's Office, and of which Major-General W. S. Hancock, United States Army, is president, was arraigned and tried Colonel D. S. Stanley, Twenty-second Infantry.

CHARGE I.—Conduct unbecoming an officer and a gentleman.

Specification 1.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, on or about the 6th day of September, 1877, to wit, at the city of New York, did write a certain letter of and concerning W. B. Hazen, colonel Sixth United States Infantry, and did then and there address to the said W. B. Hazen, at Vienna, in the Empire of Austria, and transmit the same to him through and by the mail, which said letter is in words and figures following, to wit:

"Gen. W. B. HAZEN,
"*Colonel Sixth Infantry, Vienna:*

"I have seen the decision of the President upon the charges I preferred against you, 'that the service would not be conserved by convening a general court-martial to try you at this time.'

"I am not disappointed. You know just as well as I do that your trial could have only resulted in your conviction, and you already stand convicted before those who heard you testify.

"I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh, and when proper occasion offers will use the information to stop your career of imposture.

"Your obedient servant,

"D. S. STANLEY.

"NEW YORK CITY, *September* 6, 1877."

Specification 2.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, on or about the 6th day of September, A. D. 1877, to wit,

at the city of New York, did write a certain letter of and concerning W. B. Hazen, colonel Sixth United States Infantry, and did then and there address the same to the said W. B. Hazen, at Vienna, in the Empire of Austria, and transmit the same to him through and by the mail, intending thereby willfully, wantonly, and maliciously to personally affront and insult the said Hazen, which said letter is in words and figures following, to wit:

"Gen. W. B. HAZEN,
"*Colonel Sixth Infantry, Vienna:*

"I have seen the decision of the President upon the charges I preferred against you, 'that the service would not be conserved by convening a general court-martial to try you at this time.'

"I am not disappointed. You know just as well as I do that your trial could have only resulted in your conviction, and you already stand convicted before those who heard you testify.

"I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh, and when proper occasion offers will use the information to stop your career of imposture.

"Your obedient servant,

"D. S. STANLEY.

"NEW YORK CITY, *September* 6, 1877."

Specification 3.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, on or about the 6th day of September, A. D. 1877, to wit, at the city of New York, did write a certain letter of and concerning W. B. Hazen, colonel Sixth United States Infantry, and did then and there address the same to the said W. B. Hazen, at Vienna, in the Empire of Austria, and transmit the same to him through and by the mail, therein alleging of him, the said Hazen, as follows: "You know just as well as I do that your trial could have only resulted in your conviction, and you already stand convicted before those who heard you testify," meaning thereby to allege and charge that the said Hazen had been guilty of the crime of perjury and false swearing in giving his testimony on the trial of W. W. Belknap, late Secretary of War, on articles of impeachment before the Senate of the United States, which said charge and allegation was and is unfounded, false, and malicious, and was wickedly devised by the said Stanley, and made to said Hazen, wantonly, willfully, and maliciously to affront and personally insult him, the said Hazen.

Specification 4.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, on or about the 6th day of September, A. D. 1877, to wit, at the city of New York, did write a certain letter of and concerning W. B. Hazen, colonel Sixth United States Infantry, and did then and there address the same to the said W. B. Hazen, at Vienna, in the Empire of Austria, and transmit the same to him through and by the mail, therein alleging of him, the said Hazen, as follows: "I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh," meaning thereby to allege and charge that the said Hazen had, at the battle of Shiloh, been guilty of conduct which should subject him to disgrace as an officer in the Army of the United States, which said allegation is unfounded, malicious, and false, and was wickedly devised by the said Stanley and made to the said Hazen, wantonly, willfully, and maliciously, to affront and personally insult him, the said Hazen.

Specification 5.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, on or about the 6th day of September, A. D. 1877, to wit, at the city of New York, did write a certain letter of and concerning W. B. Hazen, colonel Sixth United States Infantry, and did then and there address the same to the said W. B. Hazen, at Vienna, in the Empire of Austria, and transmit the same to him through and by the mail, therein alleging of him, the said Hazen, as follows: "I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh, and, when proper occasion offers, will use the information to stop your career of imposture," meaning thereby to say of him, the said Hazen, that he was an "impostor," and by devising said wicked, false, and malicious charge, and making the same to and against the said Hazen, intending and designing thereby willfully, wantonly, and maliciously to affront and personally insult him, the said Hazen.

Specification 6.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, on or about the 6th day of September, A. D. 1877, to wit, at the city of New York, did write a certain letter of and concerning W. B. Hazen, colonel Sixth United States Infantry, and did then and there address to the said W. B. Hazen, at Vienna, in the Empire of Austria, and transmit the same to him through and by the mail, therein alleging of him, the said Hazen, as follows: "I have seen the decision of the President upon the charges I preferred against you, 'that the service would not be conserved by convening a general court-martial to try you at this time,'" meaning thereby that the President had refused to call a court-martial on certain charges preferred by said Stanley against the said Hazen, which charges are as follows, to wit:

"CHARGE.—Conduct unbecoming an officer and a gentleman.

"*Specification* 1.—In this: that the aforesaid W. B. Hazen, colonel Sixth United States Infantry, being a duly sworn witness before the United States Senate sitting as a court of impeachment in the trial of W. W. Belknap, Secretary of War, on the 10th day of July, 1876, did testify, referring to Hazen's testimony before the Military Committee in 1872:

"'Question. Why did you communicate the facts to them (the Military Committee) instead of communicating it to the Secretary of War?

"'Answer. The main parts of my testimony had been communicated through the military channels. It referred to the law of 1866, regarding the furnishing of the same stores by sutlers.

"'Q. State why you did not communicate these facts directly to the Secretary of War.

"'A. The facts stated in my testimony had been communicated several times before.

"'Q. How?

"'A. By letters, official and otherwise, to the War Department, but they referred to different subjects.

"'Q. Did they refer to the Fort Sill matter?

"'A. They did; they referred to that and to all other matters stated about the farming out of the post-traderships.'

"Whereas in a letter dated Fort Buford, Dakota Territory, September 12, 1875, directed to Hon. W. W. Belknap, Secretary of War, Colonel W. B. Hazen, Sixth Infantry, stated, referring to the same testimony before the Military Committee in 1872, as follows: 'I was questioned upon the subject of post-traderships. I at first remonstrated on the ground that I had not reported the matter to you. I then gave the facts as I had done to General Garfield.'

"*Specification* 2.—In this: that W. B. Hazen, colonel Sixth United States Infantry, being a duly sworn witness before the Senate of the United States organized as a court of impeachment for the trial of W. W. Belknap, Secretary of War, did testify:

"'Q. Did you propose to the Military Committee, or to somebody else, to be examined upon the subjects before you were subpœnaed?

"'A. I proposed to give information in regard to post-traderships before I was subpœnaed.

"'Q. To whom did you make that communication?

"'A. I made that communication to General Garfield.

"'Q. The chairman of the Military Committee?

"'A. He was not the chairman of the Military Committee then; he was my friend at home, through whom I did all my correspondence with Washington.'

"Whereas in a letter dated Fort Buford, Dakota Territory, September 12, 1875, directed, 'W. W. Belknap, Hon. Secretary of War,' Colonel W. B. Hazen, Sixth United States Infantry, did write as follows: 'I was summoned to Washington to give evidence upon staff organization of the French and German armies. After finishing on these subjects I was questioned upon the subject of post-traders. I at first remonstrated on the ground that I had not reported the matter to you,' *i. e.* the Secretary of War.

"*Specification* 3.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, being a duly sworn witness before the Senate of the United States, organized as a court of impeachment, on the 10th of July, 1876, did testify as follows:

"'Q. Were the communications you have been referring to communications by you or communications that passed through you to the Secretary of War? (Meaning the communication on post-traderships.)

"'A. They were communications from me, written officially. They referred to the farming out of post-traderships generally.

"'Q. Have you any recollection about writing the letters?

"'A. I have, very distinctly.

"'Q. Did it go through the regular military channels?

"'A. It was sent through the regular channels. I never heard from it.

"'Q. And the Adjutant-General would send it through the Secretary of War?

"'A. Yes, sir.'

"Whereas in a communication dated at Fort Buford, Dakota Territory, directed to Hon. W. W. Belknap, Secretary of War, dated September 12, 1875, Colonel W. B. Hazen, Sixth United States Infantry, wrote as follows, referring to his testimony before the Military Committee, House of Representatives, in 1872: 'I was questioned on the subject of post-traders. I at first remonstrated on the ground that I had not reported the matter to you, and that my testimony might be considered a discourtesy to the Secretary.'

"*Specification* 4.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, did write a letter to Hon. Hiester Clymer, dated City of Mexico, March 5, 1876, referring to W. W. Belknap, Secretary of War: 'I have waited patiently four years, never doubting that I should be finally vindicated, though at times feeling the weight of displeasure of those high in power for daring to tell the truth respecting this great outrage upon the Army;' whereas, being a duly sworn witness before the Senate of the United States in the impeachment trial of Hon. W. W. Belknap, Secretary of War, on or about the 10th of July, 1876, Colonel W. B. Hazen, Sixth United States Infantry, did testify as follows:

"'Q. State anything the Secretary of War did to justify you in thinking he was unjust to you, or what he ever did that was unjust to you.

"'A. I do not think he ever did an unjust act to me.

"'Q. You say you think he never did an unjust act to you?

"'A. I do not remember any.

"'Q. Do you know a special act in which he tried to further what he supposed your wishes were, by this promotion in this board?

"'A. That is true; however, I did not want it at the time.'

"*Specification* 5.—In this: that Colonel W. B. Hazen, Sixth Infantry, United States Army, did write a letter to Hon. Hiester Clymer, M. C., dated City of Mexico, March 14, 1876, referring to the law of 1866, requiring the Commissary Department to furnish suttlers' goods, in which he did falsely, willfully, and maliciously state, 'This Department (meaning the Commissary) has opposed the law from the first.' The law itself has even been omitted from the Revised Statutes.

"*Specification* 6.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, did write a letter from Fort Buford, Dakota Territory, directed to Hon. W. W. Belknap, Secretary of War, dated September 12, 1875, in which letter he did falsely, willfully, and maliciously state, referring to the matter of post-traders, 'I have tried before to get the matter before you, but it meets its usual barrier in the office of the Commissary-General.' The law referred to (the law of 1866 on sutlers' supplies) is a mandatory one of perfectly plain construction and in which the troops on the frontier are interested to the extent of about $2,000,000 annually, and the construction referred to in that letter is not understood either in fact or in justice, only that it has been opposed from the first by the department whose duty it was to carry it out (meaning the Commissary Department).

"*Specification* 7.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, did write a letter, dated Fort Buford, Dakota Territory, September 12, 1875, to Hon. W. W. Belknap, Secretary of War, in which he did falsely, willfully, and knowingly state, referring to his examination before the Military Committee, House of Representatives, in 1872, 'Mr. Coburn then replied that whatever I might say upon the subject would be confidential with the committee. My testimony was, however, openly published.'

"*Specification* 8.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, did write a letter dated Fort Buford, Dakota Territory, September 12, 1875, directed to Hon. W. W. Belknap, Secretary of War, in which letter he did falsely and willfully state, 'I was summoned to Washington to give evidence on the staff organization of the French and German armies;' whereas the said W. B. Hazen, colonel Sixth United States Infantry, well knew that he was summoned to Washington to give evidence upon the subject of post-traders, he having volunteered his services for that purpose in a letter to Hon. J. A. Garfield, dated March 3, 1872, and his testimony upon the staff was submitted at his leisure, and in his, Colonel Hazen's, handwriting.

"*Specification* 9.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, did write a letter, dated Fort Buford, Dakota Territory, September 12, 1875, directed to Hon. W. W. Belknap, Secretary of War, in which he did state, 'My letters were to have been confidential, so far as concerns their authorship; my letters fell into the hands of Smalley, secretary to the Military Committee, who was also correspondent of the New York Tribune. He not only published my letters, adding as much as he saw fit, while enlarging on other points, so as to make a very different matter of it as published;' whereas, being a duly sworn witness in the impeachment trial of W. W. Belknap, Secretary of War, before the United States Senate as a court of impeachment, Colonel W. B. Hazen, Sixth United States Infantry, did testify:

"'Q. Who wrote that article published in the New York Tribune?

"'A. At what time?

"'Q. The article that was read here in this trial. There has been but one article.

"'Mr. Manager HOAR. February 15, 1872.

"'Q. About the tradership at Fort Sill.

"'A. I did not write it.

"'Q. Do you know who did?

"'A. I suppose Mr. Smalley did.

"'Q. Did you furnish him the information upon which he wrote the letter?

"'A. I furnished him with information out of which the letter was written.'

"*Specification* 10.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, did write a letter to Hon. James A. Garfield, on the 2d of March, 1872, stating that he was about to come to Cincinnati, and that he was willing to come to Washington himself and testify upon the subject of post-traders, which letter being communicated to Hon. John Coburn, chairman of the Military Committee of the House of Representatives, a subpœna was served for Colonel W. B. Hazen to appear before the committee to testify upon the subject of post-traders; whereas in a letter written by Colonel W. B. Hazen, Sixth United States Infantry, dated Fort Buford, Dakota Territory, September 12, 1875, directed to W. W. Belknap, Secretary of War, Colonel W. B. Hazen did write, 'I was summoned to Washington to give evidence upon the staff organization of the French and German armies,' which statement Colonel W. B. Hazen knew when he wrote it was false.

"*Specification* 11.—In this: that Colonel W. B. Hazen, Sixth United States Infantry, being a duly sworn witness before the Senate of the United States as a

court of impeachment in the trial of W. W. Belknap, 10th of July, 1876, did testify: 'I wish also to testify with regard to my testimony before the Military Committee four years ago. I was called then principally to testify with regard to the German and French staff organizations, and the other was a branch of the subject,' which statement Colonel W. B. Hazen knew to be false at the time he made it.

"D. S. STANLEY,
"Colonel Twenty-second United States Infantry."

And said letter of said Stanley in regard to said charges further states as follows: "You know just as well as I do that your trial could only have resulted in your conviction," meaning thereby that the said Hazen would have been convicted on said charges, and that said charges were true; whereas, in fact, said charges were and are, each and all of them, wanton, malicious, and false, in so far as the same alleged or stated any misconduct on the part of the said Hazen.

Specification 7.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, did, on about the 1st day of December, A. D. 1877, cause to be published, and did aid and abet in the publication, in one of the public journals of the country, to wit, the Saint Paul Pioneer Press, of and concerning W. B. Hazen, colonel Sixth United States Infantry, a certain malicious and scandalous statement, to wit:

"WILLIAM B. HAZEN,
"Colonel of the Sixth Infantry, Brevet Major-General:

"I have received the decision of the President of the United States upon the charges I preferred against you, that the interest of the service 'would not be subserved' by convening a general court-martial to try you. I am just as well satisfied. You know just as well as I do that your trial could only have resulted in your conviction, and where your case is known you are already convicted in the public opinion. I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh, and your shameful exit from your command at Fort Buford, and, when proper occasion offers, will use the information to stop your career of imposture.

"Your obedient servant,
"D. S. STANLEY.

"NEW YORK CITY, *September* 6, 1877."

Specification 8.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, did, on or about the 1st day of December, A. D. 1877, cause to be published, and aid and abet in publishing, in one of the public journals of the country, to wit, the Saint Paul Pioneer Press, of and concerning the said W. B. Hazen, colonel Sixth United States Infantry, a certain false, malicious, and scandalous statement, as follows, to wit: "I have seen the decision of the President of the United States upon the charges I preferred against you, that 'the interest of the service would not be subserved' by convening a general court-martial to try you. I am not disappointed. You know just as well as I do that your trial could only have resulted in your conviction, and where your case is known you are already convicted in public opinion," the said Stanley well knowing at the time that said Hazen was on special duty beyond the limits of the United States and in a foreign country, and designing by such publication to injure and damage the character of the said Hazen, and impair his efficiency in the performance of the duty with which he was so engaged.

Specification 9.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, did, on or about the 1st day of December, A. D. 1877, cause to be published, and did aid and abet in publishing, in one of the public journals of the country, to wit, the Saint Paul Pioneer Press, of and concerning the said W. B. Hazen, colonel Sixth United States Infantry, a certain malicious, false, and scandalous statement, as follows, to wit: "You know just as well as I do that your trial could only have resulted in your conviction, and where your case is known you are already convicted in public opinion," meaning thereby that said Hazen was guilty of certain charges and specifications, preferred against him by said Stanley, for perjury and false swearing alleged to have been committed by the said Hazen in giving his testimony on the trial of W. W. Belknap, late Secretary of War, with the intent, by said false, malicious, and scandalous publication, to damage and injure the character and reputation of said Hazen.

Specification 10.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, did, on or about the 1st day of December, A. D. 1877, cause to be published, and did aid and abet in publishing, in one of the public journals of the country, to wit, the Saint Paul Pioneer Press, of and concerning the said W. B. Hazen, colonel Sixth United States Infantry, a certain malicious, false, and scandalous statement, as follows, to wit: "I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh," meaning thereby that the said Hazen had been guilty of conduct which would disgrace him, and intending, by said false and malicious publication, to injure the character and reputation of said Hazen.

Specification 11.—In this: that the said D. S. Stanley, colonel Twenty-second United States Infantry, did, on or about the 1st day of December, A. D. 1877, furnish for publication in one of the public journals of the country, to wit, the Saint Paul Pioneer Press, of and concerning W. B. Hazen, colonel Sixth United States Infantry, a certain malicious and scandalous statement, to wit:

"WILLIAM B. HAZEN,
"Colonel of Sixth Infantry, Brevet Major-General:

"I have received the decision of the President of the United States upon the charges I preferred against you that the interest of the service 'would not be subserved' by convening a general court-martial to try you. I am just as well satisfied. You know just as well as I do that your trial could only have resulted in your conviction, and where your case is known you are already convicted in public opinion. I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh and your shameful exit from your command at Fort Buford, and, when proper occasion offers, will use the information to stop your career of imposture.

"Your obedient servant,
"D. S. STANLEY.

"NEW YORK CITY, *September* 6, 1877."

Specification 12.—In this: that David S. Stanley, colonel of the Twenty-second Infantry, United States Army, did cause and allow to be published in a certain public newspaper published at New York city, to wit, the New York Times, certain false and malicious statements and imputations concerning and against Colonel William B. Hazen, Sixth Infantry, United States Army, which said statements and imputations were contained in an article published in said newspaper and expressed in the words and figures following, to wit:

"It is a matter of common report at Washington and elsewhere that General W. B. Hazen is an aspirant for the position of Quartermaster-General of the United States and that he has a number of warm supporters of his claim. Many persons are disposed to argue that General Hazen has already received better treatment than he deserves, and that if he had received justice during the war of the rebellion he would not have retained his place in the Army. At present he is colonel commanding the Sixth Regiment United States Infantry, stationed at Fort Buford, Dakota Territory. General D. S. Stanley, who possesses damaging facts against General Hazen, is one of those who is determined to prevent his appointment if possible, and if this fails he proposes to bring serious charges against General Hazen before the Senate committee. General Stanley said to a reporter of the Times yesterday, when interrogated about the matter, that 'as far as the general public is concerned,' he thought 'that Hazen had kept it pretty well informed, and it was hardly necessary for him to say anything.' 'Hazen,' he continued, 'Wash. McLean (his father-in-law), his sister, his cousins, his aunts, his editor, and his lawyer, "Dick" Merrick, are now in Washington, and have been for some time, with the sole object of making Hazen a hero, a martyr, and Quartermaster-General. I don't know what progress they're making, but I do know what they're afraid of—that is, that if his name ever comes before the United States Senate he will meet charges of perjury and cowardice which I have made to his face, to the newspapers, and in official statements.'

"General Stanley said he thought it inadvisable at the present time to state specifically the charges he had preferred against General Hazen in view of probable judicial action. The principle charge, however, is, that on the second day of the battle of Shiloh, April, 1862, somewhere between 10 a. m. and 12 m., Hazen 'separated himself, got away, or skulked' from his brigade, which was in Nelson's division of Buell's Army of the Ohio, and fled to the Tennessee River, four miles from where his command made a gallant fight, and that he remained away until some time in the night. His officers had been searching the field for his dead or wounded body, and were astonished at his sudden appearance. It is asserted that General Hazen was seen by several persons while he was loitering near the river away from his brigade, and that in answer to a question asked by one of them as to what he was doing there, he replied that his men 'had deserted him' when in fact the gallant brigade was at that moment engaged in the battle. The charge of perjury, made by General Stanley, is in regard to General Hazen's testimony in the Belknap impeachment case. There are eleven specifications in this charge. General Hazen's countercharges against General Stanley are those of falsehood and conduct unbecoming an officer and a gentleman. In this connection it is said that General Sherman informed General Hazen that 'if he failed to substantiate his charges against General Stanley his resignation must be placed in his (General Sherman's) hands.' If the charges made by General Stanley are substantiated they will place General Hazen in a very unenviable light. The provision in the Articles of War for cowardice, article 42, reads as follows: 'Any officer who * * * runs away or shamefully abandons any fort, post, or guard which he is commanded to defend * * * shall suffer death or such other punishment as a court-martial may direct.' General Stanley asserts that General Hazen was reported to him for cowardice at the battle of Pickett's Mills and other places. At that time General Stanley commanded the Fourth Corps of the Army of the Cumberland, while General Hazen was in command of a brigade in the third division of that corps."

The effect of said false and malicious statements and imputations, so caused and allowed to be published by the said Stanley, being to injure and defame the said Hazen, and to degrade him before the public and the Army. This at New York city, on or about March 14, 1879.

CHARGE II.—Conduct to the prejudice of good order and military discipline.

Specification 1.—In this: that David S. Stanley, colonel of the Twenty-second Regiment of Infantry, United States Army, did furnish for publication, and procure to be published, in a public newspaper published at Saint Paul, Minnesota, to wit, the Saint Paul Pioneer Press, a certain malicious and libelous statement and imputation concerning and against Colonel William B. Hazen, Sixth Infantry, United States Army, the said statement and imputation being contained in a letter purporting to have been addressed by said Stanley to said Hazen, and expressed in the words and figures following, to wit:

"WILLIAM B. HAZEN,
"Colonel of the Sixth Infantry, Brevet Major-General:

"I have received the decision of the President of the United States upon the charges I preferred against you, that the interest of the service 'would not be subserved' by convening a general court-martial to try you. I am just as well satisfied. You know just as well as I do that your trial could only have resulted in your conviction, and where your case is known you are already convicted in the public opinion. I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh, and your shameful exit from your command at Fort Buford, and, when proper occasion offers, will use the information to stop your career of imposture.

"Your obedient servant,
"D. S. STANLEY.

"NEW YORK CITY, *September* 6, 1877."

The charges referred to in said publication being charges preferred by said Stanley against said Hazen, for perjury and false swearing, alleged to have been committed by the latter in giving his testimony on the impeachment trial of W. W. Belknap, late Secretary of War, he, the said Stanley, in and by the said malicious and libelous publication, intending and contriving to injure and defame the said Hazen, and to degrade him before the public and the Army. This at Saint Paul, Minnesota, on or about December 1, 1877.

Specification 2.—In this: That David S. Stanley, colonel of the Twenty-second Regiment of Infantry, United States Army, did allow to be published in a public newspaper published at Saint Paul, Minnesota, to wit, The Saint Paul Pioneer Press, a certain malicious and libelous statement and imputation concerning and against Colonel William B. Hazen, Sixth Infantry, United States Army, the said statement and imputation being contained in a letter purporting to have been addressed by said Stanley to said Hazen, and expressed in the words and figures following, to wit:

"WILLIAM B. HAZEN,
"Colonel of the Sixth Infantry, Brevet Major-General:

"I have received the decision of the President of the United States upon the charges I preferred against you, that the interest of the service 'would not be subserved' by convening a general court-martial to try you. I am just as well satisfied. You know just as well as I do that your trial could only have resulted in your conviction, and where your case is known you are already convicted in the public opinion. I now give you fair warning that I am fully informed of your disgraceful conduct at Shiloh, and your shameful exit from your command at Fort Buford, and, when proper occasion offers, will use the information to stop your career of imposture.

"Your obedient servant,
"D. S. STANLEY.

"NEW YORK CITY, *September* 6, 1877."

"the charges referred to in said publication being charges preferred by said Stanley against said Hazen, for perjury and false swearing, alleged to have been committed by the latter in giving his testimony on the impeachment trial of W. W. Belknap, late Secretary of War, the intent of said malicious and libelous publication, so allowed to be made by the said Stanley, being to injure and defame the said Hazen, and to degrade him before the public and the Army. This at Saint Paul, Minnesota, on or about December 18, 1877.

Specification 3.—In this: that David S. Stanley, colonel of the Twenty-second Regiment of Infantry, United States Army, did procure and allow to be published in a certain public newspaper, published at New York city, to wit, The New York Times, certain malicious and libelous statements and imputations concerning and against Colonel William B. Hazen, Sixth Infantry United States Army, which said statements and imputations were contained in an article published in said newspaper, and expressed in the words and figures following, to wit:

"It is a matter of common report at Washington and elsewhere that General William B. Hazen is an aspirant for the position of Quartermaster-General of the United States, and that he has a number of warm supporters of his claim. Many persons are disposed to argue that General Hazen has already received better treatment than he deserves, and that if he had received justice during the

war of the rebellion he would not have retained his place in the Army. At present he is colonel commanding the Sixth Regiment United States Infantry, stationed at Fort Buford, Dakota Territory. General D. S. Stanley, who possesses damaging facts against General Hazen, is one of those who is determined to prevent his appointment, if possible, and, if this fails, he proposes to bring serious charges against General Hazen before the Senate committee. General Stanley said to a reporter of the Times yesterday, when interrogated about the matter, that 'as far as the general public is concerned,' he thought 'that Hazen had kept it pretty well informed, and it was hardly necessary for him to say anything.' 'Hazen,' he continued, 'Wash. McLean (his father-in-law), his sister, his cousins, his aunts, his editor, and his lawyer, "Dick" Merrick, are now in Washington, and have been for some time, with the sole object of making Hazen a hero, a martyr, and Quartermaster-General. I don't know what progress they are making, but I do know what they're afraid of—that is, that if his name ever comes before the United States Senate he will meet charges of perjury and cowardice which I have made to his face, to the newspapers, and in official statements."

"General Stanley said he thought it inadvisable at the present time to state specifically the charges he had preferred against General Hazen in view of probable judicial action. The principal charge, however, is that on the second day of the battle of Shiloh, April, 1862, somewhere between 10 a. m. and 12 m., Hazen 'separated himself, got away, or skulked' from his brigade, which was in Nelson's division of Buell's Army of the Ohio, and fled to the Tennessee River, four miles from where his command made a gallant fight, and that he remained away until some time in the night. His officers had been searching the field for his dead or wounded body, and were astonished at his sudden appearance. It is asserted that General Hazen was seen by several persons while he was loitering near the river away from his brigade, and that in answer to a question asked by one of them as to what he was doing there he replied that his men 'had deserted him,' when in fact the gallant brigade was at that moment engaged in battle. The charge of perjury, made by General Stanley, is in regard to General Hazen's testimony in the Belknap impeachment case. There are eleven specifications in this charge. General Hazen's countercharges against General Stanley are those of falsehood and conduct unbecoming an officer and a gentleman. In this connection it is said that General Sherman informed General Hazen that 'if he failed to substantiate his charges against General Stanley his resignation must be placed in his (General Sherman's) hands.' If the charges made by General Stanley are substantiated they will place General Hazen in a very unenviable light. The provision in the Articles of War for cowardice, article 42, reads as follows: 'Any officer who * * * runs away or shamefully abandons any fort, post, or guard which he is commanded to defend * * * shall suffer death or such other punishment as a court-martial may direct.' General Stanley asserts that General Hazen was reported to him for cowardice at the battle of Pickett's Mills and other places. At that time General Stanley commanded the Fourth Corps of the Army of the Cumberland, while General Hazen was in command of a brigade in the third division of that corps.

"He, the said Stanley, in and by the said false and malicious statements and imputations, intending and contriving to injure and defame the said Hazen, and to degrade him before the public and the Army. This at New York city, on or about March 14, 1879.

To which charges and specifications the accused, Colonel D. S. Stanley, Twenty-second Infantry, pleaded as follows:

CHARGE I.

To the first specification, "Admits the facts, but denies the criminality."

To the second specification, "Admits the fact of the letter and the specification, except the words 'intending thereby willfully, wantonly, and maliciously to personally affront and insult the said Hazen,' as to which words he pleads not guilty."

To the third specification, "Not guilty."

To the fourth specification, "Not guilty."

To the fifth specification, "Not guilty."

To the sixth specification, "Admits the facts stated, except as to the words whereas, in fact, said charges were and are, each and all of them, wanton, malicious, and false, in so far as the same alleged or stated any misconduct on the part of said Hazen,' to which words he pleads not guilty."

To the seventh specification, "Not guilty."

To the eighth specification, "Not guilty."

To the ninth specification, "Not guilty."

To the tenth specification, "Not guilty."

To the eleventh specification, "Not guilty."

To the twelfth specification, "Not guilty."

To the charge, "Not guilty."

CHARGE II.

To the first specification, "Not guilty."

To the second specification, "Not guilty."

To the third specification, "Not guilty."

To the charge, "Not guilty."

FINDING.

The court, having maturely considered the evidence adduced, finds the accused, Colonel D. S. Stanley, Twenty-second Infantry, as follows:

CHARGE I.

Of the first specification, "Confirms the plea of the accused, but attach no criminality thereto."

Of the second specification, "Guilty, except the words 'willfully, wantonly, and maliciously,' and of the excepted words not guilty."

Of the third specification, "Guilty, except the words 'meaning thereby to allege and charge that said Hazen had been guilty of the crime of perjury and false swearing in giving his testimony on the trial of W. W. Belknap, late Secretary of War, on articles of impeachment before the Senate of the United States, which said charge and allegation was and is unfounded, false, and malicious,' and the words 'wickedly devised by the said Stanley, and,' and the words 'wantonly, willfully, and maliciously,' and of the excepted words not guilty."

Of the fourth specification, "Guilty, except the words 'meaning thereby to allege and charge that the said Hazen had, at the battle of Shiloh, been guilty of conduct which should subject him to disgrace as an officer in the Army of the United States,' and except the words 'is unfounded, malicious, and false, and was wickedly devised by the said Stanley,' and except the words 'wantonly, willfully, and maliciously to affront and personally insult him, the said Hazen,' substituting therefor the words 'which said allegation tended to personally affront and injure the said Hazen; of the excepted words not guilty; of the substituted word guilty."

Of the fifth specification, "Guilty, except the words 'and by devising said wicked, false, and malicious charge, and making the same to and against the said Hazen,' and except the words 'and designing,' and except the words 'willfully, wantonly, and maliciously;' of the excepted words 'not guilty.'"

Of the sixth specification, "Guilty, except the words 'whereas, in fact, said charges were and are, each and all of them, wanton, malicious, and false, in so far as the same alleged or stated any misconduct on the part of the said Hazen;' of the excepted words 'not guilty,' and attach no criminality thereto."

Of the seventh specification, "Not guilty."

Of the eighth specification, "Not guilty."

Of the ninth specification, "Not guilty."

Of the tenth specification, "Not guilty."

Of the eleventh specification, "Not guilty."

Of the twelfth specification, "Guilty, except the words 'cause and,' and except the words 'false and malicious,' and except the words 'and imputations,' and except the words 'the effect of said false and malicious statements and imputations, so caused and allowed to be published by the said Stanley, being to injure and defame the said Hazen and to degrade him before the public and the Army,' substituting therefor the words 'the said statements tending to the injury of the said Hazen;' of the excepted words 'not guilty;' of the substituted word 'guilty.'"

Of the charge, "Not guilty, but guilty of 'conduct to the prejudice of good order and military discipline.'"

CHARGE II.

Of the first specification, "Not guilty."

Of the second specification, "Not guilty."

Of the third specification, "Guilty, except the words 'procure and,' and except the words 'malicious and libelous,' and except the words 'and imputations,' and except the words 'and imputations,' and except the words 'he, the said Stanley, in and by the said false and malicious statements and imputations, intending and contriving to injure and defame the said Hazen, and to degrade him before the public and the Army,' and substituting therefor the words 'the said statements tending to the injury of the said Hazen;' of the excepted words 'not guilty;' of the substituted words 'guilty.'"

Of the charge, "Guilty."

SENTENCE.

And the court does therefore sentence him, the said Colonel D. S. Stanley, Twenty-Second Infantry, "To be admonished in general orders by the General of the Army."

II. The following are the orders in the case:

HEADQUARTERS OF THE ARMY,
Washington, D. C., May 22, 1879.

The proceedings, findings, and sentence of the general court-martial in the foregoing case of Colonel D. S. Stanley are approved. Colonel Stanley will resume command of his regiment.

The general court-martial convened by Special Orders No. 66 of March 20, 1879, is hereby dissolved. The members and military witnesses, including Colonel Hazen, will return to their respective posts of duty.

In reviewing the voluminous record of this case the General of the Army affirms the judgment of the court that Colonel Stanley in writing to Colonel Hazen, then abroad, the threatening letter of September 6, 1877, and afterward in allowing the publication of the article in the New York Times of March 14, 1879, committed a breach of discipline. He had a perfect right to prefer the charges and specifications which he had done from New York on the 6th day of July, 1877; but when advised that the President of the United States had considered them, and had decided that the best interests of the service would not be advanced by a general court-martial, it was his plain duty to have submitted gracefully. The law officers of the Government have decided that the United States can not arraign for trial any officer for offenses committed more than two years before the order for the assembling of the court. For this reason the charges against Colonel Hazen can not be inquired into by a general court-martial, so that this trial and judgment of Colonel Stanley must stand as the final decision of all the matters raised in the controversy. Both parties will be careful that the service be not injured by a revival of this subject.

W. T. SHERMAN, *General.*

By command of General Sherman:

E. D. TOWNSEND, *Adjutant-General.*

The Tariff.

SPEECH

OF

HON. CAMPBELL P. BERRY,

OF CALIFORNIA.

IN THE HOUSE OF REPRESENTATIVES.

Saturday, February 17, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. BERRY said:

Mr. CHAIRMAN: At the opening of the Forty-seventh Congress it was claimed by the Republican party that the revenues of our country were excessive; that only a small portion of the public debt was within our reach, and hence it was proper that the revenue should be reduced. To that end the Republican party then determined to make large reductions in our internal revenue. In fact, as I remember, the present chairman of the Committee on Ways and Means announced himself in favor of abolishing entirely the internal-revenue tax. During the first session of the present Congress several bills were introduced looking to its reduction and abolition. They even went so far as to caucus upon the proposition. In a speech I made during that session I charged the Republican party that their object in proposing to abolish the internal-revenue tax and especially the tax upon whisky and tobacco was that they might keep up their high-tariff taxes. I charged that it was the purpose of the Republican party to raise the entire revenue of the Government by high tariffs in the interest of the manufacturer; stop paying the public debt, to perpetuate that debt in the interest of the bondholder and banker. Before the first session of the Forty-seventh Congress had expired, upon more thorough examination, I presume, they found that if the internal-revenue tax was abolished they would have to reduce the tariff rates low enough so that there would be large importations of foreign goods to furnish the necessary revenues for the Government. But the manufacturing interest would not submit to such action, as it would interfere with their monopoly and curtail their enormous profits.

We found before that session had expired their loud professions to make large reductions dwindled down to a little insignificant bill re-

moving the tax from bank checks, bank circulations, bank deposits, matches, and a few other articles, and all the efforts of the Democratic party to induce them to readjust our tariff laws and make a reduction of the high protective duties now prevailing were unavailing. The Republicans insisted that we had not sufficient knowledge upon the subject, that we were not competent to do so. They insisted that a tariff commission should be appointed as they claimed for the purpose of obtaining information to lay before Congress at the opening of this session in order that we might act intelligently upon the subject.

The results of the investigations of that commission have been laid before Congress. It seems that the great manufacturing interests of this country which were consulted by the commission were unwilling that the tariff rates should be reduced to a revenue standard and still insist (if we are to judge by the work of the commission and the measure presented by the Committee on Ways and Means for our consideration) upon high protective duties, so high in fact that we will receive much less revenue from our customs duties. In obedience, therefore, to this view, the Republican party seems to have changed its tactics and have concluded to let the internal-revenue taxes stand substantially as they now are, and by which about $140,000,000 come into the Treasury per annum, and to cut down the $220,000,000 we are now receiving from tariff taxes by placing the rate so high that many of the articles of common necessity used by the people of this country will be entirely prohibited. In fact, the measure proposed by the commission as well as the bill reported to the House by that committee has put the rate so high that in my judgment importations will be materially reduced. Consequently the Treasury of the United States will receive a much less revenue from that source. Their effort seems to be by prohibitive rates to so adjust our customs dues as to meet the deficiency which will exist after the revenues have been derived from internal taxation, thereby giving a complete monopoly of the home market to our manufacturers, by not allowing any competition from abroad except to meet the actual necessities of the Government.

It was supposed by the people that the measure brought forward at the beginning of this session of Congress would be for the purpose not only of reducing the revenues of the Government, but to reduce the burdens now resting so heavily upon the people of this country. Such a measure is what has been demanded by the people. The people are demanding to be relieved from the burdens which are depriving them of the results of their labor and forcing them to a condition of poverty. Upon a fair examination of the measure presented by the Committee on Ways and Means it will be found that no such object has been accomplished. In fact, it is plain that the committee have had no such purpose in view.

Their sole purpose has been (if we are permitted to judge by this bill) to reduce the revenues of the Government and at the same time increase those burdens of which the people are now complaining. And here it is well for us to bear in mind that there is such a thing as a reduction of revenue and an increase of burdens; also, that there is such a thing as a reduction of burdens and an increase of revenue; also, that there is such a thing as a reduction of burdens and a reduction of revenue. This latter is what the people have been demanding. There is a standard in laying our impost duties known as a revenue standard, above which the duties become so high that importations diminish or cease, and below which the revenues diminish because of the low rate of duties. The point known as the revenue standard is the point at which more revenue would be derived than above or below it, and as you depart from this point ascending your revenues become less and burdens greater, and as you depart from it descending the revenues also become less and the burdens less.

The increased rate of duty, by increasing the cost of the article and prohibiting its importation, gives the control of the home market to our manufacturers, and the burdens of the people become greater while the revenues become less. When our tariff laws are as they now are, in a large measure prohibitory, and consequently burdensome to the people, a reduction of the tariff would reduce the burdens and increase the revenues as it descended toward the revenue point. Below the revenue point, a reduction would cause both reduced revenue and reduced burdens. The theory upon which this bill is constructed is to so increase impost duties as to amount almost to a prohibition, thereby lessening our revenues.

The claim is made that the proposed measure will decrease the receipts of the Treasury somewhere about $20,000,000. In my judgment it will decrease the revenues much more. As has been well said by Mr. TUCKER, of Virginia:

> It is obvious, therefore, that when the country lifts its hands and cries for relief from the burdens under which it has been laboring by being tributary to the manufacturers of this country, it is idle and delusive for the gentlemen on the other side to say, "Why, do not you see we have decreased the burdens? The revenues under this tariff will be $20,000,000 less than they are under the existing tariff." True, if that be the fact, the burden which the citizen bears in contributing to the support of the Government is lessened; but if along with the lessening of the duty which would go into the Treasury you increase the duties which are for the benefit of the manufacturer, and by prohibiting importations increase the bounty paid by the consumer, is it not plain that while you credit the Government with a diminution of burdens on the score of revenue to it you must charge the Government and this bill with the increase of burdens which comes from the amount the consumer is made to pay to the monopolies of the manufactures?

It is in this manner that the Republican party propose to prevent an inflow of revenues into our Treasury. In so doing it is plain that they have increased the price of all articles of consumption, and the consumers are not only compelled to pay the price that all manufactured articles bear in the European and foreign markets, but must pay that price with this high tariff added. I know that gentlemen argue, and it seems to be one of the pet arguments of the protectionist, that high protection reduces the cost of articles of consumption to the consumer. They say that where the price is raised by an import duty, and our home market preserved to the manufacturers of this country, capital is drawn into the manufacturing business, competition with each other springs up, and thereby the cost of the articles is reduced. The fallacy of this argument is too plain to deceive for one moment. If it be true that our home manufacturers by competition reduce the manufactured article to a price, as is claimed by the protectionists, in many instances cheaper than anywhere else in the world, why do our manufacturers object to foreign competition? Why do they object to foreigners entering the field? Certainly, if our home manufacturers so compete with each other as to bring the price of the commodity down to the price which it can be obtained for in the European and other markets of the world, a foreigner entering and competing could do nothing more; and why do they seek to exclude him? No, Mr. Chairman, the evidence is too plain that such would not be the result.

It is patent to every observer that the manufacturers and protectionists know that no such result will follow the passage of this bill. If it were true, why is it that all of the manufacturing interests of this country are now thronging our lobbies and galleries urging its passage? It is only a pretense put forward for the purpose of deceiving the people while they are being robbed in the name of protection by these greedy cormorants. The truth is, if these high duties protect the manufacturer by enabling him to obtain a higher price for his articles than he otherwise could, it robs the people; and if it does not protect him thus, it is of no benefit to him.

There is not an intelligent Republican but knows that tariff taxes add to the cost of the article the amount of the tax imposed, and that the consumer pays it. When hard pressed in argument they admit the fact, but say it is necessary to build up our home manufactures, which can not be done in any other way. They say, further, if it was not for our home manufactories the British manufactories would control our markets and put up prices. In order, therefore, to save us from being monopolized by the British manufacturer, they by these protective laws exclude him, and at the same time and by the same laws build up an American monopoly of manufacturers equally hard-hearted, tyrannical, and possessed of that keen-scented Yankee shrewdness in devising ways and means to wring the last penny out of an enterprise that would bring the Britisher to shame. What is the difference to the consumer whether he is robbed by an American monopoly or a British monopoly? In either case he is wronged and despoiled. But they say that competition among American manufacturers will put down prices and cheapen commodities. If that be true, will not competition among British manufacturers produce the same results? For my part I had as soon trust the one as the other for low prices. If you want reasonable prices and also to prevent monopolies, place your tariff taxes at a revenue rate and let all compete upon terms of equality.

The protectionists cite the fact of the great reduction of prices in manufactured articles during the last thirty or forty years as an evidence that protection does reduce the price of the commodities. It is true, and within the memory of every man, that during the three or four last decades manufactured articles have decreased in price wonderfully in this country; in many instances two and three and four hundred per cent. While this is true, it is equally true, and gentlemen should remember it, that an equal or greater reduction in prices has occurred during the same period in free-trade England as well as all civilized countries. The facts are that this reduction in prices has been brought about by improved machinery, new inventions, cheaper processes of manufacturing, and increased intelligence of workmen, and can not be attributed in any sense whatever to the tariff, as every intelligent man knows. It is an argument put forth by the protected interests to deceive the people that they may continue their extortions.

Mr. Chairman, the extent of the burdens imposed upon the people under our present high protective system and that would be imposed under the still higher protection proposed by this bill can be better realized when you remember that more than four-fifths of the manufactured articles consumed in this country are from American manufacturers. Last year upon articles imported there was collected and paid into the Treasury about $220,000,000 from our custom dues. Taking the importation as one-fifth of our consumption, and taking it for granted that the American article was enhanced to the price of the imported article by reason of the tariff, you will see that the American consumer was taxed altogether in increased price about $1,100,000,000, $220,000,000 of which, as before stated, went into the public Treasury, $880,000,000 in the pockets of the manufacturers. But making a liberal discount for a reduction of the American manufactured article of more than 25 per cent., you will see that at least $600,000,000 was given to the American manufacturers as a bounty paid by the consumers.

Now, what is desired by the American people is that the enormous

profits of the manufacturers be reduced, and it was expected that this Congress in the readjustment of our tariff duties would so levy it as to remove at least a portion of the burdens now resting so heavily upon the country. When the Democratic party upon this floor have been insisting that the rights of the consumers should be recognized, when we have asked only a fair consideration at the hands of the Republican party in arranging this tariff, when we have asked for reductions in the interest of the consumer, we have been denominated and denounced "free-traders" and seeking to destroy our manufacturing interest.

What Democrats demand and insist upon is that our customs duties shall be levied for the purpose of revenue, and that protection shall be incidental. We insist that the incidental protection when our tariff is at a revenue standard will give all the protection necessary to foster and encourage, build up and maintain, our manufactories. But protectionists insist that the duties must be laid for the purpose of protection, and that the collection of revenue is an incidental matter. Their doctrine would demand of this Government the prohibition of importations entirely if it were necessary to protect our manufacturing interest. This doctrine, if carried to its logical results, would destroy our commerce, for commerce is nothing but barter.

Other nations can not buy of us unless we buy of them. And here permit me to say that in my judgment our high duties have had more to do than anything else in destroying our commerce and driving our ships and merchant marine from the ocean.

Mr. Chairman, the power vested in Congress by the Constitution of the United States to levy import duties was given to it for the purpose of "raising revenue, paying our debts, and providing for the general welfare." And, while I am not a lawyer nor an expounder of the Constitution, I claim that we have no power to levy impost duties for any other purpose. The purpose of this measure, brought forward by the Committee of Ways and Means and now under consideration, is to protect the manufacturing interest of this country, which is to be done at the expense of the agriculturist and consumer.

The friends of this measure do not disguise their object. They boldly proclaim it a protection measure. They have provided rates of duties on many articles so high as to totally prohibit and exclude their importation. I claim, sir, that the proposed measure has exceeded the limits of power conferred upon Congress by the Constitution. But I do not propose to discuss the legal or constitutional grounds involved. I merely wish to enter my protest against this cunningly devised scheme of robbery which proposes to lay tribute upon more than 40,000,000 of people for the benefit of less than 10,000,000. I shall not enter into an examination of this bill nor attempt to unravel its many intricacies. It has been truthfully remarked by the New York Herald that it is both infamous and incomprehensible.

That metropolitan journal, in speaking of the bill now under consideration and of its counterpart in the Senate, after speaking of excessive taxation and the large surplus in the United States Treasury, uses the following strong and graphic language:

> What have the Republican majority done to remedy this gross abuse?
>
> Nothing, absolutely nothing. On the contrary, they have produced two tariff bills which are now, on examination, seen to be cunningly designed to increase the taxes, and therefore the burdens of the people, even though they reduce the revenue somewhat. These bills laying taxes on the people, and in many items heavily increasing the present war taxes, are deliberately and carefully framed so that not one citizen in 500,000 can understand their provisions. We do not exaggerate in the least when we assert that there are not fifty men in the country, including experts, who can go over either the House or the Senate tariff bill and say, without the most elaborate study and careful calculations, what its numerous provisions mean, or in which of them the present rate of taxation is increased and in which lowered. Even an expert in iron and steel finds the wool and woolens schedule totally unintelligible to him; an expert in woolens can not comprehend the metal schedule, and as to the average citizen at least two-thirds of both these bills would be as unintelligible to him as Hebrew or Arabic. And this is a law under which we are all to live.
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> So cumbrous, so involved, so cunningly complicated are the provisions of these tariff bills that it is a fact that no two of the several Government experts who have been asked to calculate the effect of their provisions upon the revenue have so far agreed in their results. Only one thing is certain—these bills do not reduce the burden of taxes at all, for they increase the taxes in many ways. They lessen the revenue somewhat, but accomplish that mainly by so raising various duties as to lessen or prohibit importations. If one should venture to speak plainly about them he would be compelled to call these two tax bills infamous swindles on the nation for the benefit of a small number of capitalist monopolists.
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> The real question is not between "free trade" and "protection"—that is an entirely false issue. The real question is whether a conspiracy of greedy and unscrupulous capitalist monopolists shall continue to bleed the tax-payers, the people of the United States, by the imposition of taxes which range, as has been shown, from 170 per cent. on goods bought and used by the mass of the people down to 50 per cent., which last rate is thought so low that even the most advanced free-traders are found to agree to it.
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> What the people have a right to are laws so framed that the people can understand them, and taxes which shall take out of their pockets only that sum required by the Government when it is administered with rigid economy. What the Republicans in this Congress are offering them are laws so cunningly devised that no man not an expert can tell how to obey them or how to conform his business to them; and taxes so extortionate that they will continue to force out of the people's pockets hundreds of millions of money not needed by the Government, much of which, as past experience shows, is sure to be flung away by Congress to corrupt and thieving lobbies.

I shall not enter into an examination of the specific and ad valorem duties levied by this bill further than to say that the committee has sought to make by these compound duties more complex and difficult of comprehension rather than to simplify our revenue system. One of the chief objections to the present law is its complexity, and one of the objects desired in a revision of the tariff is that it should be simplified. All revenue laws should be as simple as possible, that they may be easily comprehended by the great mass of the people, as well as just and uniform. I might in this connection state that no system of taxation ever devised by human ingenuity can or will impose equal burdens upon all. And while an indirect tax seems to be more cheerfully borne by the people, because the burdens laid upon them are not so manifest, yet, in my humble judgment, it is the most unjust system of taxation ever devised. In other words, it is my conviction that the true theory of taxation is direct taxation.

By direct taxation taxes can be more uniformly laid than by any other method. Indirect taxes are laid upon consumption. Direct taxation being laid upon property takes from each individual a certain percentage of all of his wealth. It is the manner of raising taxes in all our States, counties, and municipal governments. It levies a rate per cent. upon all the property of the country. Objection has been raised to this system of taxation because there are many people in our country without property. That class under a system of direct taxation would escape entirely. It is said that as all enjoy the protection and benefits of the Government (governments being founded for the protection of persons and property), therefore each and all should contribute something to the maintenance of the Government. To meet this objection the custom prevails in many States, if not all, of levying a capitation or poll-tax, and when such a tax is reasonable I regard it as a just one. On the other hand, an indirect tax levied upon articles of consumption bears heavier upon the poor than upon the wealthy, and often forces him to contribute as largely to the extinguishment of our debts and the support of the General Government.

For instance, a poor man with a family of six is compelled to purchase about an equal amount of clothing—hats, boots, and wear generally, as the rich man. It is true that the articles are not so costly or of so fine a material as those purchased by the more wealthy, but it is also true that in the arrangement of this bill in particular, and of our system of tariff in general, articles of cheaper quality are taxed at a higher rate comparatively than those of a finer quality, as for instance, our cheap woolens, our common blankets, and cloths, and coarse cottons bear a much higher rate of duty in proportion to value than do the finer alpacas, silks, satins, and broadcloths. The system of indirect taxation permits of these impositions being practiced upon the people while they are unaware of it. Hence it is that they rest more contentedly under their burdens, whereas if a system of direct taxation prevailed every man would know just what he is contributing and also could inform himself of the amount his neighbor was paying toward our common expenses and defenses.

I do not wish to be understood, however, as advocating a system of direct taxation. That under our present circumstances is wholly impossible for the reason that all of our business relations are adjusted upon the basis of indirect taxation. Our institutions and our manufacturing interests have grown up under it, and a change at the present time could not be made without great destruction of interests and a serious blow to all business. Furthermore a system of direct taxation can never be resorted to in this country while our Constitution remains as it is, because that instrument requires that "representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers."

Therefore to lay a direct tax upon the people to support the Federal Government it must be apportioned among the States in proportion to their population. Taxes imposed upon that basis would be more unjust than our present system of indirect taxation. To illustrate: Should the General Government apportion the taxes among the several States of the Union in accordance with that provision of the Constitution, Alabama, which has nearly five times the population of Rhode Island, has less than one-half the wealth; therefore Alabama would be compelled to pay five times the amount of money into the Federal Treasury that Rhode Island would, while Rhode Island is twice as wealthy. Hence, it is plain that a system of direct taxation can never prevail in this country until our Constitution is first amended. As I have said, I do not favor a system of direct taxation under our present circumstances. I have only alluded to these systems of taxation in order that our present manner of raising revenue may be more clearly understood.

Mr. Chairman, gentlemen upon the other side of the House during the discussion upon this bill have been continually landing and extolling the doctrine of protection, and claiming that it has built up our country and is the chief cause of our prosperity. It is alluded to as "our American system." The Republican party seem to be the special champions of this doctrine. They are continually asserting that it is equal protection, and that all our people are equally benefited by it.

Now, Mr. Chairman, I wish to say, if I understand what is meant by protection, it is that the party who is protected enjoys some privileges which others do not. In other words, equal protection, as I understand it, protects all alike, which is equivalent to protecting no one. If all are protected alike where is the advantage? Would not all be equally well off without protection? It seems to me that this is a self-evident proposition. While their claim sets up that all are benefited by a protective tariff, they especially claim that the American system is devised

chiefly in the interest of the laboring classes of our country. Upon this proposition they expatiate in glowing terms. They assert that by reason of protection they are able to pay our laborers higher wages than they receive in any other country. In fact, the advocates of this bill never fail to present this view. It is the chief argument why it should become a law.

Mr. Chairman, in my judgment protection has nothing to do whatever with the amount of wages paid the laboring classes of this country. The high wages our operatives and laborers receive are produced by other causes. Our great undeveloped resources, our large tracts of unoccupied and fertile lands, inviting labor to it, which by occupation and cultivation are more productive and remunerative under the hand of the laborer than anywhere else, are the causes of higher wages and not our tariff laws. And were it true that the laborers and operatives who are engaged in the manufacturing industries of this country did receive a higher compensation because of protection it should be remembered that they are small in comparison with those engaged in other pursuits; that less than 1,000,000 of laborers are engaged in the manufacturing industries, with less than 5,000,000 dependent upon them, while nearly 8,000,000 are engaged in agricultural pursuits, producing the raw material, with more than 40,000,000 directly dependent upon them—in fact, they are the producers of all wealth. If, therefore, the operatives in our factories do receive higher wages by reason of these protective laws it must be at the expense of those engaged in other pursuits not protected.

The protectionists are constantly asserting that the farmers of this country are equally benefited by reason of the tariff for protection with the manufacturers. They argue that it furnishes a better home market for their farm products. They cite statistics to show that 90 per cent. of our products are consumed at home, and that we ship less than 10 per cent. abroad. They seem to lose sight of the fact that the London and Liverpool market controls the markets of the world; that the advance or decline of a fraction of a cent a pound on cotton in Liverpool is responded to immediately in this country; or the advance or decline of a fraction of a shilling a quarter in wheat is responded to in the wheat markets of this country—New York, Boston, Baltimore, Chicago, New Orleans, and San Francisco, in fact in all of our ports. Therefore the price of the products of the laborer who is engaged in producing these great staples which constitute the wealth of our country is regulated abroad, and the consumers of our country buy at that standard, less the freight. Hence it is clear that our agricultural people are brought in direct contact with the cheap labor of the entire world—Russia, India, and all of Europe, Asia, and Africa—and have the price of their products regulated by the law of supply and demand. Therefore it is sheer nonsense to say that our tariff laws increase the wages of our people engaged in those pursuits.

This is not the case, however, with the manufacturers. The price of his products, as before stated, is the price of those articles abroad, with the import duty added, and that is the price as a rule which the consumers of this country must pay. At least this is true up to the point where the demand of the home market is supplied. It is nonsense for gentlemen to argue that the manufacturers will not demand from the consumer the full market value as long as there is a sale for the commodities and until the wants of the consumer are fully supplied. If those engaged in manufacturing produce more than the home market can consume the surplus then must seek a market elsewhere, and will be governed by the law of supply and demand to the extent of the surplus.

But tariff legislation fixes what might properly be determined a minimum price on all manufactured articles to the extent of the home market, and the home market is secured by these tariff laws to our home manufacturers. Not so with our laborers who produce our great agricultural products. There is no law to secure to them the home market. They hold the market because they produce cheaper. There is no law to fix a minimum price upon their products. They are wholly governed by the law of supply and demand for their entire products, and must take the rates established by the world's surplus. The producer of our great staples, such as cotton, corn, wheat, rye, cattle, whisky, petroleum, butter, cheese, &c., all articles of which this country produces a surplus, would be on an equal footing with the manufacturer and enjoy the same protection and receive the same benefits provided we had what is known as an export duty and by which a price was fixed upon his products which the consumer of this country should pay until the home demand was supplied; or, to make the proposition more clear, if we had an export duty the producer could compel the consumer to pay the price of our farm products abroad with the export duty added, less the freight. Now, we supply the home market at the foreign price less the freight. Such a law would be a protective export tariff and would operate to protect the producer as our present tariff operates to protect the manufacturer.

From these statements it may be seen that our agriculturists are forced into the markets of the world in competition with the labor of all countries in the sale of their products. Yet, when they come to purchase their supplies they are forced into the highest market, compelled to purchase from those who are securing bounties through the Government. The fact should never be lost sight of that the tribute paid to our manufacturing interest under the name of a tariff is nothing more nor less than a bounty; and the wonder is that our country has so long enjoyed a reasonable degree of prosperity under such unjust and discriminating legislation.

It compels more than 40,000,000 of people to sell their products in competition with the world, governed by the law of supply and demand, at the same time forcing the 40,000,000 to purchase the product of less than 10,000,000 people who are receiving bounties at the hands of the Government, and whose products have their price fixed by law. No wonder, sir, that New England has waxed fat upon the wealth of the land. No wonder we are building up wealthy and moneyed aristocracies. No wonder we have millionaires by the score. No other result could follow a system of legislation that lays tribute upon one portion of the people for the benefit of another; that takes the earnings of the horny-handed sons of toil and transfers it to the coffers of the luxurious gentlemen of leisure.

I have before adverted to the argument used by the advocates of this bill and by protectionists generally, whereby they claim that competition compels our manufacturers to reduce the price of the manufactured article and by which they attempt to prove that high duties will result in cheaper commodities than free trade. This is a fallacy that deceives no one, in the light of passing events. The common every-day experience teaches that such is not the case. The manufacturers will combine, pool their interest, or manage in some way to secure the bounty allowed by law. I can not set this fact forth more clearly and succinctly than in the language of the distinguished Senator MORGAN, of Alabama, in a speech delivered in the Senate of the United States a few days ago, wherein he says:

> If the cost of producing any article of common necessity in England is $1 and we add a bounty of $1 as a specific duty to any American who will make it here, the price will be $2 for that article in this country until our necessities are fully supplied. If more of that article is produced than our necessities compel us to buy, the surplus will remain here to be sold at a reduced price or it will be shipped to some foreign market. Why should there be a surplus under such circumstances? Will there be a surplus? Unless the manufacturer should make a miscalculation as to the quantity required to supply the home demand, how else could there reasonably be a surplus?
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> There is sometimes such a surplus, but what becomes of it? If it is shipped to a cheaper market where there is a demand for it, this is done only because the owner can not afford to hold it; and he prefers to pocket the loss that his mistake in overproduction has caused him to make, and profit in future by his costly experience. He has, however, another resource, to which he commonly resorts, that is far more advantageous to him, but it is ruinous to the welfare and even to the peace of the country; which is to shut up his factory, or run it on shortened time or reduced expense for wages, and wait until the necessities of the people force them again into the market as buyers.
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> In one way or another, and sooner or later, he gets his $2 for the article, $1 of which is cost and $1 is bounty. Statesmen can not afford to argue or act upon the argument that men will not demand and ultimately take the full measure of the advantage secured to them by the laws. If the law gives them the power to make $1 clear profit on an article of manufacture that it costs them $1 to produce, they will do it. It is no answer to this vicious method of giving subsidies that the eagerness of men to grasp the bounty will create competition and thereby reduce the price. It may or it may not so happen.

Every member upon this floor knows the truth of this statement. Every member knows that the great corporations of this country, all of the protected interest and those enjoying special privileges and franchises are constantly combining, law or no law, so as to secure every advantage possible of the great producing masses. This power of combining capital seems to be practically without limit. A forcible illustration is had in the management of the great railroad corporations of this country, and a still stronger illustration, if possible, is beheld in the spectacle now transpiring in these Halls, wherein the great manufacturing and monoply interests are combining and pooling their interests, resorting to every means to secure the passage of this measure by which 50,000,000 of people are to be made tributary to a few manufacturing establishments. The farmers and planters of this country, under this bill, as well as under the present law, and in fact under all protective-tariff legislation, are made the legitimate prey of a favored few.

To illustrate the disadvantages under which the great producing interests of this country labor, take the wheat-grower as an instance. As before stated, while the greater portion of the farmer's wheat is consumed by our home market, yet the price of his entire crop is regulated by the surplus shipped abroad. He receives the same price for the three-fourths consumed here (that being about the amount consumed at home) minus the freight that he receives for the one-fourth shipped abroad. After he has supplied the home market he ships the remainder to Liverpool and sells it in the open markets of the world; and then, instead of being permitted to buy his supplies in those cheap markets, where he can buy them from 50 to 100 per cent. cheaper than in this country, he is compelled to sail back empty (our country having no commerce) and buy his needed supplies in this the highest market in the world, and from those who are enjoying a bounty which he pays. This is the hardship under which the great producing classes of our country labor and of which they complain. These are the burdens which they are demanding of this Congress to remove, at least, in part.

The farmer is willing to contribute of his earnings to the full extent of the necessities of this Government. He is willing to do more; he is willing that tariff laws should be fixed at a reasonable point above the revenue standard if by so doing his bounty thus contributed will tend to increase the price of labor and benefit the laboring classes. But he is unwilling longer to submit to robbery in the name of protection and under the false pretense that the laborers of this country are benefited by it, and to be thus robbed of his hard earnings to increase the already

plethoric coffers of the powerful monopolies which have been built up under this system. I have before stated that the tariff had nothing to do with the price of wages in this country, but that higher wages arise from other causes. Mr. TUCKER, of Virginia, a few days ago, in addressing the House, used the following language:

I wish to show that the idea that a protective tariff can have any effect in increasing the wages of labor in a country is absolutely unfounded. If you will ask a man why he wants a protective tariff he will tell you because labor is so much higher in this country than abroad that he can not pay the wages demanded and manufacture the article at a profit. Suppose there were no tariff, would the protective-tariff man demand a tariff? Yes. Why? Because under free trade, as labor here would be so much higher than it is abroad, capitalists in certain branches of industry could not afford to carry them on, could not go into these manufactures without a protection which would enable them to pay the wages demanded. Thus it will be seen that so far from the tariff being the cause of the high wages, it is the fact of high wages that makes the occasion and creates the need for a tariff. Men want protection because, as they say, the laborer demands higher wages here than he does in England, and they can not afford to carry on manufactures unless they get enough protection to give such price to the products as will leave a profit after paying the wages demanded by labor. Yet the protectionist turns the argument right around, and holds that the tariff is the cause of high wages, when in fact the high rate of wages in this country is the cause of manufacturers wanting and demanding a tariff for protection.

From this quotation it will be seen that this distinguished statesman holds also to the doctrine that the tariff has nothing to do with wages, but that by reason of our higher wages the tariff is claimed as a necessity in order to make up the difference of wages that the manufacturers in this country have to pay.

Mr. Chairman, under the pretext of securing higher wages to the workingmen of our country the manufacturers are carrying on a system of plunder and robbery which if the consumers understood and comprehended would cause them to rise in open revolt. By their sophistries and fallacies they are deceiving the workingman while they are plundering him. The facts are that wages, like everything else, are governed by the law of supply and demand. You find the farmer and those engaged in those pursuits which are not protected paying substantially as high wages as are paid to the operatives in the factories.

The truth is that the great agricultural interests are compelled to pay as high wages as the manufacturers or else the laborer would abandon the farm and go to the factories; and, *vice versa*, the manufacturers are compelled to pay wages equal to those earned upon the farm or the operatives in the factories would abandon their shops and enter the field. If high protective-tariff laws would secure higher wages to the wage laborer surely the operatives in our factories in this country ought to be a prosperous and contented class. Is it so? By no means. Under our high-protective system we are constantly witnessing strikes and lockouts. Why is it that we find workmen often in open rebellion with their employers? Why is it that our laborers are complaining of the inefficiency of their wages to supply their wants? Why is it that they are constantly organizing themselves into labor leagues and unions? And why, Mr. Chairman, is it that the laboring element generally feel and realize that they are not obtaining a just proportion of the joint product of capital and labor? It is because he is not protected but must compete with his labor with all the labor of the world. No, Mr. Chairman, the tariff has nothing to do with the increased wages which our workmen receive, and I lay down this proposition: that no law which Congress can enact can protect the laboring men of this country, unless it be a law which prevents the immigration of other laborers who compete with him—some such law as was enacted with reference to the Chinaman. You may protect the products of labor, but as long as the laborers of our country are compelled to be governed by the law of supply and demand and our doors are left open for the influx of laborers from the crowded hives of Europe they are not nor can they be protected. In this country, as in all others, whenever the supply of labor is in excess of the demand the laborer must expect lower wages or go unemployed. He is subject to that inexorable law. I have said that the tariff laws had nothing to do with the wages of the laborer. That is true. Yet I wish it not to be understood that the laborer of this country is not interested in tariff laws, because they do affect him very seriously.

These laws increase the price of every article of consumption; increase every manufactured article upon which the poor man as well as the rich must live. Clothing is increased from 50 to 150 per cent.; his implements of labor are heavily taxed. Everything which enters into the necessities and comforts of home are largely increased, and hence it is that notwithstanding our laborer receives a higher rate of wages in this country than in any other he finds that his increased wages will not supply his needs. This is by reason of the increased cost of his living. We hear gentlemen on the Republican side continually prating about the high wages which our workmen receive. They endeavor to make the laborer believe that he is the especial object of their care. But let me say to them, it is mockery to give the laboring man $2 per day and then take back $1 of it by your unjust and excessive tariff taxes in the increased cost of the articles he is compelled to have. It is a fact that in England the price of a day's labor will purchase more of the necessities which enter into the living of the poor man than the price of a day's labor will purchase in this country.

I am not sure that it would be unjust to charge the manufacturers of this country and the employers of labor with deliberately conspiring to wring from the laboring man the last cent possible, and merely to permit him to live that he may continue to labor, knowing full well that they can not reduce his wages by cutting them down below those paid by the great agricultural industries of the country, because, as before stated, it is those industries which regulate the price of labor. They seek to obtain from him the earnings of his labor by piling up enormous duties upon the articles of necessity, so that in the end, if they are compelled to pay him $2 per day, they rob him of $1 in these excessive charges.

The manufacturers, corporations, and monopolists of our country who are loudest in their professions of tender solicitude about the wages of the laborer care nothing for him. These professions are all pretenses. We often behold these gentlemen combining upon the great necessities of life. We witness wheat corners, corners upon meats and breadstuffs which the poor man is compelled to purchase, arbitrarily raising the price, thereby wringing from him the last cent which it is possible to obtain, holding him down to a condition of poverty and serfdom; and if he attempts to extricate himself from their grasp by the formation of labor organizations, or if he demands a fair compensation for a faithful day's labor, by which he may be enabled to pay these excessive prices brought about by the monopolists and the wealthy, he is locked out, and many times they send abroad and import laborers from foreign countries to fill his place. No, gentlemen, your professions of interest in the laboring man of this country are bald hypocrisies. You care nothing for him except to the extent that you can make him build up your wealth and pay tribute to your imperial desires.

Mr. Chairman, it has been charged time and again by the Republicans during the progress of this debate that the Democrats do not desire legislation upon the tariff at this time, and that we are seeking by every means in our power to defeat all legislation. I denounce the charge as false, utterly false. We have been ready at all times to enter upon an honest revision and reduction of the tariff taxes in the interest of the whole people, recognizing the interest of the consumers as well as the manufacturers. We invited you to this work during the Forty-sixth Congress. We urged it upon you at the first session of the Forty-seventh Congress. You declined, but filed a motion of continuance in the appointment of what is known as the Tariff Commission.

In view of these facts it comes with bad grace from you to charge the Democrats with a desire to defeat legislation upon this subject. The facts prove that the desire for no legislation comes from your side of the House, unless it be such legislation as shall continue the present system of plunder, fastened upon the people during the war. Your every action upon this question shows conclusively that you intend that the toiling millions of the American people shall have no relief. Your purpose has been recognized by them, and last November they sat in judgment upon you and found you guilty of treachery to their every interest; guilty of "binding them hand and foot" by unjust legislation and delivering them over to the money-power (your confederates in treachery) to be plundered to the utmost farthing.

No, gentlemen, you have been weighed in the balance and found wanting; you confessed yourselves unequal to the task of framing legislation upon this subject at the last session of Congress; you have been taken at your word. The people, the sovereigns of this Government, have bid you retire, and now in your last moments, with truckling servility to your monopoly masters, you seek to perpetuate their power of spoliation by the passage of this infamous measure, which has justly been denominated by the leading press of the country as a cheat and a fraud. It is patent that you want no reform in this direction. You have brought forward a measure so unjust in its provisions that you knew it could not become a law. An intelligent public recognize the fact that you intend no relief. Your action in bringing forward such a measure at this late day of this Congress has been construed as intended, for no other purpose than to try to place the Democratic party in the attitude before the country of having defeated the needed tariff legislation. Your masquerading performances here are "too thin." The people are not as easily hoodwinked now as heretofore when intelligence was less generally diffused. They comprehend your purposes. The people are already calling upon the Democratic party to defeat this bill unless it can be made just in its provisions. They prefer to bear their present ills rather than fly to those they know not of.

You have overreached yourselves in this measure. You knew that the people demanded a revision of the tariff; you knew also that the Democratic members of this Congress and the Democratic party of the country were with the people in this demand. You knew that so anxious were we to pass legislation that we were ready to accept almost any bill which carried any measure of fairness and relief in its provisions. Hence, you did not dare present any such measure. In your fear lest you might bring forward a measure which would give the people some relief, and which would be accepted by the Democrats, you have presented such a monstrosity that it has been repudiated by the people. So hideous does it appear when subjected to analysis and criticism that I verily believe that many of the more moderate Republican members are now heartily ashamed of the work of their own hands. Instead of this bill being a measure for raising revenue, with protection as an incident, as it should have been, it is purely a protective measure with revenue as an incident. Hence we have heard nothing during its discussion but the cry of "protection, protection!" The object of the taxing power vested in Congress—that of raising revenue for an econom-

ical administration of the Government—has been lost sight of in the scramble for still greater protection by certain interests, now highly protected, which have fastened themselves upon the public Treasury during the last twenty years and there stick like leeches.

Gentlemen upon this floor seem to have forgotten that there are any interests in this country except the manufacturing interests. Let me say to them that there are other people in this great Republic interested in and to be affected by this legislation save and except New England with her cotton and woolen mills, New Jersey with her pottery, glass, and silk establishments, and Pennsylvania with her iron and coal.

Gentlemen should remember that the jealous care manifested by them in looking out for and guarding their pet industries is attracting the attention of the great laboring classes of our people, who receive no special favors at the hands of the Government, and enjoy no special privileges except the high privilege of bearing the enormous burdens imposed upon them. They are coming to understand that the legislation of this country is molded in the interest of the rich and powerful, through the influence of paid attorneys and experts and under the pressure of strong lobbies. They are now demanding "even-handed justice to all and special privileges to none," and their aroused intelligence will sooner or later find a way to enforce their demand.

In this connection I can not refrain from reading an extract from a speech delivered in the Senate of the United States on the 11th instant by that broad-minded and profound thinker, Senator LAMAR, of Mississippi. He was addressing the Senate on the tariff question. In the course of his remarks, while speaking of the opposition of the manufacturers to a material reduction of the present high rates of duties, he uses the following significant language by way of counsel and warning:

> If they would listen to me I would say to them that wisdom would dictate concessions material and large upon this question. I believe that the movement for revenue reform and lower taxation can be largely guided by them so as to cause no shock to existing interests if they will deal with it in a wise and sober spirit of concession and compromise. If we could on the one hand have a bill which would bring the duties down to a revenue standard, arrangements in the details looking to protection as an incident would find, I apprehend, but few opponents.
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> But I would warn them (in the kindest spirit) that it is impossible for any combination of capital or labor to resist a popular movement animated by a strong sentiment of moral right and justice.
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> Macaulay in one of his speeches—I think it was on this very subject of the tariff—once warned the monopolists of Great Britain, citing two signal events in history as containing for them lessons of wisdom and admonition. One was the wisdom, sagacity, and forecast with which the English aristocracy adapted themselves to the great popular movement of parliamentary reform. By taking part in it they were enabled to direct its movement safely and wisely for themselves, thereby retaining to this day their moral and intellectual ascendancy. He showed the reverse in the case of the French nobility, who, with dogged obstinacy, made a vain resistance to the great popular movement there, which resulted in their overthrow and banishment, eking out the remnants of their miserable existence as dancing-masters and music-teachers in countries where they were strangers and aliens.

Alluding to the institution of slavery, he continues:

> I, sir, have seen something of this in my own experience. I saw a great institution which was more firmly intrenched in statutes and organic law than the manufacturers are in this tariff law become an object of popular uprising. I was among those, sir, who shared in the attempt to resist it, and I saw that institution go down with all its vast capital, with all the political privileges which it conferred, with all the constitutional rights by which it was guaranteed, go down beneath the irreversible fiat of the American people. Sir, I warn the manufacturers of this country. The handwriting is upon the wall of this protective system, and I trust they will have the intelligence to comprehend its import.

Under Republican rule during the last twenty years the people have witnessed millionaire after millionaire rise up in our country until they are numbered by the hundreds. They have beheld mammoth corporations spring into existence on every hand as if by magic, reaching out their arms to every portion of this country, gathering into their folds all the wealth of the land. They see this while they find themselves harder pressed day by day to secure for themselves and families the common necessaries of life. This unequal distribution of wealth, brought about in a large measure by this protective system, and the deep solicitude still manifested by their representatives to serve the monopoly interests, whose agents throng our halls and corridors, they view with indignation.

I ask gentlemen to pause and avoid even the appearance of lending themselves to this unfair, unequal, and unjust legislation, by and through which we are piling up wealth mountain high in the hands of a few, by which princely fortunes are amassed in a few years, by which the rich are growing in wealth and the masses are becoming more helpless and sinking down to greater depths of poverty. This kind of legislation is breeding discontent among our people. It is causing the seeds of communism and agrarianism to germinate and take root in this fair land of freedom.

The great laboring masses of the country are fast coming to the conclusion that this Government (as are the monarchical and imperial governments of Europe) is a government administered in the interest of the rich and a privileged few, and in which they have no lot or part except as "hewers of wood and drawers of water."

Let me say to gentlemen that a people who have been reared in a land of liberty and enjoyed the blessings of freedom will not long submit to be robbed of the fruits of their labor by the legerdemain of legislation. Such acts of tyranny and oppression as the proposed measure now under consideration, although clothed with the sanctity of law, will not when fully understood be held sacred by an outraged and despoiled people. Such legislation is piling up "wrath against the day of wrath." It is "sowing to the wind from which we will ultimately reap the whirlwind." Now, in conclusion permit me to say what I conceive to be our duty as representatives of all the people in regard to our present protective-tariff system. We should place upon the free-list at least three-fourths of the two thousand or more articles now dutiable, among which should be included all the articles of necessity which enter into the living of the poor man. We should place a revenue tariff upon the remainder, which should include all articles of luxury, and we should abolish all internal taxes except upon whisky and tobacco.

If this were done the revenues of our country would be ample for all purposes. We could continue to pay the public debt at the rapid rate we are now paying it. Every industry that should be protected would have all the protection necessary, and the people would be relieved in a large measure of the crushing burdens now resting upon them. Were this done the languishing business of our great country, being relieved of its shackles, would leap forward like a "strong man to run a race." Our drooping industries would revive; the hum of the spindle and the sound of the implements of all labor would be heard from one end of our land to the other; a new era of prosperity would dawn upon us. American commerce would once more grace the ocean, and the varied products of our busy people would be borne in American vessels to every mart of the world and return ladened with the products of other lands and add to the wealth, happiness, and prosperity of our people.

Reduction of Internal-Revenue Taxes.

SPEECH

OF

HON. LOUIS C. LATHAM,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 20, 1883,

On the bill to reduce internal-revenue taxation.

Mr. LATHAM said:

Mr. SPEAKER: The question presented to this side of the House by the pending bill is one not easy of solution. We are anxious to do our full duty to our constituents and to the country at large, but the matter comes "in such a questionable shape" that it is difficult to decide what that duty is. We demanded bread, and the other side offers us an exceedingly hard crust.

The question, briefly stated, is whether suffering as we are and have been for years under the grinding oppression of the internal-revenue system we should accept the small measure of relief now offered us, coupled with other legislation that is distasteful and wrong, or should wait the assembling of another Congress.

The present bill, Mr. Speaker, removes *in toto* the tax on matches, on proprietary medicines, on perfumery, on bank checks, on bank deposits, on savings-bank deposits, on bank capital, on savings-bank capital, on capital of national banks, and on deposits of national banks, aggregating about $20,000,000, and reduces the tax upon tobacco, cigars and cigarettes about the same amount. It will be observed that we are not allowed to vote separately upon these propositions, but must accept them all or not at all.

The first part of the bill, excepting that portion which removes the tax upon matches, is an outrage upon the country so long as any part of the internal-revenue system remains. The banks of the country, whose extensive vaults are overflowing with gold, that have grown rich at the expense of the best interests of the masses of the people, that enjoy valuable privileges for which they do not pay one dollar of consideration, that can pay at any moment in the year the taxes assessed against them without feeling it, are the very last parties that ought to be relieved from the burdens they bear, if burdens they can be called. For one, if the proposition stood alone, uncoupled with any other, I would never under any circumstances short of the abolition of this form of taxation, vote for it. Nor, taken alone, would I support a proposition to remove the tax from perfumery, an article of luxury that those who use can well afford to pay for.

Another most serious objection to the bill in its present shape is, that while it professes to relieve the people of a large amount of taxes it affects only that portion of the internal revenue which is collected by the use of stamps; so that while we are reducing the ordinary revenues of the country more than $40,000,000 annually, we still keep in office and pay out of the public Treasury the horde of office-holders who are a disgrace and a curse to the country and the age in which we live.

But, Mr. Speaker, coupled with all this vicious legislation, they offer to one of the most important industries of the South some measure of relief. It is not what we have a right to demand. In view of the fact

that there is now in the Treasury a surplus of nearly $150,000,000, the whole tax upon tobacco ought to be removed, and the proposition ought to be submitted to us as a substantive one. The majority of this House, however, will not permit this. The present bill is presented as an entirety under a suspension of the rules, and is not subject to the slightest amendment. We must take it or leave it, according to our best judgment.

After a careful consideration of the entire matter, with the most sincere and earnest desire to serve my people, I do not believe I would be justified in withholding from them this partial and tardy measure of justice and relief. I do so, protesting against the manner in which the bill has been forced upon us, and trusting that some subsequent Congress will come up to the full measure of its duty and wipe the infamous internal-revenue laws from our statute-books.

Naval Appropriations.

SPEECH
OF
HON. BENJAMIN W. HARRIS,
OF MASSACHUSETTS,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, January 20, 1883.

The House being in Committee of the Whole and having under consideration the naval appropriation bill—

Mr. HARRIS, of Massachusetts, said:

Mr. CHAIRMAN: In what I have to say I shall be very brief, for two reasons, the first of which is that I am suffering from a painfully sore throat, and the second is that much which I had intended to say has been said by others better than I can say it. I desire, however, to present before the House so far as I may be able some of the views of the Committee on Naval Affairs upon certain provisions of this bill.

Mr. Chairman, after a service of nearly ten years as a member of this House, and a service of nearly eight years as a member of the Committee on Naval Affairs, I had hoped now, in the closing session of this Congress and during the few remaining days of my Congressional life, to be able to secure the passage of some of the measures reported by my committee, and some of the fruits of earnest and honest effort which I have made for the building up and improving of the American Navy.

But that hope must be practically abandoned. The bill for the reconstruction of the navy, which was prepared with so much labor after careful investigation at the last session of Congress, lies buried upon the Calendar as No. 65, and can of course never be reached. Gentlemen upon the other side have arisen during this debate and expressed in strong terms their regret at the admitted disgraceful condition of our Navy. I can not but remember, however, that the Committee on Naval Affairs appealed to them in vain for their assistance to secure a single hour during the last session in which it might bring before the House for consideration the bill which it had carefully prepared for the reconstruction of the Navy, or rather for the beginning of that desirable work.

The condition of our Navy has been portrayed from time to time during the last six years according to the real facts. It has been my duty three times, twice as a member of the Naval Committee of a Democratic House, and again as chairman of the Committee on Naval Affairs of this House, to put on permanent record, for the benefit of Congress and for the instruction and enlightenment of the American people on this subject, so important to their welfare, honor, and safety, a statement of the condition of our Navy. No one has ever undertaken here or elsewhere, to my knowledge, to deny the substantial accuracy of the reports thus made.

In this respect I have the satisfaction of feeling that a duty has been discharged with fidelity. It is for Congress now or hereafter to say whether we shall have a navy worthy of our country, and to provide for its construction. I venture to hope that the time is not far distant when the work will be entered upon and prosecuted to success. We have to-day as our whole naval power on the ocean only about thirty-eight cruising vessels. Of these all are of wood except two. There are two iron vessels, the smallest in the Navy, the Alert and Ranger.

Not only are we deficient in ships, but we are unable properly to arm those we have.

The Secretary of the Navy in his late report to Congress has put in official form a statement of the number and character of the guns now on hand adapted for naval use. It is as follows:

ORDNANCE.

The guns of the Navy are, 2,233 smooth-bore muzzle-loading cannon of various calibers, 77 Parrott muzzle-loading 40-pound rifles, 267 similar 80-pound rifles, 51 muzzle-loading 180-pound converted rifles, 26 breech-loading 40-pound converted rifles, and 10 breech-loading 80-pound converted rifles.

The eighty-seven converted rifles have fair power and may be considered useful for the present. The Parrott rifles were made during and immediately after the rebellion; they might in an emergency serve a subordinate purpose as part of our armament, but are in no real sense suited to the needs of the present day. The smooth-bore guns are incapable of contending with rifled guns throwing one-half their weight of shot.

With not one modern high-powered cannon in the Navy, and with only eighty-seven guns worth retaining, the importance of action for the procurement of naval ordnance seems apparent, if the Navy is to longer survive.

Our total naval force afloat is thirty-eight cruising vessels of an inferior character, all of which must soon become unfit for naval purposes; and for harbor and coast defense we have fourteen single-turreted ironclads, armed with smooth-bore guns of an antiquated type, and according to the Secretary of the Navy "only eighty-seven guns worth retaining." This is a spectacle demanding the serious attention of Congress and the people. The remedy is in the hands of Congress.

For this condition of affairs I insist that Congress, and Congress alone, is responsible. The policy of permitting and even compelling the naval authorities to spend large sums of money annually in keeping in repair old and obsolete wooden vessels, and of refusing to make appropriations adequate to the building and arming of ships of the most approved modern type, though a most wasteful and extravagant policy, is and has been since the close of our late civil war the policy of Congress, and Congress has not followed this policy blindly or for want of information. It has been warned by every Secretary of the true condition and the pressing needs of the Navy at almost every session for the past ten years at least.

I can not believe that the people of this great country if they could directly express their will would indorse such a policy or permit its continuance.

The gentlemen who have preceded me have discussed to a very great extent things which are not in this bill; and I myself must necessarily discuss some things which are not in the bill. But I propose to discuss only those subjects which the Committee on Naval Affairs has had the honor to bring to the attention of the Committee on Appropriations. And I propose to show to the House, for this is my only opportunity, what the Committee on Naval Affairs has recommended.

In the first place, Congress at its last session authorized the Secretary of the Navy to commence the construction of two steel cruisers of war, designed to be armed with the most powerful modern guns. The Committee on Naval Affairs, after very long and arduous labor, the results of which were laid before the House at its last session in report No. 653, have shown the necessity of our adopting instead of wood or iron the best material known for naval architecture—that is, steel. We recommended the construction of two of the largest-sized steel cruisers of war, recommended by the naval advisory board organized by the late Secretary of the Navy, Mr. Hunt.

That board consisted of the following gentlemen, all distinguished officers of our Navy: John Rogers, rear-admiral, president; William G. Temple, commodore; P. C. Johnson, captain; Charles H. Loring, chief engineer; H. L. Howison, commander; R. D. Evans, commander; A. S. Crowninshield, commander; Charles H. Manning, passed assistant engineer; M. R. S. Mackenzie, lieutenant; Edward W. Very, lieutenant. In their report made to the Secretary of the Navy they recommended the beginning of the construction of a navy which, when completed, would comprise a fleet of some seventy-two vessels of all classes, at a contemplated cost of about $30,000,000. It was supposed that ten years of moderate annual appropriation would secure such a fleet. That board recommended the construction of the following vessels:

SUMMARY OF THE NUMBER, CLASS, TYPE, AND COST OF THE VESSELS THAT THE BOARD RECOMMEND NOW BE BUILT.

Two first-rate steel, double-decked, unarmored cruisers, having a displacement of about 5,873 tons, an average sea speed of 15 knots, and a battery of four 8-inch and twenty-one 6-inch guns. Cost, $3,560,000.

Six first-rate steel, double-decked, unarmored cruisers, having a displacement of about 4,560 tons, an average sea speed of 14 knots, and a battery of four 8-inch and fifteen 6-inch guns. Cost, $8,532,000.

Ten second-rate steel, single-decked, unarmored cruisers, having a displacement of about 3,043 tons, an average sea speed of 13 knots, and a battery of twelve 6-inch guns. Cost, $9,300,000.

Twenty fourth-rate wooden cruisers, having a displacement of about seven hundred and ninety-three tons, an average sea speed of 10 knots, and a battery of one 6-inch and two 60-pounders. Cost, $4,360,000.

Five steel rams of about 2,000 tons displacement, and an average sea speed of 13 knots. Cost, $2,500,000.

Five torpedo gunboats of about four hundred and fifty tons displacement, a maximum sea speed of not less than 13 knots, and one heavy-powered rifled gun. Cost, $725,000.

Ten cruising torpedo-boats, about one hundred feet long, and having a maximum speed of not less than 21 knots per hour. Cost, $380,000.

Ten harbor torpedo-boats, about seventy feet long, and having a maximum speed of not less than 17 knots per hour. Cost, $250,000.

Total cost of vessels recommended now to be built, $29,607,000.

The Committee on Naval Affairs, from the evidence laid before it, was impelled to adopt the plan of building the best and fastest ships that could be made. We felt that even if the ships were not put in commission and manned, it would be wisdom for the Government to have a few ships, which, in the case of sudden war or threat of war, could take the sea and show a speed equal to that of the best ships in any navy in the world. Great speed can only be attained by ships of great size and great motive power. We therefore recommended the construction of two ships of the largest size.

We also recommended the construction of four steel cruisers of the second class, having a displacement of from 4,300 to 4,700 tons, to be alike armed with the best guns which could be made.

The Committee on Naval Affairs were never reached at the last session of Congress, and the Committee on Appropriations took but a portion of our work, and authorized the construction of one each of these classes of vessels and made an appropriation for the purpose of simply what might be left out of a very meager appropriation for construction and repair and steam-engineering.

Mr. BLOUNT. There were two of those large steel cruisers.

Mr. HARRIS, of Massachusetts. No; one large one and one smaller.

Mr. ROBESON. One of 5,000 tons and one of 4,300.

Mr. HARRIS, of Massachusetts. The Committee on Appropriations provided for one of each. The Committee on Naval Affairs recommended two of the former and four of the latter class.

Now, it has been the habit here to complain of the Appropriations Committee. Gentlemen in this debate have objected to the Appropriations Committee absorbing the powers of the Committee on Naval Affairs and other committees of this House. On the other hand, I have to thank the Appropriations Committee for having given us any chance at all. If I have any complaint to make, it is that the rules of this House are such as to lodge in the hands of the Appropriations Committee the power to crush out every other committee of this House. This is not the fault of the Appropriations Committee; it ought not to be laid to their door. The Appropriations Committee might, if they had pleased, have shut us out in this case entirely.

Mr. CALKINS. Will the gentleman allow me a moment?

Mr. HARRIS, of Massachusetts. Yes, sir.

Mr. CALKINS. I wish to say that the Appropriations Committee are not obliged to enter upon the domain of general legislation. They can report their appropriations without absorbing the powers which belong to other committees.

Mr. REED. Under the rules of the House it is necessary for that committee to present legislation; it is the only way it can be got through.

Mr. McCOOK. It is "Hobson's choice."

Mr. HARRIS, of Massachusetts. The Appropriations Committee could, by their action on this bill, have rendered it absolutely impossible for this House to vote a dollar for a new ship of war, simply by leaving out of this appropriation bill any reference to the subject.

Now, the ships authorized last year should have been begun; and I have been asked this afternoon why they were not begun. Why, sir, we limited the expenditure upon those ships to the amount estimated by the late advisory board; and the law said that those ships should not be commenced unless they could be completed within the estimate made by that board. The Secretary of the Navy, before laying down the keel of any one of those vessels, caused to be made, carefully as I think and properly, a re-estimate of the cost. He found that within the former estimate he could not build either of these ships. Therefore he comes to Congress now and very properly says, "If that is your limit, I desire now not to build the big ship at all, but to build a ship of the second class, or rather a ship of three hundred tons less displacement than the one of the second size authorized; I desire also to build three cruisers of 2,500 tons each." His communication was referred to us by the House.

We could not agree to the Secretary's proposition; but after careful examination by the full committee it was agreed that while we would adhere to the big ship, which we believe the United States Government ought to build, we would recommend a reduction of the size of the second ship, and recommend the building of three cruisers of 2,500 tons displacement, a torpedo-boat, and a cruising dispatch-boat of great speed, to be armed with a single high-power gun as recommended by the Secretary. We not only recommended that these ships be authorized, but we did what I think the Appropriations Committee ought to have done, we recommended an appropriation large enough to build and complete those ships and arm them with the best guns.

Mr. Chairman, I know what the tendency of the Appropriations Committee always is. They must keep down the aggregate of the appropriations; that is their office and duty, I suppose. What do they propose in this case? Authorize the commencement of these ships, and give not half money enough to finish one of them, thus putting the Secretary of the Navy in such a condition that he can not even make a contract for the vessels. Our committee has recommended an appropriation for each vessel named in this bill large enough to construct and complete it; and then for ordnance we have recommended an appropriation of $1,160,000, which will be sufficient to arm them all. Our recommendations have not been adopted by the Committee on Appropriations. They have seen fit to authorize the commencement of the construction of one vessel of 4,300 tons, two vessels of 2,500 tons, and a small clipper of 1,500 tons. And they have made an appropriation so small that it will not complete one of the vessels authorized unless it may be the dispatch-boat or clipper.

I desire here to say that I believe all these ships and their engines should be built by private contract. I believe they can be built for one-half the money which they will cost in our navy-yards under our present wasteful and, as I believe, thoroughly bad system. We could hold parties contracting for ship or engines to some accountability as to the performance of the finished ship. We have no security now. By the contract system we should have the benefit of knowledge and experience outside the bureaus.

Now, Mr. Chairman, of what use is it for this House or Congress to do anything more in respect to building ships unless at the same time we do something for guns? You may build a ship perhaps in two years. You can not arm it with the means we have in this country today in the same time. Why not make provision for guns at the same time you begin the construction of the ships?

But, Mr. Chairman, what does this bill appropriate for ordnance? One hundred thousand dollars for ordnance for the Navy. What does it mean? It means that the Ordnance Department of the Navy wants $100,000 to experiment with, and is not ready to tell Congress what sort of guns the service requires.

But what is being done, Mr. Chairman? I understand that five 6-inch guns are being constructed in the Washington navy-yard on the appropriation of $100,000 of last year. That is being done for the purpose of finding out what kind of a gun to build. The absurdity is manifest. I have no longer any patience with such an administration of the Bureau of Ordnance. England has armed herself with the Armstrong and other guns, and the nations of Europe have armed themselves with the Krupp gun, while the American vessels have no guns worthy the name.

Mr. HISCOCK. I desire to ask the gentleman a single question in reference to that. My understanding in reference to that appropriation of $100,000 made last year is that it has not been expended, on account of the difficulty of getting metal. Now I should like to hear from the gentleman from Massachusetts on that point.

Mr. HARRIS, of Massachusetts. Mr. Chairman, the American manufacturers of steel only desire to have an opportunity given to them to furnish all the steel which may be required for the American Navy. And they can do it at short notice. The evidence is before us, Mr. Chairman, that these American manufacturers can furnish as good steel as can be found anywhere in the world. There is no trouble about it. The trouble is that the Ordnance Bureau of the Navy went to sleep at the close of the war and has never yet waked up. We do not want any more gun inventors in the Navy Department. We do not want any more ordnance officers learning the art of gun-making at the expense of the Government. The process is too slow. We want guns, and there are men outside of the Ordnance Bureau who have already learned the trade and art of making them. What it will cost for line officers to learn how to make guns would furnish a good many finished guns of high power. I think the time has come when Congress should say to the Navy Department, "We must have guns, and here is the money with which to provide them. It is given you to ascertain what kinds and sizes are required, and to proceed at once to procure them."

If the ordnance officers of the Navy are not able to advise the Secretary of the Navy in this matter that bureau had better be reorganized or abolished. It stands in my opinion as an obstruction to all progress, and will do nothing itself and prevents others from doing anything. It assumes to possess all knowledge and thus far exhibits none. It seems to assume that all knowledge of the subject is centered in itself and shuts the door against all knowledge from the whole world outside. If in the past we had relied wholly upon the knowledge and inventive powers of naval men in the art of naval warfare we should now be ages behind our present condition. Progress does not come from bureaus and close organizations of that kind. The Monitor was condemned by the bureaus, and her utter failure was confidently predicted by naval officers who might and should have known better.

Mr. Chairman, there are only two great gun manufacturers in the United States. One is at South Boston and the other at West Point, New York. These establishments have made nearly all the guns, both for the Army and the Navy, for the past fifty years or more. They have served the country well and have never failed it in time of need. These founderies have been standing almost idle since the close of the war for want of patronage. The one at South Boston, now almost idle, has a plant of nearly $1,000,000 in value. It has kept its works in order at great cost and at great loss, hoping again to be able to serve the Government. If the Navy wants guns of cast-iron in whole or in part, they can be made there. If cast-steel guns would better serve the purpose, as some believe, they could soon be produced there. If guns of wrought iron or steel are required, they can not now be made there or elsewhere in this country. But these companies would gladly undertake to prepare their works with such aid as the Government alone is able to furnish for the construction of wrought-steel guns of the largest sizes required for the service.

These two companies in January last came to the War Department and offered to combine their establishments and all their capital, experience, and ability under one management, and prepare themselves to make steel wrought guns and to put the whole at the disposal of the Government if it would assist in the construction of a steam-hammer of the required size. Their offer met with favor and approval, as the following correspondence shows:

L. R., No. 22.] ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, January 16, 1882.

SIR: I have the honor to inclose a letter from the President of the South Boston Iron Company, of January, 1882, requesting assistance in his efforts to "obtain proper Government aid to enable me (him) to construct and complete a creditable ordnance manufactory in this country," and giving his reasons therefor.

It is a well-known fact that the proper facilities for heavy-gun constructions on modern types are not to be found in this country. The plant and mechanical experience are confined mainly to the casting and finishing of simple cast-iron guns. The preparation and manipulation of steel in large masses suitable for heavy ordnance are beyond the resources of our private founderies. But steel in some form must enter into the construction of guns, and constitute part, if not all, of the gun itself. At present all such steel has to be procured abroad, and is not always of the required quality.

Recently the breech receivers for the 12-inch rifles, under contract, were rejected, the steel not being up to standard.

Constant and careful official supervision on the part of the Government is essential to the attainment of uniform and reliable results in the production of any metal for gun construction, and particularly so with a metal so subject to variation as steel; but such supervision is only practicable in the founderies of this country. That we should not depend on foreign workshops for this indispensable material, but depend on home enterprise, is in accordance to the spirit of the laws.

The advantage of using steel exclusively in gun construction is apparent when European authorities claim that an all-steel gun, having a thickness of walls of one caliber, possesses greater strength than a cast-iron gun hooped and tubed with steel, having much thicker walls. This advantage over simple cast-iron is still more signal as it admits of the production of a much lighter steel gun with superior power for the same diameter of bore.

In the commencement of its manufacture it would not perhaps be practicable to produce steel of a suitable quality in larger masses than are required for hoops or light tubes, such as are employed in France, Italy, and other European states where cast-iron enters largely into the system of gun construction. For the production of the large ingots required in the manufacture of heavy steel guns abroad steam-hammers are employed of forty, sixty, and one hundred tons weight, or hydraulic presses of thousands of tons power. Even with steel-wire or steel-riband guns, a system of construction that is now attracting the serious attention of artillerists in France and in England, the inner steel tube is required to be of very considerable size and weight.

There are but two ways to meet the case: First, by the establishment of a national foundery, being exclusively under governmental control; second, by assisting and fostering one or more of our private founderies, to enable them to prepare their plant, &c.

The South Boston Iron Company and the West Point Foundery are the only ones that have now any portion of the plant and experience. Both of these have made guns for the United States during the last half a century, and have always given satisfaction. All the states of Europe, with the exception, perhaps, of Russia, are dependent upon private industry for the steel employed in the manufacture of their heavy cannon; and it is more than likely due to the aid and encouragement afforded them by government that private establishments in Europe have attained to such celebrity in the quality of their productions. I have the honor to recommend that the attention of Congress may be called to this subject, so important to the defenses of the country.

The reference of this paper to the board of heavy ordnance, now in session in New York, for an expression of its opinion, is deemed proper in connection with the duties devolving upon it, and is respectfully recommended.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The honorable THE SECRETARY OF WAR.

[First indorsement.]

Respectfully referred to Colonel George W. Getty, president of the board on heavy ordnance, New York city, for an expression of the opinion of the board upon the subject presented by the Chief of Ordnance in this communication.

By order of the Secretary of War.

H. T. CROSBY, *Chief Clerk.*

WAR DEPARTMENT, *January* 18, 1882.

OFFICE OF SOUTH BOSTON IRON COMPANY,
Boston, January, 1882.

SIR: With a view to enlist your sympathy and assistance in my efforts to obtain proper Government aid to enable me to construct and complete a creditable ordnance manufactory in this country, I beg to call your attention to the following facts and my resulting proposal:

The South Boston Iron Company has been actively engaged in the manufacture of ordnance for the United States Government for more than half a century. During this long period of service its record has been of the highest character, and at all times it has faithfully executed its engagements with the Government. It has added largely from time to time to its machinery and fixtures, until it is in condition to fabricate cannon of the largest caliber without delay, and until the value of its plant is more than a million dollars. I am aware, however, that such facilities as we have are entirely inadequate to the demand likely to be made for the armament of our Navy and for our coast defenses.

Desiring to continue the leading position we hold in the line of our business, and believing that we have the experience and ability at command to successfully produce cannon of large caliber of iron or steel from American ores, I beg to submit the following proposal and petition:

I propose to erect blast-furnaces, steel-producing plant, steam-hammers of large size, machine-shops with facilities for finishing cannon from eighteen to a hundred tons weight at the rate of one per day, furnaces and rolling-mill for the manufacture of armor-plates, foundery for the casting of guns and projectiles, and shops for the manufacture of gun-carriages.

The details of construction to be subject to the approval of the War and Navy Departments, with right to representation on the board of direction, the United States Government to have the right to take possession of the entire property at any time, at a fair appraisal of value, and to have the right to control the use of the entire works, at such rate of compensation as shall not exceed the percentage of profit heretofore paid for similar work.

I ask the Government to furnish the means to make such additions by the issue of a 3 per cent. 10-40 bond of a similar character to the bond issued to assist the construction of the Pacific Railroad.

It is believed that the requirements of the Government from such an establishment would insure our ability to meet the payment of the said bonds at maturity; and it is believed to be of the highest importance to the Government to have such an establishment available, and that it can not be obtained except by direct purchase or by some such encouragement as proposed.

The foregoing scheme is sketched to point out that the Government may obtain the war material it so much needs at a proper cost, and at the same time enlist the watchfulness of private interest to develop the results of progressive invention until the establishment should become efficient and complete to the highest degree.

Very respectfully, your obedient servant,

WM. P. HUNT, *President.*

General S. V. BENÉT, United States Army,
Chief of Ordnance, Washington, D. C.

L. R., No. 229.] WEST POINT FOUNDERY,
Cold Spring, January 18, 1882.

SIR: Mr. William P. Hunt has sent us a copy of his communication to you in regard to the establishment of a manufactory of ordnance with the aid of the Government.

As we are the only other firm engaged in the business we think proper to say that we coincide with Mr. Hunt's views, and that in our judgment there is no other way to create the necessary "plant" to manufacture such ordnance as is now required.

We would also say that having, like the South Boston Iron Company, furnished ordnance to the Government for more than fifty years, and having, we believe, the confidence of the Ordnance Department, should it be decided to furnish means to establish a manufactory we would have equal claims on the patronage of the United States.

It would probably, however, not be deemed advisable to assist two establishments, and no doubt it would be considered best to do all the work in one.

Should this be the case, we would say that we think the interests of the West Point Foundery and the South Boston Iron Company could no doubt be consolidated on a basis which would be for their mutual advantage, thereby creating one establishment of large capacity, which would form an excellent basis on which to build up such a "plant" as is now required by the Government.

It seems to us that such an arrangement would promote the interest of the United States as well as the manufacturers, and create a suitable "plant" in as short a time as the nature of the work will admit.

Very respectfully, your obedient servants,

PAULDING, KEMBLE & CO.

General S. V. BENÉT, U. S. A.,
Chief of Ordnance, Washington, D. C.

[First indorsement.]

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, July 19, 1882.

Respectfully submitted to the Secretary of War in connection with my letter on the same subject of 16th instant, transmitting a letter from the South Boston Iron Company. I respectfully recommend that this letter be referred to the board on heavy ordnance, New York.

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

[Second indorsement.]

Respectfully referred to Colonel George W. Getty, president of the board on heavy ordnance, New York city, in connection with previous papers submitted the 18th instant.

By order of the Secretary of War.

H. T. CROSBY, *Chief Clerk.*

WAR DEPARTMENT, *January* 21, 1882.

OFFICE OF BOARD ON HEAVY ORDNANCE AND PROJECTILES,
New York City, January 24, 1882.

SIR: This board, to whom have been referred the letters of Mr. W. P. Hunt, president of the South Boston Iron Company, and of Paulding, Kemble & Co., proprietors of the West Point Foundery, to the chief of ordnance, asking, governmental aid to enlarge the facilities of their establishments for the manufacture of large guns involving the use of steel, together with the letter of General Benét, transmitting the same with his views thereon to the Secretary of War, has the honor to present its opinion upon the subject set forth in those communications, as follows:

For the past twenty years the demand for suitable naval and seacoast armaments to meet the problem of national defense has taxed the mechanical skill and resources not only of the governmental authorities of the warlike powers of the Old World, but also of their leading gun manufacturing establishments. During that period we have witnessed the advance of heavy ordnance from the twelve to the one hundred-ton gun, with corresponding increase in the weights of projectiles, while improvements in powder and the chambering of the more recent rifled cannon have permitted the use of charges so largely augmented as to add nearly one-half to the initial velocities of their projectiles. Whether or not a gun satisfactory in its method of construction and in the perfection of material used has been reached, there can be no doubt that valuable experience has been gained and very marked improvements arrived at from year to year. While the large establishments at Woolwich and at Elswich on the Tyne have been developing a method of built-up wrought-iron cannon on the English system, the vast Essen founderies have produced a steel breech-loading rifled gun of great power and strength, which has given to Herr Krupp a world-wide reputation.

France and Italy, in the mean time, have experimented, with more or less success, largely in the use of cast-iron and steel combined, for heavy ordnance, as a cheaper method of construction.

Though we have not the information to determine absolutely what will be the final method and material of construction adopted for heavy cannon as the resultant of past experience and progressive trials, it now seems probable that steel, by reason of its superior tenacity and limit of elasticity, will be largely used in the system of built-up guns.

In view of the great demand for heavy ordnance for our seacoast defenses, involving the probable use of 2,000 guns, for the most part of large caliber, and the insufficient preparation and development of the leading iron manufactories of this country for constructing heavy guns of other material than cast-iron, it seems probable that any attempt on their part to meet the national demand without Government aid will result in both material and financial failure.

This board therefore concurs with the Chief of Ordnance in his views of the question of assisting some of our leading cannon factories to enable them to commence successfully the construction of a suitable armament for our seacoast defenses.

GEO. W. GETTY,
Brevet Major-General, U. S. A., President of the Board.
Z. B. TOWER,
Colonel of Engineers, Brevet-Major-General, U. S. A.
A. R. BUFFINGTON,
Lieutenant-Colonel of Ordnance.
F. H. PARKER,
Major of Ordnance.
JOHN MENDENHALL,
Major First Artillery, Brevet Colonel, U. S. A.

The ADJUTANT-GENERAL, UNITED STATES ARMY,
Washington, D. C.

The men who make these offers know how to make guns. They have no trade to learn. They have no reputations to make. The companies which they represent have served the country faithfully and with honesty for more than half a century. They ought to receive the aid and encouragement which they ask, and they should be employed steadily in the fabrication of guns of which we are so sorely in need.

I do not believe it to be either wisdom or economy for us to wait until some line officer of the Navy who may happen to have been placed temporarily at the head of the Bureau of Ordnance of the Navy shall have learned the art of constructing heavy ordnance before we are to take a step in the direction of securing an armament for our naval vessels worthy of the name.

And yet the truth is we wait to-day; Congress waits until this Ordnance Bureau shall learn enough to be competent to give some proper advice upon this important subject. I would wait no longer, but would seek advice from men competent now to give it.

Now, I call attention to another item in this bill. We have here an item of $100,000 for the purchase of torpedoes. "Purchase" is the word. Now, as I have pursued for the last eight years a pretty careful inquiry into this subject, as careful as a member of Congress, with the means at his command and in the time at his disposal, can well make, and know something of the torpedoes of this class (the auto-mobile, as the bill calls them), which have been adopted among the different nations, I protest against this item as it stands in the bill, and for this reason: Because I believe, and have good reason for that belief, that it is the intention of the Bureau of Ordnance to expend the whole sum for the purchase of what is known as the Whitehead torpedo. This is a foreign invention which has been long known and widely trumpeted and industriously puffed and advertised, and upon which large sums have been expended, and which has been used in war, but which has never proved practically successful. Mr. Whitehead claims no patent rights, but covers his invention by claiming it as a secret, and he will sell us his secret for a great price and furnish a few torpedoes to serve us as models for their manufacture and for experiment.

Mr. HISCOCK. I would like to say to my friend from Massachusetts that at his suggestion the committee have agreed to put in "for the purchase or manufacture of torpedoes."

Mr. HARRIS, of Massachusetts. Yes, that is so; but I would like to add something more, so as to carry out fully my suggestion made to the committee, and that is that the torpedoes should be of American invention.

Now, the torpedo is the creation of American genius. There is no successful torpedo of any kind now in use in the world which did not originate here, or which does not depend mainly on some prior American invention. If our Navy Department could be authorized and instructed to invite the inventors of torpedoes in this country to go to work and produce an auto-mobile torpedo of the most effective kind, and insure to the successful competitor a fair remuneration for his service, I am fully persuaded that for less money than it is now proposed to pay this foreigner we should have a weapon which would render his ridiculous. The Whitehead secret is an expensive thing to buy, and when it has been purchased and you have the torpedoes, you must furnish your ships with expensive apparatus for their use, and besides all that they require great care and expense to keep them in order.

Mr. McCOOK. Is the Lay torpedo used?

Mr. HARRIS, of Massachusetts. Yes, to some extent, I am informed. I believe we have several of them. They are known as the "movable controllable" torpedo. Originally they were very cumbersome and slow in speed. It has been very greatly improved, until now I am informed it has a speed equal to that of the Whitehead, and has much greater certainty of action. It is a fine piece of mechanism, and is somewhat expensive, though less so than the Whitehead, as it can be used on any ship without expensive especial apparatus. How far other countries have adopted it I am not prepared to state.

But, Mr. Chairman, there is an inventor in this country quite as worthy of consideration as this foreigner, Whitehead. He has devoted more than sixteen years in perfecting the torpedo system of warfare for the sole benefit of the United States. The Government is to-day in possession and in the sole use of all his work. For many years he has been asking recognition at the hands of Congress and compensation for his time and expenses. He has thus far found no response for what he has done during the last eight years. I refer to Mr. Asa Weeks, of course. For six years there has been a bill on the Calendar of the House to pay him for his services and expenses upon the assignment of his inventions to the Government. The naval committees have waited from time to time for the results of experiments and tests which were going on under the direction of the Bureau of Ordnance before urging action upon the bill. But the tests have not yet been so far completed as to elicit from that bureau any final report, and I suppose now all further test is to be postponed until Mr. Whitehead is provided for.

The history of Mr. Weeks's labors were fully given in a report made to this House on the 24th of February, 1882, No. 484.

I will briefly refer to the facts:

After the close of the late war, in May, 1857, having invented a system for the use of the spar torpedo, he offered it to the Government. Secretary Welles invited him to submit his plans and models for inspection. He did so, and a board was organized to examine and report. That board reported the invention "deserving of consideration," and recommended "that the inventions of Mr. Weeks be tested." In 1868 Mr. Weeks submitted improved plans and models, and a new board was organized. That board reported that they were "of opinion that the principles involved therein eminently justifies its being kept secret under the exclusive control of the Government."

In May, 1869, the Navy Department applied to Mr. Weeks for permission to apply the invention to a vessel of the Navy. He consented, came to the Government ship-yard, and the little tug Nina was fitted up with the invention under his direction to test it, and to prove the effect of a torpedo exploded upon a bar extended from the hull of the boat under water. That test was so successful and conclusive that when Admiral Porter commenced to build the Alarm this gentleman was invited to supervise the construction of the torpedo machinery for that ship. That vessel is provided with this instrument of warfare, and would be one of the most effective ships in the Navy if it was not defective in other respects; but this principle of torpedo warfare has been successfully demonstrated by it. The torpedo device is in all respects satisfactory and fully equal to expectations of the Department.

When this work was done this gentleman was asked by Admiral Porter to produce a torpedo which could make rapid speed upon the water, carry its charge of gunpowder or dynamite and explode it on contact, either at the surface or at any desired depth under water. This was a difficult problem which he was given to solve, but it was given to him, and for the last eight years he has done nothing else but experiment with it. He has waited upon officers of the ordnance bureau and obeyed their orders and heeded their wishes. He has directed the workmen in the work-shops and superintended the work as it has progressed. He has submitted patiently to all sorts of delay. The torpedo of small size has been tested in still water in the Potomac River, and also at Newport, and as far as I understand it promises to be a most formidable and dangerous weapon. It has been found to attain a velocity of seventy-five feet per second on the water, and goes absolutely straight to the point directed. Now, during the last year it was determined to be worthy to be tested in a full-sized torpedo and in rough water. The work has been completed and now there is a torpedo boat all finished and ready to be tested. But the Bureau of Ordnance has suddenly become indifferent to the Weeks auto-mobile torpedo, and delays the final test in rough water in the open sea (where no other auto-mobile torpedo, including the Whitehead, was ever tested or will ever be used), which it has heretofore deemed essential and had determined on and provided for. The reason for this delay and sudden indifference is simple to understand. Mr. Weeks, after having worked for so many years, and having offered all his inventions for the sole use of his own country, found that he was being delayed and hindered in his work at the whim and caprice of the officers at whose beck and call he found himself, and saw that it might turn out that having been squeezed dry like a sponge he might lose his invention and then be turned away without any reward.

Like a prudent man he provided against such a possibilty by patenting his invention both in this and other countries. When it was found that he did not intend to allow the Bureau of Ordnance to claim his invention and deprive him of his rights he was treated with coldness, to say no more, and the proposed test in rough water was postponed to suit the convenience of the bureau.

Now comes the proposition to spend $100,000 to purchase the auto-mobile torpedo of Mr. Whitehead, and nothing is said about testing it in rough water or in competition with any other torpedo.

Now, sir, I object to spending a dollar for any foreign torpedo until our own inventors have had a fair chance to compete. Let the Weeks torpedo, on which the Government has expended several thousand dollars, be tested in good faith. If it shall prove a failure we may try some other. If it should prove successful we should not take Mr. Whitehead's secret as a gift. It will be time enough to buy his secret when American inventors having a fair chance have failed to produce a better one.

With reference to the new legislation in the bill I wish to call attention for a moment to the provision for the retirements of officers. This new provision, from line 32 to line 50, has been referred to by other gentlemen, and therefore I will not stop to read it now. I had designed to make some remarks upon other features of the bill, but will be compelled to hurry through very rapidly, as the time allowed for the discussion of the bill must necessarily be brief.

This new provision from line 32 to line 50 may be right with a single exception. If I could see no danger of officers being prevented from being assigned to sea-service by favoritism or personal solicitation or by social or political influence I should feel that it was eminently wise and just. But if a good, faithful, and worthy officer may for lack of favor or influence be shut out from sea-service in his grade as this bill requires, and then retired because he has not performed that service which he is competent and anxious to perform, then such compulsory retirement is wrong and will work injustice in practice, and jealousy and bitter feuds will result to even a greater degree than now exist.

The exception to which I refer is the omission of a sea-service to be required of captains before promotion to the rank of rear-admiral. Why should not a captain serve as captain one or two years at sea before he leaps to the rank of rear-admiral? As the bill now stands a captain who has never done an hour's duty at sea as a captain may be raised over the heads of all the other captains and commodores to the rank of rear-admiral, and that, too, by mere selection. There is some reason for this not yet explained.

Before I can consent to this apparent omission I must be satisfied that there is good reason for it. If it be said that all captains must have been commanders and lieutenant-commanders and lieutenants, and must therefore have seen sea-service and held commands, so as to be altogether qualified for the duties of rear-admirals, I have to say that this may be a good reason—if all the captains now on the list to whom this door is to swing open so widely have each served four years at sea

before promotion to a lieutenancy, six years at sea as a lieutenant, four years as lieutenant-commander, and three years as commander in command of United States vessels of war.

Now, then, have all the captains in the Navy served at sea in all the grades seventeen years, the time required by this bill for the future? I find some who have not. Among them are Captain John G. Walker, now at the head of the Bureau of Navigation and holding temporarily the rank of commodore; Captain F. S. Ramsey, now at the head of the Naval Academy; Captain Henry Erben, and Captain R. W. Meade.

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

Mr. HARRIS, of Massachusetts. Yes, sir.

Mr. BLOUNT. I simply desire to say in reference to Captain Meade that that gentleman has complained for years he could not get the sea-service that now seems to be necessary, although he was importuning for it.

Mr. HARRIS, of Massachusetts. I know that. I know all these gentlemen except Captain Erben, and know them to be good, competent officers and men whom I should be very glad to aid in every possible way; and doubtless they would have had sea-service before if they could have obtained it. They have all commanded vessels during war. I think the bill should be amended in this particular, and that this provision should be added, "that no captain who had not seen four years' service at sea in command of a vessel or vessels of the United States should be promoted to a rear-admiral."

Mr. ROBINSON, of Massachusetts. Otherwise the bill would seem to be to favor captains.

Mr. HARRIS, of Massachusetts. Yes, sir.

Mr. ROBINSON, of Massachusetts. I do not want it open to any such impression.

Mr. HARRIS, of Massachusetts. I do not want it to appear that there is any possible favoritism here or that any man is to be especially provided for. I have no doubt that all of these four gentlemen, if this bill should pass, would speedily become rear-admirals, and I doubt not the wisdom of a measure which will permit their promotion, which does no harm to the service in other respects.

I next come to the provision of lines 50 to 57 inclusive. This provision, which retires officers arbitrarily and without reference to their worth or service before arriving at the legal retiring age of 62, seems to me to be most unjust and indefensible. No officer can now be promoted until his physical and professional fitness to perform the duties of the higher grade has been tested by an examining board. No danger exists, therefore, that any of these officers who are unworthy will secure promotion.

By the operation of this clause it is proposed to remove blindly and by brute force, without reference to merit or demerit, certain officers now on the active-list to make room for promotion of their juniors in service and inferiors in rank. Age alone is to govern, and merit or service will not count in their favor or save them from dishonor.

This measure will do the work, but who will it thus blindly remove? It will strike down about thirty officers, many of whom are active, trustworthy, and in the full vigor of health and energy, who can now render valuable service to the country. A few are commodores who will soon reach the age of retirement and who have served honorably and faithfully. The majority, however, are officers from the volunteer service, who in every case, as a recognition of and as a reward for gallant service in war, were permitted to compete in a most rigorous if not unfriendly professional examination for commissions in the regular naval service. It is a matter of strong belief and common notoriety, if not of record, that by unworthy intrigues at the time of transferring these officers they were placed much lower on the register than was just or honest or was intended by Congress; and now comes this effort from the "regulars," so called, to force them out of the service altogether and into retirement on half-pay, to make room for others who have thus far earned nothing of reward for service in war.

There are two classes of retired officers in the Navy. One class, to whose names stars are affixed in the Navy Register, are considered as honorably retired, having served forty years, or reached the age of 62, when all officers must retire, and retire of course honorably (for no man not worthy to retire with honor can be supposed to remain in active service to this extreme limit), and those retired from having been disabled by wounds received or disease contracted in the line of duty.

Officers who have been forty years in the service, officers who have reached the retiring age of 62, and officers who have been wounded or have contracted disease in the service and have a star placed against their name belong to this first class.

Now, the law which makes this provision is section 1588 of the Revised Statutes, and it provides that officers of this class, as a reward for faithful service, shall be entitled to three-fourths of the sea-pay of their grade. It also provides that all other officers shall be retired on half-pay.

This other class of officers on the retired-list to whose names no stars are fixed have been retired for causes more or less discreditable to themselves, such as mental or professional incapacity arising from intemperate habits, &c. To this far less honorable class only half the sea-pay of their grade is allowed. It is to this latter list that the officers to be forcibly retired by the provisions of this bill must go, for on this point section 1588 of the Revised Statutes is absolutely imperative.

On the 1st day of July next, when this law shall go into effect if enacted, Commodores Baldwin, Shufeldt, Rhinds, Patterson, Phelps, Wells, and Quackenbush, Lieutenant-Commanders Green and Nelson, and Lieutenants McRitchie, Tanner, and Baldwin will go onto the retired-list on half-pay, no matter how active, competent, and worthy they may be and without any reference to their past honorable and gallant service in the cause of their country in the time of its greatest peril.

This is to be done in order that officers of a lower grade who have never rendered any valuable service to their country may take their places. It seems to me that however much the Committee on Appropriations may be justified in seeking to reduce the number of the officers of the Navy, they ought to see to it that these men who have earned all they are now receiving from the Government should not be treated with this rank injustice. I do not think this House will deliberately consent to such an act of ingratitude as would be involved in the passage of this portion of the bill.

Mr. BLOUNT. I would like to ask my friend from Massachusetts [Mr. HARRIS] if he thinks the provision putting the commodores on the retired-list would result in the promotion of captains to the rank of rear-admirals? I have heared it so argued.

Mr. HARRIS, of Massachusetts. I have no doubt of it. I desire now to call the attention of the committee to the proposition which makes captains and commodores eligible to promotion to rear-admirals by selection.

Suppose that you provide that they be promoted by selection. A board of rear-admirals will get together, and they may say here are five men (the lowest captains on the list, if you please) whom we will recommend to the President for promotion. The President is to have the option of selecting one of the five for rear-admiral. If this law passes and shall be held to be binding on the Executive he must appoint one of the officers so selected for him, no matter how much he may doubt either the wisdom or the justice of the selection.

Now, if we adopt this provision of the bill we will have to provide another civil-service-reform bill instantly, or else the Presidential mansion will be besieged from all quarters for the purpose of inducing him to make a selection favorable to somebody's friend. I do not think it is wise to adopt that plan.

I might ask, has an instance ever occurred of any man ever being made rear-admiral by promotion according to seniority who failed worthily to discharge the duties of his office?

I admit, however, that too many men become rear-admirals at so late a period that they can perform no valuable service in that grade, and often go onto the retired-list almost immediately. I agree that some just method should be adopted by which younger men may become rear-admirals, and so that the officers at the top may be active and competent for the arduous duty of their high commands. But if you introduce the principle of selection why should it not apply in every grade, so that the favored doctrine of the survival of the fittest shall prevail all the way up from the naval cadet to rear-admiral. If this will give us the best rear-admirals, why not also the best officers in every grade below?

Had such a rule as this obtained when our war of the rebellion commenced, Commanders Farragut, Foot, Davis, Dupont, and Goldsborough, and Lieutenant D. D. Porter, the latter of whom now holds the rank of Admiral, would have been on the retired-list at half-pay instead of on the active-list ready to commence those great careers which have added so much to the honor of their country, and which have made their names justly famous in the annals of war.

In closing I desire to say a word with reference to the system of defective armor, about which the gentleman from Tennessee [Mr. WHITTHORNE] has spoken. I agree with him on what he has said of the late experiments in France with steel-faced armor.

There were three descriptions of armor tested in the experiments recently made in France to which the gentleman refers.

One specimen was of iron having a steel facing cast on the iron. Another was a plate of iron having a rolled steel facing which was united to the iron by means of melted cast-steel poured between the two. In other words, it had an iron backing, to which was united or cemented by means of melted cast-steel a facing of rolled or hammered steel, as I understand the descriptions which I have read. Each of these specimens was 18.9 feet thick.

The other specimen, the French specimen, was a piece of pure steel, 35 inches thick, I believe, when first put under the hammer, and reduced to a thickness of 18.9 inches. That piece of steel was hardened in the oil to the depth of 6 inches of its face surface. That steel stood three shots, and, although damaged, was not perforated, while an iron plate 23 or 24 inches thick would have been entirely perforated by those shots. The shots used against this plate crumbled into fragments. The other plates were entirely broken up at the second shot.

These plates, however, were designed for vertical armor. It is possible that the time has come or is near at hand when a better and less cumbersome system of armor may be found practicable. This leads me in conclusion to say a word in relation to the provision of the bill appropriating $20,000 for the purpose of testing the deflective system of Passed Assistant Engineer N. B. Clark. This gentleman is most unfortunate—from injuries received in some railroad disaster I believe; he is unable even to stand; he lies day after day and week after week

stretched upon his rolling-chair. But he has considered it his duty, notwithstanding his great disability, to devote himself so long as he may be able to the service of his country. He has produced and laid before the advisory board a system of steel deflecting armor—an interior shield about six or seven inches thick covering the entire vital part of the ship. This, if made of any such steel as my friend from Tennessee has adverted to, he believes could never be penetrated by the largest and most powerful guns in the world. He also offers to the Government his plans for deflective turrets, so constructed that six inches of steel will be worth more for defence than twenty-two or twenty-four inches of vertical iron. Upon the recommendation of the Secretary of the Navy we have asked that $20,000 be applied to testing these inventions; and I wish to say that no more worthy object could have been provided for by the Committee on Appropriations.

Mr. ROBESON. We have put that in the bill.

Mr. HARRIS, of Massachusetts. It is in the bill. I only wish that the Committee on Appropriations had gone a little farther and provided that the iron-clad Miantonomoh, which is now completed and afloat, lacking only guns and turrets, might be completed with turrets of this description, according to the plans therefor now in the hands of the advisory board, if approved after full experiment and test.

The Tariff.

SPEECH

OF

HON. HENRY S. NEAL,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883,

On the bill (H. R. 7313) to impose duties on foreign imports, and for other purposes.

Mr. NEAL said:

Mr. CHAIRMAN: I should have been glad to have participated somewhat, in the discussion of the schedule of the tariff bill relating to the duties upon metals. The district which I have the honor to represent, is largely engaged in the manufacture of iron in its various forms, from the digging of ore to the making of the finest qualities of crucible steel; but the great anxiety upon the part of the people that some revision should be made in the present tariff, the limited time, which admonishes us all that we should vote oftener and talk less, and the great familiarity which the Committee on Ways and Means display in dealing with every item of the bill, alike creditable to their intelligence and their industry, has thus far constrained me to keep silent. I will now, however, avail myself of the kindness of the committee, and express my views upon some of the questions which have been more or less generally discussed during the debate upon this bill.

First, then, I believe in protection for the sake of protection, not protecting simply the iron industries, in which the people I have the honor of representing upon this floor are so largely and vitally interested, but every other industry which the climate, soil, and other causes give our people the natural advantages necessary for successful prosecution, and which in time can be so far developed as to fully supply all the needs and demands of our people. I do not, however, advocate this principle of protecting American industries because of any sympathy I have for capital. On the contrary, I know well the ability of capital to take care of itself. Naturally conservative, the capitalist makes no ventures until he has satisfied himself that it is likely to be remunerative, and when he finds he has made a mistake he changes his investments to those more profitable.

It is, however, for the workingman that my sympathies are aroused. He who has no resources but his hands, who has nothing to sell but his labor, is to a great extent at the mercy of capital, and can not, when there is an oversupply of labor, fix his own price for the commodity he sells, but must come into competition with his fellow-workmen. Competition begets low prices, and consequently the workingman receives an insufficient consideration. The workingman fully understands this, and endeavors to destroy competition by limiting the number who shall engage in any particular branch of industry. For him, therefore, a diversity of industries is of supreme importance, for the more numerous the sources of employment, the greater the resources of labor, the less competition among workingmen, and hence higher wages.

In a private conversation with a distinguished gentleman on the other side of this House, a free-trade Democrat, I remarked the men who are engaged in the iron industries of my district can not work for less wages than they now do and comfortably support and maintain their families. He replied, let them seek employment in other avocations in life. Mr. Chairman, I commend the gentleman for his frankness, and at the same time admonish the workingmen of my district of their inevitable fate if the people of this country shall ever be guilty of the insane folly of intrusting the Government to that gentleman and his political friends.

Sir, in the Forty-fifth Congress I took occasion to express my views somewhat at length upon the interesting question we have been considering. I then stated, and I desire here to reiterate and emphasize what I then said, that in my opinion wages should be natural; and natural wages I defined to be such as would enable the industrious, sober workingman, first, to support his family comfortably; second, to educate his children so as to enable them to perform well their part in life; and, third, to lay up something for old age when his hands longer refused to do that which had been required of them. Wages lower than these are unnatural; and it is a shame to ask our workingmen to accept them if the condition of industry will justify the payment of more. I would not say anything unkindly of our Democratic brethren; but they are in gross error upon these great questions, and I would fain persuade them to open their eyes, behold their faults, and like honest men, as they are, forsake their errors; but as long as they continue to advocate the pernicious principle of "buying where we can buy the cheapest," without reference to national needs and requirements, without considering the personal interest of the great army of laborers in this country, and of the great neccessity there is for making ourselves as thoroughly independent of the other nations of the earth as it is possible for us to be, they are, unwittingly perhaps, but none the less truly, the enemies of the workingmen of the United States.

Mr. Chairman, our free-trade Democratic friends seem fond of denouncing manufacturers as "monopolists," "robbers of the people," &c., leading us to infer, that in their opinion it is a very reprehensible proceeding for a man of means and enterprise to embark his capital and talents in a business which is likely to develop the material resources of the country and give employment to labor. Even the cultivated, scholarly, and talented member from Virginia [Mr. TUCKER] used such demagogical claptrap in speaking of the manufacturers of quinine. I expected better things from him, and was, I confess, somewhat surprised; but I console myself with the philosophical reflection that we are all human, and nature crops out occasionally no matter how much we may have done to conceal it. Now, what are the facts about quinine? Prices are lower now than four years ago all over the world. But do consumers receive the benefit? Not to any material extent, I venture to state. The physicians charge just as much for their prescriptions and the apothecary charges just as much for filling them. There is no difference to the patient—the sick person. It is, then, only dealers who have been benefited, while a great and growing industry has been crippled if not destroyed.

The repeal of the duty upon quinine was a characteristic specimen of Democratic statesmanship. The law imposed a duty upon cinchona and also upon quinine. The Democratic Congress repealed the duty upon quinine but left it upon cinchona, thereby discriminating against the American manufacturer and workingman.

Several years ago a gentleman of means and enterprise in the neighborhood where I live, joining with other like persons, invested largely in iron-ore lands in Virginia and erected thereon a large blast-furnace for the manufacture of pig-iron. He probably gives employment to several hundred laborers and furnishes a market for the farmers and gardeners in the vicinity of the furnace much more certain and desirable than that of Liverpool or Birmingham would be. I suppose the gentleman from Virginia [Mr. TUCKER], in whose district this furnace is erected I believe, looks upon these gentlemen as "bloated monopolists," "robbers of the people," whose end should be ignominious expulsion from the sacred soil of his native State. I doubt, however, whether the people who are largely benefited by this material development of the natural resources of their State will sympathize with him. On the contrary, if their voice could have any potential influence with him, he would to-day be an earnest and efficient advocate of that policy which will bring about the most extensive development of the natural resources of his district, if not of the whole country. I am not sure, however, but that he and others who sympathize with him are of the same opinion that a very good, but rather illiterate, Christian once entertained, who thought it a sin to dig the coal out of the bowels of the earth, because God had put it there to aid in the final conflagration of all things.

Mr. Chairman, if I could adjust a tariff to conform to my own ideas of public polity, with a view solely to enhance the material prosperity of this entire people, I would admit duty-free every article which we have not the natural facilities for producing and manufacturing, and I would levy duties upon those articles which the natural resources of the country enable us to grow or manufacture in such way as to produce the most rapid and permanent development, so that home competition would reduce prices to the very lowest limits consistent with fair wages and a suitable return for the capital invested. In this way we would only be dependent upon other countries for such articles as we can neither produce nor manufacture. Sir, we should so shape our legislation as to make the United States as practically independent of all the world beside as it is possible for us to be.

To be a wealthy, prosperous, and independent people we must develop every natural resource, and, as far as possible, diversify labor. We must sell more than we buy. Not raw materials only, for all agricultural people are, comparatively speaking, poor, but the raw ma-

terials manufactured, or in as concentrated a form as possible. The individual who purchases more than he sells soon becomes impoverished, and as with the individual so with the nation. For a series of years we purchased more than we sold; the consequence was the financial calamities of 1873. That crisis compelled us to retrench our expenditures, to husband our resources, which, together with a series of good crops, enabled us, by the good providence of God, to sell more than we bought; thus to accumulate capital, pay our debts, and inaugurate the most prosperous era this country has ever experienced.

But, say the free-traders, you do injustice to the consumer if you impose duties upon imports. Everybody ought to be permitted to buy where they can purchase the cheapest. Not so fast, my friend. Notwithstanding your assertion that the amount of the duty is added to the article sold, experience has demonstrated that such is far from being the fact, and I am glad to notice, that not even the gentleman from Illinois has seen fit to make a statement, which would have done so little justice to his intelligence.

The duty of the Government is legislation for the greatest good to the greatest number, consistent with its independence and its future well-being. Now, while it may be true that for the time being high duties may enhance prices, yet eventually, as the past abundantly demonstrates, home competition reduces prices, oftentimes below what is a healthy condition for the continuance of that branch of business. To-day the iron business is in a depressed condition. Why? Because there is so much iron manufactured in this country that the supply exceeds the demand. Consequently manufacturers seek customers, not buyers the sellers. If there was an absolutely prohibitory duty on iron I am of opinion there would be no material enhancement of prices throughout the country, because of the great production of our own mines and furnaces. Why, sir, up to 1860 there had never been produced more than 900,000 tons in any one year, while this year there will be produced not less than 4,500,000 tons. Is not this truly wonderful progress and a just cause of pride upon the part of every American?

Now, sir, what is pig-iron? Let us see. It is an ore in the hill—an earth, utterly valueless in its native state. The charcoal or the stone-coal which is used to smelt it are likewise of but little value. In Southern Ohio the owners of land away from markets have been obliged to burn the timber in order to clear their lands to render them suitable for farming purposes. In the iron regions, however, the timber is valuable for the purpose of smelting the ore. Iron ore in the hill is worth 50 cents per ton royalty, if situated near a furnace. If, however, it is not, it is, comparatively speaking, valueless. To dig it costs, in my county, from $1 to $1.50 per ton. Then to haul it to the furnace makes the total cost about $3 per ton. The charcoal costs about 6 cents per bushel, and the amount required will average from one hundred and fifty to two hundred bushels for each ton of iron. It costs about $5 per ton of iron to manufacture it. Then there must be added commissions, interest on capital invested, and other items, so that the cost of charcoal-iron in my immediate neighborhood is over $20 per ton, and of coke-iron near the same amount. Now, it will be seen that the total cost of the raw material does not exceed from $3 to $4 per ton, and as all the rest is labor the only item which can be reduced so as to lessen the cost of production is labor. Labor is now as cheap as it could be consistent with the well-being of the laborer and his family, so that the cost of iron can not be reduced without the impoverishment of the workingman.

But, sir, if it were true that the tariff enhances prices, it does not necessarily follow that it is an evil which should be abated. Every man, woman, and child in the United States is a consumer to a greater or less extent, and each should likewise be a producer, if he fills a useful place in the public economy. So that it would seem that higher prices benefits all to a certain extent. Suppose that the 4,000,000 tons of iron we now produce could be purchased in Europe at $5 per ton cheaper. Why, says the free-trader, don't you see you would save to the consumers $20,000,000? By no means. Immediately, that might be the case, but then the amount paid for that pig-iron would be sent to Europe to pay for the labor of producing it, and it would be wholly lost to the laborers of America. Suppose it cost $75,000,000 to produce that iron here. Instead of being spent at home, it would be sent abroad, and there would be that much loss to be expended among the producers of iron for food, clothing, houses, homes, &c. The prices of these articles, by reason of this diminished demand, would be reduced probably below the duty of $20,000,000, which, it is claimed, would be saved to the consumer.

But, again, destroy all the iron industries, dampen down the fires of our furnaces, close their doors, discharge the tens of thousands of laborers now supporting themselves and their families in comfort, and what would be the result? No sooner would the British manufacturer and the importer obtain control of our markets, with no home competition to disturb or frighten them, than prices would again advance until they would likely exceed those which would enable the American iron-master to operate his works with profit, paying fair wages to his employés.

How would the closing up of the furnaces affect other industries? The tens of thousands of workingmen now engaged at them would be compelled to seek employment elsewhere and in other avocations. They would come in competition with labor engaged in other industries. The price of labor would be reduced; the ability of the laborer to purchase largely diminished; the markets would be dull and the value of all commodities fall proportionately; so that all producers would be injured. But, says the free-trader, we would sell our products in Europe. Yes; you would so far as Europe needed them; no further. Europe will only buy of us such articles as she needs, and she will buy no more, no matter how much we may urge her to do so. If they have good crops they buy less; if poor crops, more; so that it is a very uncertain market. Even now when we are purchasing so largely from her she only takes about 8 per cent. of our productions, while we consume within our own borders the remaining 90 per cent. In other words, the workingmen of America furnish a market much more reliable, much more remunerative, and far larger than we obtain elsewhere. And yet for the sake of buying where we can buy cheapest we would destroy this sure market and impoverish our workingmen. Was ever such folly exhibited by sensible men? And those who propose this ruinous scheme claim to be political economists and statesmen. I am persuaded if Chancellor Oxenstein were here to-day he would find occasion to repeat his celebrated remark, "With what little wisdom this world is governed!" And would be astonished at the blindness of our publicists and statesmen.

Mr. Chairman, I venture to assert, without fear of contradiction, that 1,000 workingmen of the United States, with their families, furnish a better market for the disposition of the products of the factory, the farm, and the garden than 2,000, ay 3,000, of the working classes of Europe with their families furnish. Why? do you inquire. Because they wear better clothing and consume better and more food. They are better clothed and better fed. Contrast the European laborer with the American, and behold the difference! Who here would wish to see the American reduced to the condition of the European? Ah, how many burning tears will be poured out like rain; how many bright hopes go out in the darkness of an everlasting night! And yet, says the free-trade Democrat: "Oh, we must not heed the well-being of the laborer; we must buy where we can buy the cheapest, and if the American workman can not work as cheaply as his European brother, why, then, he must go at something else—that is all." Sir, that is not all; we must be influenced by a wiser political economy than that. At the risk of not buying where we can buy the cheapest, we must, by wise legislation, develop our material resources, foster our manufacturing interests, furnish employment to our working classes at remunerative prices, and practically make ourselves independent of the whole world.

Mr. Chairman, if the Southern States had acted wisely years ago, and encouraged the development of their mines of iron and coal and salt—if they had invited capital to come within their borders and erect furnaces, founderies, and factories, the result of the late struggle might have been far different from what it was. Fortunately wisdom did not characterize the counsels of their leaders. Brave, chivalrous, energetic, they could not fashion for themselves the material of war, and consequently were compelled to succumb to those whom they had affected to despise as "greasy mechanics," "mudsills of society," &c. Fortunate for the North, ay, fortunate for the South, yes, fortunate for the whole country, unwise counsels had prevailed, and the South, practically heeding the teachings of free trade, that the raw material must alone be produced upon its sunny fields, while the working of it up must be intrusted to Northern or European hands, were powerless to help themselves in the hour of their direst need.

It is surprising our Southern brethren can not see in what direction their true interests lie. With such immense, inexhaustible natural resources, with a mild climate, a rich soil, capable of producing all the grains and fruits of the temperate zone with those of the torrid zone, there is no reason why the South should not be the most prosperous, the most populous, and the richest portion of our country, in a comparatively short space of time, except for the short-sighted policy of its statesmen and leaders, who still cling with great tenacity to the policies which characterized its people prior to the great rebellion. It may so become. It will, however, require a new generation of people, with new leaders and enlightened statesmen to emancipate that section from the political and economic heresies which have retarded its growth and brought it almost to the verge of ruin. Then a new South will spring up, Phenix-like, from the ashes of the old, and like a young giant stride rapidly forward in a wise and prudent course, until in time it shall become the great, populous, and rich country it is designed by nature finally to become. The people of the North will regard with admiration, interest, and affection this wondrous change, and will assist in it by their wealth, and by sending them their most enterprising citizens and their most industrious and skillful workingmen.

Mr. Chairman, before closing I wish to call the attention of the committee to one more item in this schedule, which has received most thorough consideration from both sides of this House. I refer to cotton-ties. I have been surprised at some of the statements made by gentlemen of free-trade proclivities, which have satisfied me they are not as well informed as they might have been upon this subject. For instance, the gentleman from Texas [Mr. MILLS] stated this duty was imposed for the benefit of a half dozen manufacturers who employ only about two hundred and fifty workingmen. This may be the exact truth at this time. I neither affirm or deny; but admitting it to be true, how long does the

gentleman suppose it will be, should we impose a protective duty, before mills will be erected or put into operation with the capacity to manufacture all the cotton-ties that the South may need?

Why, sir, let me state one single incident. Before that strangely singular decision of the Treasury Department, confirmed afterward by the courts presided over by lawyers and not by practical business men, by which hoop-iron cut into lengths was held to be no longer hoop-iron, subject to the specific duty which is now imposed upon that article, but one of the unenumerated articles, subject only to the ad valorem duty of 35 per cent., a number of capitalists of my city, Ironton, erected a mill for the express purpose of manufacturing cotton-ties. They gave employment to many iron-workers and made thousands of tons annually. That unfortunate decision was made. They could not sufficiently reduce the wages of their employés, and consequently they were compelled to close up, dampen down their fires, dismiss their workingmen, and to-day that mill is idle. Impose protective duties and in less than sixty-days it will be in active operation, furnishing employment to a large number of persons. And what is true of my own city is true also of other iron centers. Sir, I hazard nothing in saying that in less than six months there will be cotton-tie mills in operation sufficient to produce an active and healthy home competition that will reduce the price of that article to the lowest limit consistent with a successful prosecution of the business.

Now, who pays for these cotton-ties? The manufacturer? Nay, verily; it is the consumer. Why, sir, my colleague, Major MCKINLEY, has demonstrated this fact by the most incontrovertible testimony. He shows that the planters sell these ties at the same price they do their cotton, and while they pay 3 to 4 cents per pound for the ties they sell them at, say, 10 cents per pound; it seems to me that it is a little cheeky, to say the least, for them to complain of the small duty which it is proposed to impose in order, to enable our workingmen to manufacture them in our own country, when they are making about 300 per cent. in buying and selling. But if this were not so, how much additional cost does it impose upon the planter? My colleague [Mr. TOWNSEND] says about 1 cent per bale of cotton. Now, is this not a terrible burden, one grievous to be borne? For the sake of saving this sum of 1 cent per bale our Southern free-trade friends, aided by their Northern allies, would destroy the cotton-tie manufacture in this country and depend upon Great Britain for our entire supply. Was there ever such short-sighted policy as this; such supreme folly?

Mr. Chairman, the principles involved in this bill of protection and free trade, interesting and practical as they are to our entire people, have been so often and so thoroughly discussed that I cannot hope to add anything new. I have only desired to bear my testimony, to the substantial advantages and benefits to be derived from the protective system, based upon an experience of fifty years, in which I have given some consideration and study to this important subject. I have satisfied myself that the prosperity of not only our wage-workers, but of every class of our people is enhanced when prices are such as to furnish fair wages for a full day's work, and that in reference to labor the maxim of "buying where we can buy the cheapest" is most pernicious and destructive.

Our workingmen must be well fed, well clothed, and comfortably housed. Their children must be educated so as to be enabled to discharge intelligently their duties as free citizens of this great and mighty Republic, and it is not only wise but absolutely necessary we should give them employment at remunerative wages, instead of going to Europe and employing the ill-paid laborers there, who are compelled to work for any price offered. We should welcome the poor and oppressed of every clime to come to America and help us to work out the glorious destiny which is in store for us, if we are only true to ourselves, true to the teachings of experience, and are controlled by that enlightened selfishness which makes us seek our own good in preference to the good of other nations.

In short, Mr. Chairman, if we are capable of learning anything, we should have learned that until there is an equality of wages the world over we can not adopt free trade as a correct system of public policy in our dealings with sister nations, unless we are willing to make them prosperous at our expense and build up their manufactures of wool, iron, and clay at the tremendous sacrifice of our own.

Mr. Chairman, one consideration more and I will no longer occupy the attention of the committee. We are compelled to raise from duties upon imports about the sum of $250,000,000 annually, or else we must collect that sum by direct taxation. There is not a member upon this floor who represents an intelligent, reflecting constituency who would dare to propose the latter method of collecting the revenues necessary for the purposes of Government. Now, how shall we levy the duties so as to produce this sum and at the same time not make them unnecessarily burdensome upon the people. If we had a uniform ad valorem duty upon all imports the rate would be about 50 per cent. This would afford protection to most of our manufactures, ample and sufficient, and is considerably above the duties fixed by the committee upon manufactures of iron, the most important, extensive, and varied of all employments in the United States. The free-trade Democrat, or, as he prefers to be called, the revenue reformer, says, levy the duties for revenue only; it is a wrong upon the consumer to make them protective in their character. This would compel us to tax coffees, teas, and such other articles as are not, and can not be, produced in this country, while we must admit substantially duty-free articles we can manufacture, because the imposition of a duty necessarily affords protection. The doctrine of the Republican party is directly the contrary of this. We would levy duties upon those articles for the production of which we have the natural facilities in the climate, soil, and productions of the country, and we would admit duty free, or with low duties, such articles as we can not produce or manufacture. Which is the wisest statesmanship?

Sir, the Republican party took possession of the Government in all its branches in March, 1861. I will not state the condition of the country at that time. I will only state that financial ruin stared all our business men in the face, and stagnation and general depression in business characterized every industrial enterprise; wages were very low and the workingman of the country vainly sought employment in any labor that would "keep the wolf from the door" and prevent his wife and children from starving. Now, after twenty-two years of Republican ascendency, mark the contrast!

I will close what I have to say by quoting from the remarks of the honorable gentleman from Iowa [Mr. KASSON]. He expresses my views so much better than I can myself that I am sure he and the committee will pardon me for adopting them as my own. He said:

Sir, I am for protection in the sense in which I have spoken, because I am for maintaining two things, the independence of my country for its necessary supplies, its independence of foreign countries and foreign control, and also because I am for giving bread and shelter and clothing to the poor men in the United States of America who depend upon their daily labor for their daily bread. And I can not do that if I allow by my action in legislation all the money earned in this country to go to the workshops of Europe for the supplies which we need and which we consume. I can not do it if I adopt a pure revenue standard which ignores utterly the question of the cost of our home materials and labor. When I force our manufactures to the alternative to perish or to reduce the wages of their labor, I take, in either case, that much of the bread from the mouths of my fellow-citizens who perform that labor. Sir, we have had these laborers before us. The commission had them also before it. If you ask why I take their statement instead of accepting the statements of free-trade orators on this floor, my answer is that I trust the man who has been employed in the workshops of Europe and is now employed in the workshops of America as a better witness of what concerns his welfare and his prosperity than the orator who maintains on this floor any theory resting on logic instead of facts. And they have been not only singly but in companies before the commission. We have heard them in the room of the Committee on Ways and Means. And when you tell me that the laborer's interest is to take off duties on account of his consumption instead of maintaining them on account of wages for his labor, I appeal from orators and professors to the laboring man himself.

If there be one certain duty of government recognized in every country of the globe which bears the stamp of civilization that duty is to take care of the interests of their own country and people and to provide work for poverty. It is a question of patriotism protecting labor, disguise it how you will.

I have seen the time, sir, when I thought it was mere stump oratory when we spoke of the pauper labor of Europe. I heard the term used satirically by my friend from Virginia [Mr. TUCKER] to-day. But, sir, when I know of my own knowledge the miserable wages that are paid in foreign countries; when I know of my own knowledge the miserable conditions of human existence that surround the laborer in many foreign countries; when I have seen his family without education, his children with scant clothing, and himself serf rather than free laborer, I see no wit in the satire. When the proposition is put to me to reverse that condition of things which makes his wages higher in this country than they are abroad, I resist; and I appeal alike to humanity and to statesmanship and to the experience of the nations of the world against any theory which involves the degradation of labor. Infinitely better for me and for my constituents that we accept increase of cost, if any there be, for the sake of the millions whose welfare and comfort in life are involved in your decision.

While this debate goes on to-day a million homes in the United States are as anxious over the solution of the question as if their inhabitants dwelt in palaces instead of humble rooms. We can not ignore it. I never wish to speak as a demagogue on this floor, let their votes go where they will. I affirm that our duty is to accept the universal testimony of all the organized laborers in the United States, which testimony confirms the fact that without the maintenance of duties which you may fairly call protective their condition will be degraded to that which many of them experienced in the old country and have so gladly found changed in this.

Tariff—Sumatra Tobacco—Restrictive Legislation a Necessity.

SPEECH

OF

HON. A. HERR SMITH,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 24, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. SMITH, of Pennsylvania, said:

Mr. CHAIRMAN: A few years ago some wealthy merchants in Amsterdam conceived the idea of cultivating tobacco on the Island of Sumatra, a dependency of Holland. A rich soil and genial climate, aided by the cheapest kind of cheap labor—cooly labor—made the experiment a complete success. In 1881 the crop yielded 82,356 bales, and official records show that there was imported into the United States of this tobacco, up to June 30, 1881, 200,602 pounds, and during the months of July, August, September, October, and November, 1882, 610,519 pounds.

These excessive importations naturally alarmed the American tobacco-grower. An examination of the Sumatra tobacco proved that it was

a new and peculiar variety. The leaf is oval in shape, soft and pliable as tissue paper, uniform in color, and being free from large stems is admirably adapted for cigar-wrappers. The American seed-leaf, as all know, is long and tapering, with heavy central and side stems. These, at an expense of at least from 10 to 12 cents per pound, have to be removed before the leaf can be used for wrapper purposes. The Sumatra leaf, on the contrary, is fit for a wrapper in its natural state. It is, moreover, agreed by cigar manufacturers that one pound of Sumatra will go as far as four pounds of seed-leaf.

In a letter dated December 23, 1882, addressed to Mr. Joseph Nimmo, Government statistician, E. Hoffman & Son, of New York, the recognized agents of the Amsterdam Sumatra tobacco brokers, say the "yielding qualities of Sumatra is four to one of our domestic tobacco, one pound covering as much as four pounds of our domestic leaf."

The Sumatra tobacco, Mr. Chairman, is worth in New York from 90 cents to $1.25 per pound, making an average of $1.07 per pound. Add to this 40 cents, the difference between 35 cents, the present duty, and 75 cents, the duty proposed by the Committee on Ways and Means, and we have $1.47 as the price of one pound of Sumatra. A pound of seed-leaf prepared for wrappers is worth 40 cents, but it takes four pounds to equal one pound of Sumatra, which would make the equivalent in seed-leaf cost $1.60, a difference of 13 cents in favor of its foreign competitor. It is evident, therefore, to protect our home-grown product, it is necessary to make the duty $1, as suggested, and this would only give the seed-leaf the benefit of 12 cents, a difference the Sumatra grower could easily overcome by advantage of cheap land and cheap labor.

Over seven thousand persons, Mr. Chairman, embracing growers and manufacturers of tobacco, from my district, by petition ask protection against this foreign product, the importation of which if not checked by restrictive legislation will certainly ere long entirely supersede the home-grown product. Already it has embarrassed dealers and growers and caused many failures. Even the agents of the Amsterdam house before mentioned, with a frankness that does them credit, say in the aforesaid letter—

> That the importation of Sumatra tobacco under the present duty of 35 cents per pound is working great evil to our producers or farmers is an indisputable fact, and the failures and losses in our trade verify this assertion.

The circular of Binger & Herschel, sworn tobacco brokers of Amsterdam, just issued and sent to their correspondents in the United States, and from which I now read, with equal frankness admits the losses which must follow to the American grower from these excessive importations, and concedes the propriety of legislative interference. Hear what they say:

> If the importations really increased in such proportions, everybody would of course understand that in a few years the American planters would be the loser by the falling off in the demand for several thousand cases of seed-leaf, and who would blame them if in that case they sought to get their interests protected by their government, in the form of an additional duty on the imports of Sumatra tobacco.

But we need not go abroad for instruction. The American people understand their rights and know how to protect their interests, and the legislator who presumes upon their ignorance will learn, to his sorrow, that he has made a fatal mistake.

The tobacco industry, Mr. Chairman, in my district has become a specialty. The seed-leaf, which originally came from Connecticut—and I like it none the less because first grown on New England soil—has been either from our soil or our climate or both combined greatly improved by the change of locality. From nothing within a few years past our tobacco crop has grown to be worth annually from two to three million dollars. My city, Lancaster, is annually, in the spring of the year, a great tobacco mart, crowded with buyers from all parts of our country, from New York to California. It is estimated that the capital invested in my county in necessary tobacco buildings, &c., exclusive of land amounts to $2,200,000—thus: tobacco barns, $1,500,000; tobacco warehouses, $600,000; tobacco wagons, laths, &c., $100,000.

From the report of the State agricultural department it appears that the acreage of tobacco in my county is 16,992.

Official records show that there are now in the county 478 cigar manufactories in operation, employing 2,868 persons, who made during the last year 115,719,650 cigars, on which there was paid into the United States Treasury a revenue tax of $694,317.95, and in the whole revenue district, made up of the counties of Lancaster, York, Cumberland, and Perry, on cigars, $1,256,803.10. By way of parenthesis, and for the information of my friend Mr. CHAPMAN, of Maryland, I may state that by our method of cultivating tobacco we do not exhaust the soil. Quite the contrary. The crop that by rotation succeeds tobacco is usually better, and a comparison of the census reports for 1870 and 1880 proves that our great staples have not been neglected. The following shows the cereals in Lancaster County for 1870 and 1880:

	1870.	1880.
	Bushels.	*Bushels.*
Wheat	2,097,413	1,929,767
Rye	88,245	77,818
Oats	1,943,577	1,412,694
Corn	2,830,825	3,293,292

From the above it appears that, except corn, the production of wheat, oats, and rye has not been increased during the last decade, but we bear this loss quite philosophically in view of the fact that we have made a gain of 21,253,742 pounds in tobacco, the crop of 1870 only having yielded 2,692,584 pounds.

But I urge this additional duty also in the interests of my State. Out of sixty-seven counties in the State, sixty-four are engaged more or less in the cultivation of tobacco. The crop in the State for 1882 is estimated at 28,750,000 pounds, and its value at $3,450,000. For the year ending December 31, 1881, there were in the State 3,956 cigar factories in operation, in which were made 555,949,256 cigars.

But this industry is not local but eminently national. While Pennsylvania, Connecticut, New York, and Wisconsin are mainly growers of the seed-leaf, all the States use more or less of the same in the manufacture of cigars. From the last census it appears there were in the United States in 1879, 638,841 acres in tobacco, which yielded 472,661,157 pounds. Pennsylvania had 27,566 acres, yielding 36,943,272 pounds; Connecticut, 8,666 acres, yielding 14,044,652 pounds; New York, 4,937 acres, yielding 6,481,431 pounds; Wisconsin, 8,810 acres, yielding 10,608,423 pounds.

The following table shows the number of factories in each State and Territory and that nearly 3,000,000,000 cigars have been made in the United States in 1881:

States and Territories.	Factories.	Cigars manufactured.
Alabama	32	1,340,375
Arizona	2	39,900
Arkansas	15	1,508,005
California	239	137,786,645
Colorado	36	1,232,545
Connecticut	299	28,019,668
Dakota	15	621,400
Delaware	45	5,135,347
Florida	133	32,377,394
Georgia	34	2,685,000
Illinois	1,011	136,517,375
Indiana	413	47,800,483
Iowa	273	35,218,571
Kansas	109	12,138,504
Kentucky	233	32,163,901
Louisiana	168	36,057,739
Maine	56	3,960,379
Maryland	717	84,153,523
Massachusetts	540	69,436,311
Michigan	496	78,874,236
Minnesota	107	16,850,826
Mississippi	3	42,100
Missouri	563	59,366,903
Montana	1	3,850
Nebraska	68	5,902,089
Nevada	1	18,050
New Hampshire	45	3,085,345
New Jersey	727	56,468,796
New Mexico	1	13,550
New York	3,970	953,034,334
North Carolina	26	1,573,820
Ohio	1,479	262,028,017
Oregon	9	584,080
Pennsylvania	3,956	555,949,256
Rhode Island	72	8,335,138
South Carolina	19	1,370,252
Tennessee	33	3,167,240
Texas	54	4,672,603
Utah	2	225,250
Vermont	16	2,380,403
Virginia	132	22,669,343
Washington	1	100,260
West Virginia	111	37,749,885
Wisconsin	376	63,174,008

The capital employed in the cigar industry in the United States is $22,787,891; the average number of hands employed, 54,831; the total amount paid in wages during the year, $18,635,433; value of material, $30,987,335; and value of the products, $65,877,110.

I have made no estimate of the number of laborers engaged in cultivating the leaf-tobacco in the United States, but I believe it safe to affirm that there are 10,000 persons engaged in cultivating the leaf in my district.

The tax paid into the United States Treasury on tobacco amounts to $47,391,988.91, of which in round numbers $18,000,000 comes from cigars. From 1862 to 1882, as I learn from a speech of my friend Mr. TURNER, of Kentucky, there was paid into the United States Treasury, as a tax on tobacco, $589,750,447.04.

Nor will this duty interfere with the importation of Havana tobacco, as it is used chiefly as a filler. There is no conflict between it and the seed-leaf wrapper. Unless, however, the seed-leaf wrapper is protected the Sumatra would supersede it, and in that event our tobacco-growers would be entirely at the mercy of foreign capitalists, who could then control both Cuba and Sumatra; for our farmers can not possibly grow tobacco for the sake of furnishing fillers.

Mr. Chairman, local, State, and national interests therefore unite in demanding protection for this valuable industry, the revenue from which has contributed so materially to make us among the nations of the world the first in financial credit.

In place of brilliant metaphors and rounded periods I have furnished

facts and figures, as more conclusive to support the position advocated. Our duty therefore under these circumstances is plain. We must check these excessive importations unless we are ready to witness the destruction of this national industry, and with it, as a consequence, the ruin of thousands of our farmers and laborers, and the loss to the national Treasury of many millions of dollars in the shape of internal revenue. To avoid these dire consequences we must grant the relief so earnestly demanded and grant it promptly, so that we may not give point, by our conduct, to the proverbial folly of locking the stable after the horse is stolen.

But, Mr. Chairman, it is said there is a lion in the way. Our legislation may provoke retaliation. There is no foundation for this fear. Nothing of the kind has been threatened, and from the extract already cited in the Amsterdam circular, our action is anticipated and commended. If any party has cause to complain, Mr. Chairman, it is the United States. When the duty of 35 cents per pound was imposed this Sumatra product was unknown. If it were in all essential qualities like other tobacco the duty would be regulated accordingly, but as it is an entirely new variety—one pound being equal to four pounds of domestic seed-leaf—the duty, to be protective, must be discriminatingly increased. To now subject this new product only to this old duty would be a fraud both upon the United States and the American seed-leaf grower.

Let us do our full duty and not allow ourselves to be frightened by this *bête noire*, ever ready to spring upon Congress when protection is sought for American industries and American workingmen.

In this effort it is true we are protecting a luxury, but a luxury opposed to a foreign luxury. It is home against cheap foreign labor, individual enterprise against foreign monopolies. In a word, Mr. Chairman, in this struggle for life I am now, as heretofore and always, for our own products, our own industries, our own people, and for all lawful measures necessary to protect the same against domestic or foreign foes.

The Signal Service.

SPEECH

OF

HON. EZRA B. TAYLOR,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 10, 1883,

On the bill (H. R. 7190) fixing and defining the duties of the Signal Service.

Mr. EZRA B. TAYLOR said:

Mr. SPEAKER: The question of transferring the Signal Service from the War Department to the Department of the Interior has, *per se*, interested me but little, though in my judgment economy and efficiency require it to remain where it now is.

Had the discussion involved only the questions properly belonging to the subject I should have remained silent, but the speech of the honorable gentleman from Pennsylvania [Mr. BELTZHOOVER] was of a character so extraordinary, containing statements concerning the workings of the Signal Service Bureau so incorrect and unfounded, and charges against the Chief Signal Officer so cruelly unjust and so absolutely untrue that I feel called upon to say a few words in reply. I do not charge the honorable gentleman with any intentional injustice or knowledge of the incorrectness of any of the statements concerning the bureau or the chief officer.

Still, the charges made against General Hazen are so foreign to any proper discussion of the bill he was advocating and so utterly unconnected with any necessary consideration of the subject that one can hardly refrain from believing that a personal object actuated the gentleman in making use of the language he employed.

The facts to which I shall allude touching the operations of the Weather Bureau I get from its reports and publications, its records, and the data on file in the office and those connected with the chief officer. His character and achievements are taken from the history of the country, open to all readers.

I may be permitted, however, Mr. Speaker, to say that my personal acquaintance with General Hazen began with his early boyhood and has continued till now; that for some of that time he and I were on relations of closest daily intimacy, and that during all that time I had personal means of knowing what he did and of what stuff he was made.

To me charges against him, from whatever quarter they may come, importing dishonorable conduct or motives are defamatory and slanderous, because I think I know him incapable of such conduct or motives. He is not only my constituent, but I am proud to regard him also my friend.

The honorable gentleman from Pennsylvania [Mr. BELTZHOOVER] in speaking of General Hazen in his speech in the House uses the following language:

> I neither sought nor want a quarrel with this military martinet, who is universally despised and loathed by every respectable soldier in the country; this general without a battle; this commander without a history; this soldier who compromised the charge of base and ignoble cowardice and struts upon the stage and wears the muniments of war shorn of all that makes it honorable or justifies a soldier's life.

Precisely how the general wears the "muniments" of war we are not told, nor yet just what the "muniments of war are."

It is doubtless very naughty for him to wear such things, especially as they are, or the general is (it is hard to say which), "shorn of all that makes it honorable or justifies a soldier's life."

My incapacity to understand the moral guilt alleged in this part of the paragraph precludes me from making any defense; but I wish to express my regret that General Hazen persists, if he does, in wearing anything that is not in good taste.

The charge made that General Hazen is universally despised and loathed by every respectable soldier in the country is a broad, frantic statement that needs no denial. That he compromised the charge of base and ignoble cowardice I deny in its length and breadth. As to the charge that he is a general without a battle, a commander without a history, I call upon the records of the country to decide between the gentleman from Pennsylvania and myself.

Who, then, is General Hazen? And what has he done for the country?

He was graduated at West Point in June, 1855, was appointed brevet second-lieutenant in the Fourth Infantry, and joined his regiment then serving on the Pacific coast. He served through the Indian war raging that year in Oregon, and was made second-lieutenant in the Eighth Infantry, and for the next two years was engaged almost constantly on the plains of Western Texas and New Mexico against maurading Indians, and was four times complimented in general orders from headquarters of the Army for bravery and good conduct.

On the 3d day of November, while in a hand-to-hand conflict with a Comanche chief during an engagement, he received a severe wound through his left hand and right side. The rifle bullet making the wound still remains in the muscles of his back. At the instant of receiving his wound he dispatched his antagonist.

He was presented with a sword by the people of Texas in recognition of his services. In 1860 he was brevetted as first lieutenant for gallant services in Texas, and in 1861 was promoted to a full first lieutenancy. In May following he received the appointment of captain.

On the breaking out of the war he was appointed colonel of the Forty-first Ohio Volunteer Infantry, and on the 6th of January, 1862, to the command of the nineteenth brigade of the Army of the Ohio. He was hotly engaged at Pittsburgh Landing, where he led his brigade in a successful charge; he fought at Perryville, and at Murfreesborough he received and repulsed four well-conducted assaults and held the position behind which the army reformed; he fought at Readyville; also both days at Chickamauga, on which occasion his was the last organized command to leave the field.

At 2 o'clock a. m. on the 27th day of October, with 1,300 picked men in fifty-two boats, he floated past Lookout Mountain along seven miles of the rebel picket-line, landed at Brown's Ferry at about 5 o'clock a. m., and surprised a rebel picket-post and seized a ridge of hills. The Richmond press, referring to the affair, said:

> By the admirably executed *coup* on the morning of the 27th of October at Brown's Ferry the confederacy loses the fruits of the battle of Chickamauga. The occupation of Chattanooga by the Federal Army is no longer problematical.

General Hazen's brigade was among the first to reach the crest of Mission Ridge, and captured eighteen pieces of artillery and hundreds of prisoners. On reaching the summit General Hazen in person gathered four or five hundred men from the fragments of several regiments and cleared the crest of the masses of the enemy gathered about Bragg's headquarters.

Hazen's brigade, with other troops, went to the relief of Knoxille, and afterwards fought in the Atlanta campaign at Pocky Pass Ridge, Resaca, Pickett's Mills, and Jonesborough, and he was engaged almost daily till the 17th of August. He marched from Atlanta to the sea, captured Fort McAllister with his division alone, and fought and marched from Savannah to Goldsborough. General Hazen has been under hostile fire more than one hundred times. He was made major-general to date from the capture of Fort McAllister. A historian says of him:

> So long as Stone River, Chickamauga, Brown's Ferry, Orchard Knob, Mission Ridge, Atlanta, and McAllister are remembered—and can they ever be forgotten?—the memory of General Hazen will be preserved and cherished.

This is the record of a Union soldier who is stigmatized as a "general without a battle, a commander without a history," by the gentleman from Pennsylvania.

I now proceed to consider topics more legitimately belonging to this discussion, concerning which we shall find abundant inaccuracies of statement on the part of the gentleman from Pennsylvania.

The attack on the Signal Service is made up from untruthful statements first printed anonymously. The gentleman has been deceived, whether willingly or unwillingly he alone knows. At any rate, he has made no investigation of the subject of which he speaks so confidently. He has taken his information from persons who are discredited at the outset, because they are the cowardly writers of anonymous articles, and the purloiners of private letters. He has not tried to find the truth, but has been content to ally himself with a disgraceful association composed mainly of defamers.

Hardly one pretended fact in the gentleman's speech is true. He says: "Civilians do all the important work of the bureau now, and must of necessity continue to do it." This is not true. All those who make weather predictions for the bureau are officers of the Army, and all who take observations on which predictions are based are soldiers. There are twenty-three officers and five hundred enlisted men in the corps. With the exception of a few who are necessarily engaged in the management of property, and in clerical labor, all these are engaged in scientific work. There are only six civilians who work at the scientific problems of the bureau. But they do not make weather predictions; they study the data collected by the observers and endeavor to deduce general laws from the facts that the weather observers have added to the world's knowledge.

He says that there are more than four hundred civilians now employed, directly or indirectly, by the Signal Service. As a matter of fact, a large proportion of these civilian employés are engaged in services that occupy but very few minutes a day. Of the four hundred referred to, eighty-eight receive 25 cents a day, and one hundred and twenty-five 20 cents a day. They are river and cotton-belt observers.

The gentleman wonders why the observers should be in the Army if it is necessary to secure the services of men who are more intelligent than those found in the line. There are two reasons why better men will enlist in the Signal Corps than in the line of the Army; one is that they receive a certain amount of scientific instruction in the corps, and another is that it is the only military service in the country in which enlisted men must receive commissions every year.

The gentleman from Pennsylvania, who is constantly giving amusing as well as annoying illustrations of his ignorance of the Weather Service and its work, grows eloquent over the question of having civilian weather observers. A few of his sentences, taken here and there, will illustrate how fatal a gift is beauty of speech when joined with misinformation and malice:

> This (meteorology) is one of the great unexplored sciences, the outer boundaries of which have barely been touched by scientists. To ever understand the mysteries of weather nature must be watched long and faithfully in all her fitful, varying moods. Spies must be set upon her daily action, who will follow and shadow her for long years and glean from her the secret lines which after patient watching it is supposed she will be found to follow.
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> * * * * * * *
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> The mysteries of nature never have been and never will be unveiled by those who are sent to their work like dumb driven cattle. There are thousands of men competent and anxious and willing to undertake the work of the Weather Bureau at the same compensation now paid who will work for the love of science, will watch nature in her marvelous moods because they earnestly desire to know her secrets.

This is all so pretty that it is painful to be obliged to reveal its untruth. The enlisted men of the Signal Corps are merely intelligent young men who can read correctly their barometers and dry and wet bulb thermometers, and ascertain the force and direction of winds, and who can then telegraph or signal the result in cipher. There are not, notwithstanding the assertion already quoted, thousands of men competent and willing to do the work of the Weather Bureau for the compensation now paid to the enlisted men. The argument made in behalf of retaining the bureau in the Army, which has been prepared by General Hazen, to which the gentleman has alluded, is as follows:

> The first question that arises is: Is it best that the corps should remain part of the Army? It is now a military organization, and has been successful in its practical meteorological work. Before its organization shall be changed and the corps made a civil bureau, Congress ought to be assured that the same work can be done better and cheaper by civilians.
>
> The service can not be properly maintained without a military organization.
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> The course of instruction at Fort Myer has been arranged and perfected under the best meteorological authorities in the country. The corps has an established school for the instruction of men who are to become observers and of the officers who are to make predictions. In order to make a civil bureau successful the Government would be obliged to establish and maintain a school under civil authority. There would, of course, be no difficulty experienced in obtaining students for the meteorological course. The difficulty would be to retain the services of those who had finished it, and who had thus become fitted for the work of observation. One of the advantages of the enlistment of the men who are taught at Fort Myer is that they are compelled to serve the Government in return for their instruction.
>
> Practical meteorology is taught nowhere except at Fort Myer. For years to come it must continue to be taught at the Government school and for the purpose of the Government weather service. Will the Government consent to give up the hold on the men whom it educates and which it has only through their enlistment? It would be absolutely impossible to maintain the service by trusting to volunteers from the men it had instructed. It is one thing to secure uneducated men to promise to serve on weather work in return for the education they are to receive, and quite another thing to secure the same men for practical weather work after their commercial value has been added to at Fort Myer. Under a civil organization at least double the number of men would have to be instructed and at more than double the expense. Civilian instructors would take the place of officers of the Army; and at present there are no civilian instructors to be obtained who can compare with the officers who have been trained by long experience in the service; in fact, it is doubtful if there are any civilians, except a few now connected with the corps, who are at all fitted to give instruction in practical meteorology.
>
> The men are sent on duty at stations immediately after finishing the course at Fort Myer. Here the implicit obedience of orders given by none but soldiers is essential to the successful conduct of the work of the Weather Bureau. In order to obtain proper data for weather predictions exposed stations must be occupied by young men to whom the Government has given a training that makes them valuable to business men and corporations. They have acquired methodical business habits, they are good telegraph operators, they have become good mathematicians. It is a fact that at present the Government holds out very little temptation to many of these men compared with the inducements offered by private corporations and persons. If the Weather Bureau were a civil organization the service would lose some of its most valuable men. This will be truer still when the school at Fort Myer is improved and the course advanced, as they must be before long, if the service is to grow with the growing demands of the country. During the last fiscal year seventy-nine enlisted men applied for discharge from the service, and twenty-eight of these gave as reasons for their applications that they wished to accept better or more lucrative positions in civil life, or that they were dissatisfied with their pay, or with the character of the work they are obliged to perform. If these men had been civilians they would have simply resigned. It is a fact that so long as the Government instructs its own observers, an important number of them must be compelled, by enlisting them into the Army, to render an equivalent for the education they have received. Human nature can not be changed, and stations on Pike's Peak and Mount Washington can not be made into attractive homes.
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> A list of a few of the signal stations which are necessarily maintained for the weather service, and a statement of their character, will be not unimportant. Pike's Peak station is 14,150 feet high, and the air is so rarefied that of three men on duty there one must be constantly at Colorado Springs, at the base of the mountain. No man can be kept on duty more than two months at a time. Mount Washington is high and stormy. Three men are kept on duty constantly, and in winter they remain on top of the mountain all the time, except when they are obliged to descend for provisions, and the descent and return are often very dangerous. More than once men have been lost in storms for hours at a time. The maintenance of these two stations and of the exposed stations in Alaska is necessary for the study of meteorological phenomena. At Mount Washington and Pike's Peak the study is necessary for the comparison of atmospheric changes at high elevations with those at the base of the mountains.
>
> Life at other stations is full of hardships, but the station must be maintained if the weather service is to continue. At Pioche, Nevada, for example, the cost of living is very great, and wages are proportionally high. Common laborers receive $4 a day, but the Government pays its sergeants only about $2.50 a day, and its privates about $2. The men must pay their living expenses from this inadequate sum. Winnemucca, Nevada, is another place where the cost of living is very great. On the Atlantic seacoast, at Kittyhawk and Barnegat, the stations are on sand-bars, cut off from the mainland, and the men have often to risk their lives in trying to repair the telegraph lines that are blown down by the winds or broken by the seas.
>
> In the far Northwest, service on the military telegraph lines, where there are also stations for observation, is hard and dangerous. At all these stations the men must live alone, without society, often without communication with the outside world, and sometimes in danger of losing their lives. In contrast with the northern and mountain stations are some of the stations in Arizona and Texas, where in summer the thermometer sometimes registers 120° in the shade. These are but a few of the unpleasant stations which the service must maintain. The statement of the hardships attending duty at them indicates the difficulties that await the man who leaves the Government school to pay for his training with this work. It explains also the reason for the numerous applications for discharge, and it demonstrates the impossibility of properly maintaining such stations with men who are at liberty to leave the service at any moment.
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> It should also be borne in mind that the Government owns and operates 5,464 miles of telegraph line. Under the law the Chief Signal Officer has charge of these, because his men are telegraph operators and because this work for the Army keeps them expert in the art they must use in time of war. Their employment as observers simply adds to their existing duties and not to the cost of the Army. If the weather service is to be made a civil bureau, there must be another set of men employed as observers, the cost of whom will be in addition to and more than double that of the men now employed.
>
> It seems unnecessary to speak of the greater certainty of obtaining the necessary exactness through military discipline. Observations must be taken at precisely the same minute of Washington time, at 7 a. m., 3 p. m., and 11 p. m. Two additional observations—not for telegraphing, except in special cases—are also taken at the respective hours of 11 a. m. and 7 p. m., Washington mean time. A sixth observation, known as the sunset observation, is also taken at sunset. At cautionary-signal stations an observer is constantly on duty to receive orders and display signals. At river stations the depth of water is observed and reported by telegraph at a fixed hour each day. In cases of threatening storms or dangerous freshets observers make hourly reports, if necessary.
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> The data thus gathered are consolidated and entered upon forms which are forwarded monthly to the central office. At stations where the population warrants it data from other stations are received, exhibited upon public bulletins, and furnished to the press for publication. At boards of trade, chambers of commerce, and similar places large maps, on which the daily meteorological conditions throughout the country are shown by changeable symbols, are all displayed. Special bulletins, conveying warnings of storms, details of marine disasters, &c., are also publicly displayed as occasion may require. At stations on military telegraph lines the duties of telegraphing and the care of lines devolve upon the observers there stationed. All reports come to the office of the Chief Signal Officer. Here they are made of practical value. The co-operation of the navies of the United States, Great Britain, Sweden, and Portugal in the taking of meteorological observations adds largely to the data received.
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> The following is the number of daily reports of all kinds now received at the office of the Chief Signal Officer:

Daily Signal Service telegraphic reports	416
International simultaneous reports	492
Voluntary observers' reports	281
United States Army Medical Corps reports	76
Naval and marine reports	427
Total	1,692

> As every report is carefully studied, these figures give some idea of the labors of the force on duty at this office.
>
> Warnings against frosts are now given to tobacco and cotton growers, and it is expected that as soon as Congress shall provide the necessary means special warnings will be given to the grain-growers of the northwest. The means of giving warnings of the approach of "northers" to the cattle-raisers of Texas have been improved within the last year. From the character of all this work military men will see that military discipline is absolutely needed for it.
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> The fact, however, that stands out most prominently is that the service itself can not be maintained without a military organization, so that it becomes unnecessary to argue the question of comparative efficiency.
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> A few authorities in favor of a military organization may be of interest.
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> "A rigor less than that of military discipline would fail to insure the accuracy and strict obedience to orders which have been necessary." (Annual Report, Secretary of War, 1871, page 13.)
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> To the same effect see "Révue Scientifique de la France et de l'étranger," Paris, April 22, 1876, page 397. (See post, page —.)
>
> Opinion of M. De Verrier in "Notice sur le service Météorologique aux Etats-Unis," by M. Malézieux, Paris, 1873, page 5.
>
> In an address "Sur l'état actuel de la météorologique départmentale," delivered in 1876, at the annual meeting of the society of agriculture, sciences, letters and fine arts of the department of "Indre-et-Loir," M. de Tastes, speaking of the difference between the French and American services [the French being civilian], said: "Its [France's] army of observers is to that of America what the national guard is to the regular army. Figure to yourselves a general directed to dislodge an enemy from an important point, and delivering the following discourse to his soldiers: 'Gentlemen volunteers, will you be kind enough to take up your arms, and if you think well of it, try to drive the enemy from that position.' The attack badly directed and weakly executed fails. It is to begin

again; if the general complains the soldiers threaten to desert, and address him with that terrible phrase beginning, 'If you are not satisfied,'—the rest varying according to the politeness and degree of education of the speaker. Here is where we are." (Address, page 16.)

Herr C. Jelineck, director of the Imperial Meteorological Institute of Vienna, said in 1874: "The progress of meteorological work in North America is such that its chief can point to the system with pride. The American organization has not only come to equal the older European systems with marvelous rapidity, but by reason of the large territory and liberal resources of the country, the strict military training of its observers, and the energy of its management, it has in many respects surpassed them."

In a "Vœu pour la réorganization de la météorologie Francaise," presented by the meteorological section of the "Congrès de Clermont-Fernand," of 1877, the military system of the United States and Algerian services is commended as the model on which that of France should be reorganized. (See post, page 8.)

The late Professor Henry, of the Smithsonian Institution, heartily approved of the resolution of 1870, giving the weather service in charge of the War Department, and willingly surrendered the great accumulation of material gathered by the institution for the practical weather work then about to be undertaken. (Smithsonian Report, 1870, pages 43, 44.)

The evils attending a service depending on civilians is well illustrated by the difficulties under which the British service has labored. It is with very great difficulty that exactness and punctuality in taking observations are obtained. (British Met. Rep., *passim.*)

The following extract from Nature, September 19, 1878, is both a tribute to the men of the service and a testimonial to the value of a military organization: "In the terrible panic which has seized the Southern States under the epidemic of yellow fever, we are glad to see that science has been pressed into service and stuck bravely to her post. Every one who can is flying for life, but it has been deemed advisable to retain the sergeants of the United States Signal Service at their posts, in order to keep up, for the use of medical men, regular observations of temperature, humidity, and other atmospheric phenomena, which may have any influence in the spread of disease."

The gentleman says:

It is conceded on all hands that a Canadian adventurer, unaided and alone, hits the weather oftener and infinitely better than our million and a half dollar shoulder-strapped and brass-buttoned concern.

The gentleman who uttered this forgot that a moment before he had said that "civilians do all the important work of the bureau." Which untruth will he stand by? For one statement is as untrue as the other. No one who is in a position to make concessions on this subject has ever made such a statement, and no one who is sufficiently informed to be heard about the Weather Service can truthfully make such an assertion. The fact is that all meteorologists know that the Weather Service of the United States is the best in the world.

The following, printed in the Western newspapers of the 11th of this month, is very pertinent:

The people of Southern Ohio thought the floods were over, in spite of the warning sent to them from the Signal Service Bureau at Washington, but last Wednesday the waters began to rise, thus fully illustrating the invaluable services which the Government department in question is rendering. It is worth more every fifteen seconds of the day to mankind than all the weather Isaiahs from now till kingdom come.

The men who make predictions now are those who have always made them, and the percentage of verifications has increased since 1871 from 60 to 88 per cent.

Many people judge of the success or non-success of weather predictions by the thunder showers in which they are caught. This is unjust, for predictions are made to warn the country against the approach of great storms. How much value the service is to commerce can best be shown from some tables that were carefully prepared a year or so ago.

The following table, compiled from the annual reports of the Secretary of the Treasury on the commerce and navigation of the United States, exhibits the losses to American vessels on the lakes, by years, for a period of four years prior to a display of cautionary signals at lake ports, and for two equal periods since then. While the tonnage on the lakes has been reduced during these twelve years from various causes, chief of which is the diversion of freight by the railways, it is also true that disasters have been much more carefully reported since 1874 than before that year, until at present all, of whatever character, and the resulting losses, even when trifling, are now reported. Had this been the case during the earlier period, the aggregate of losses would be shown to have been greater. The table, however, is sufficiently instructive, and shows the astonishing facts that while prior to the establishment of the cautionary-signal system the loss to vessels was at the rate of $2.43 per ton, it decreased during the next period, and while the system was imperfect, to $1.46 per ton, and during the last period to $1.15 per ton, showing a saving in value of vessels alone as between the first and last periods of nearly $1,000,000 per annum!

TABLE No. 1.—*Table showing the tonnage of American vessels engaged in the commerce of the Great Lakes; the number of disasters (stranding, foundering, &c.) to American vessels and the total loss therefrom during the years* 1868 *to* 1879, *inclusive, with the loss per ton of the commerce engaged and the number of cautionary signal stations at lake ports.*

Year.	Tonnage of American vessels engaged in lake commerce.	Number of disasters by stranding, foundering, &c.	Total loss to vessels.	Loss per ton of the commerce engaged.	Number of display stations on the lakes.
1868	695,604	182	$1,227,858	$1 76	.....
1869	661,366	207	1,560,606	2 36	.....
1870	684,704	161	1,339,398	1 96	.....
1871	712,027	201	2,586,781	3 63	7
1872	724,493	236	1,238,087	1 71	13
1873	788,412	188	1,333,906	1 61	14
1874	842,381	70	1,191,868	1 41	15
1875	837,891	42	932,710	1 11	15
1876	613,111	88	1,217,833	1 98	15
1877	610,160	77	496,907	81	15
1878	604,656	117	643,385	1 06	44
1879	597,396	91	455,205	76	45

RECAPITULATION.

Period.	Aggregate.			Average annual loss per ton.	Average number of stations.
First four years	2,753,701	751	$6,714,643	$2 43	1.25
Second four years	3,193,177	535	4,696,571	1 47	14.25
Third four years	2,425,403	373	2,813,150	1 15	29.75

When it is remembered that the coasting trade of the United States is much greater than that of the lakes, it may with safety be asserted that the saving in vessels and cargoes on the great lakes and on the coasts, resulting from the present system of cautionary signals, is not less than $2,000,000 per year.

It is found that there is no record of data from which a table similar to that above given can be made showing in detail the losses before and since the exhibition of cautionary signals along the Atlantic and Gulf coasts, no official record of such disasters having been kept until recently.

Table No. 2, compiled from the annual reports of the Superintendent of the Life-Saving Service, shows that at the fifteen principal lake ports at which cautionary signal stations are established the disasters during the years 1868 to 1879, inclusive, decreased from eighty-nine during the four years preceding the exhibition of cautionary signals to forty-five during the last four years, when the system had become fully established.

TABLE No. 2.—*Table showing the number of disasters occurring to vessels at the principal lake ports where cautionary signals are displayed for the 4-year period prior to the complete establishment of the cautionary-signal system on the Great Lakes, during the last year of which cautionary-signal stations were first established, and the two 4-year periods subsequent thereto.*

Number.	Cautionary-signal stations.	First 4-year period.					Second 4-year period.					Third 4-year period.				
		1868.	1869.	1870.	1871.	Total.	1872.	1873.	1874.	1875.	Total.	1876.	1877.	1878.	1879.	Total.
1	Alpena, Michigan	2	0	0	0	2	0	0	2	0	2	0	0	0	0	0
2	Buffalo, New York	1	0	0	1	2	3	1	1	2	7	1	1	2	0	4
3	Chicago, Illinois	7	10	2	0	19	3	1	1	1	6	6	0	2	0	8
4	Cleveland, Ohio	2	3	2	5	12	1	0	3	1	5	2	0	1	0	3
5	Detroit, Michigan	1	6	1	0	8	0	0	0	1	1	0	0	0	0	0
6	Duluth, Minnesota	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0
7	Erie, Pennsylvania	2	2	2	3	9	3	2	0	2	7	1	0	1	0	2
8	Escanaba, Michigan	0	0	0	0	0	1	0	0	0	1	1	0	0	0	1
9	Grand Haven, Michigan	6	5	0	2	13	1	0	6	3	10	6	2	2	9	19
10	Marquette, Michigan	0	0	1	0	1	0	2	2	0	4	0	0	0	0	0
11	Milwaukee, Wisconsin	4	2	4	2	12	0	1	2	1	4	2	0	1	0	3
12	Oswego, New York	2	0	1	5	8	2	3	1	0	6	1	2	0	2	5
13	Port Huron, Michigan	0	2	1	0	3	0	0	0	0	0	0	0	0	0	0
14	Sandusky, Ohio	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15	Toledo, Ohio	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0
	Grand total	27	30	14	18	89	14	12	18	11	55	20	5	9	11	45

Probably the best, because the most recent, illustration of the advantages of the Signal Service to commerce is afforded by the history of the two very severe cyclones of last September and October. The first cyclone was felt by the signal officer in charge in Washington when it was still in the Gulf of Mexico, and before it was seen or felt by any one else on shore. Warnings were at once given to the Gulf ports, and signals were flying long before the breeze had freshened. The cyclone advanced around the western end of Cuba and struck Port Eads on the 8th of September. Its center traveled across the country in a northeasterly direction, the wind blowing from thirty to fifty-six miles an hour at all the South Atlantic ports. The storm-center left the country south of Norfolk on the 11th, and traveled with wonderful speed to Nova Scotia. Every Atlantic port was visited by its heavy wind, and at all except Eastport, Maine, the winds were dangerous. Every port had from two to three days' warning of the approach of the storm, and millions of dollars' worth of property was saved.

Speaking of this storm, the New York Maritime Register says:

> Owing to the work of the Signal Service timely warning was given of the approach of this cyclone, and to this fact alone may be attributed the comparatively small casualty list among the shipping on that occasion. In years past such a cyclone was generally accompanied by enormous loss of life and property, but thanks to the vigilance and good work of the Signal Service such a catastrophy can now be largely abated. * * * General Hazen certainly deserves the thanks of ship-owners and underwriters for what he has done for them, and the officers who have aided him in this, by their invaluable reports, show that they understand the full duties of their position. They are to be commended for their share in furthering this good cause. Without them the work could not go on. It is evident, however, to the most unobservant that were all, or nearly all, the officers of the merchant service engaged in this work, the data thus furnished to the Signal Service would be returned by it to shipping in a form which would make the navigation of the ocean far safer than it is at present.

The New York Herald of October 9, 1862, speaking of this storm, said:

> The statement published on Friday showing the large value of shipping along our Gulf and Atlantic coasts prevented from going to sea during the September cyclone by the Signal Service storm warnings strikingly illustrates the value of these warnings. The saving of life and property accomplished by a timely storm warning is never fully known, for those who profit by it are not careful to report the fact. * * * It is not difficult to see how, if the entire shipping on our seacoasts had acted in ignorance of the approach of the September hurricane or had had no forewarning of its existence, its intensity and the track it would probably pursue from its tropical birthplace to the higher latitudes, there might have been an actual loss of property worth many millions of dollars.

An attempt has been made to gather the statistics of the values of vessels and cargoes detained in port by the display of the signals of the service. Complete statistics, however, could not be obtained, because no one is charged with the duty of gathering them. At New York, Baltimore, and Philadelphia, for instance, the harbors are long, and, on the approach of a storm, vessels go as far down the bays and river as possible, anchoring in safe places, in order that they may take advantage of the clearing off-shore wind. There are, therefore, no statistics for these important points for this September cyclone, although at New York, undoubtedly, more large vessels were prevented from putting to sea than at any other two ports in the country. The statistics obtained for Boston Harbor are incomplete. The statistics from other points, however, show that property of the value of $6,500,000 was prevented from going to sea during the continuance of the storm.

The report of the observer at New York of the October cyclone is very interesting, although it was impossible for him to obtain statistics of the value of the property detained from going into the cyclone. One brig, two barks, and one hundred and forty schooners anchored at Hell Gate. These were mostly coasters, but $900,000 is a very low estimate of their value, without considering their cargoes. The larger vessels anchored in "the Narrows," and it is estimated that, besides several steamers, there were two hundred ships, barks, and brigs, and one hundred and fifty schooners, all worth at least from $8,000,000 to $10,000,000. The observer, who had the assistance of the secretary of the New York Maritime Association, estimates that many millions of property was saved from jeopardy by observing the warnings.

The experience of the September cyclone impelled ship-masters to pay unusual heed to the signals. The storm outside the harbor was of great severity. The captains of the Long Island Sound steamers report it "the severest on record;" they were compelled to seek harbor. Three coastwise steamers that put to sea were obliged to return to port, and the only sailing vessel, a brig, that sailed in disregard of the signals, between the 11th and 13th, was forced back. When the storm was over and the signals were lowered, so many vessels left the harbor together that people went to see them sail. The beautiful and unusual sight was described in the daily newspapers, the Telegram stating that fifteen steamers and two hundred sailing vessels passed through "the Narrows" on the 14th.

Property of the value of at least $30,000,000 is known to have remained in port in obedience to the warnings given of this storm.

These facts, that are but repetitions of the yearly history of the Signal Service, make a complete answer to the baseless statement of the gentleman from Pennsylvania.

The gentleman puts the cost of the Signal Service under civil management at not more than $500,000 a year. Here is simply another illustration of his misinformation. The cost of the service for the current year, leaving out the military establishment, is as follows:

Legislative bill	$45,520
Observations and report of storms	280,000

Here is a total of $325,520, without an estimate for salaries. On the calculation made by the gentleman from Pennsylvania, the five hundred men, the Chief, and all the experts under civil management are to receive less than $175,000, or less than $350 per annum each. It may be said that fewer men will do the work of the service. As a matter of fact there are too few men in the service. The work is delayed and the office is overburdened. Very few persons understand how the labors of this service have grown, and their growth is one of the evidences of its popularity.

In 1871 there were fifty-five stations; now there are two hundred and twenty. Ten years ago the reports from stations for three months were bound together in a single thin volume of 138 pages; now the reports for a single month fill two volumes of 1,197 larger pages. The correspondence of the office has greatly increased. Even within two years the communications sent from the office have increased from 31,390 to 69,996, and the letters received from 20,209 to 32,329. All this increase of labor devolves new work upon the property and disbursing division of this office also; yet there are fewer offices now than there have been for several years. Officers who are instructed meteorologists are compelled to neglect the duties for which they have been prepared to attend to administrative duties. Officers who are not instructed in meteorology are so occupied with the business of the corps that they can not devote any time to preparation for scientific work.

There are now only nineteen officers on duty where there were twenty-three in 1880 and twenty-eight in 1881. With this reduced number of officers the Chief Signal Officer has undertaken the additional task of giving special warnings against frosts to the cotton and tobacco-growers of the country, and of improving the methods of giving warnings against the approach of "northers" to the cattle-growers of Texas. The people of the country demand that the service shall advance, and these additions were made in obedience to the demand. Agriculturists and ship-masters have faith in the weather predictions and desire a more extensive application of the information received daily at the central office. The grain-growers of the Northwest are asking for special predictions, similar to those now furnished the cotton and tobacco regions.

More men are needed for the growing work, and the statement made by the gentleman from Pennsylvania that nine-tenths of the stations of the service can be profitably abandoned will be news to all who know anything of the subject on which he speaks. The merest tyro in this science knows that the fuller the data received the more accurate will be the predictions; and the truth is that there is hardly a day passes when the Chief Signal Officer is not asked to establish one or more new stations in addition to those which are now for the first time asserted to be too numerous.

The statements made by the gentleman about Fort Myer are untrue. It is not only a school of instruction, but it is the only school of meteorology in the country.

The gentleman asks what the computers at the office in Washington do? They do the theoretical scientific work. They make tables on which barometric pressures are reduced to a sea-level; the data gathered by the observers are studied here, and all this must be done by civilian computers, because there are not officers enough in the service to attend to more than the practical work of making predictions and summarizing the results.

The gentleman from Pennsylvanta charges that 2,000 francs were paid for what he calls a "literary fraud," published in a French paper entitled Nature. The gentleman probably refers to the most important English scientific periodical published. It is, however, untrue that 2,000 francs, or any sum of money, was ever paid for any article on this service in Nature, or in any French publication. The gentleman objects to enlisted men of the Signal Corps pursuing studies in meteorology at universities and colleges. He charges that General Hazen sends these young men to college, presumably at the expense of the Government. These men attend the universities and colleges at their own expense, and their studies are pursued during the intervals when they are not employed in the duties of the service. The gentleman says that there are 5,000 men in the Army who are better signal men than those in the Signal Corps. This is as untrue as it is absurd.

When the present Chief Signal Officer assumed charge, by the direction of the then Secretary of War he undertook to find out the author of a series of slanderous and insubordinate letters, written by some enlisted men of the corps and printed in the Sunday Capital.

This investigation led not only to the discovery of the author, but that he had many confederates among the men in the chief office. He learned now that a series of thefts of money had taken place. He caused the arrest and indictment of the thief and has done all in his power ever since to secure his trial.

He did more, he confined in the guard-house at Fort Myer the chief author of the Capital letters given him by the Secretary of War. These letters were in the last degree scandalous, false, and abusive of the Chief and other officers of the Signal Bureau, such as no man could for

a moment tolerate in his subordinate and expect decent administration. But before trial great pressure was brought to bear in favor of the person chiefly charged, who was a sergeant, Van Heusen, and upon his repeated denial of having any part in these writings he was restored to duty and again given a place of trust. The Chief Signal Officer especially endeavored to befriend him, doing for him whatever friendly office he could, even addressing him a note of regrets that he had arrested him. This letter he now flourishes as a proof of innocence.

Soon after this it was found that some person in the office was in the habit, at night, and at other times when officers were absent, of searching through desks of the Chief Signal Officer and others and abstracting papers and taking copies of others, and after careful and patient search it was discovered that Van Heusen was the person doing this.

This was not the mere taking a copy of a letter accidentally exposed, but a systematic course, extending through weeks. This fact was not only proven by detectives, but by employés of this office, and later by his own written letters. He was then discharged the service, but reemployed in the Pension Bureau, where he now is, and, as he has said, for the sole purpose of making this attack through the gentleman from Pennsylvania.

It can scarcely be doubted that he has been deceived in this man, as the officers of the Signal Service were after Van Heusen's first arrest.

The interview, published in the New York Times of the 11th, with the gentleman from Pennsylvania shows, by the perversion of all things there stated as facts, that he is a victim of Sergeant Van Heusen.

In that letter he does not rely upon other sources of information than those furnished by Van Heusen. The record of the letter is that of a man who while in the service was notorious as a writer and publisher of annonymous letters containing just enough misstatement regarding things that happened to give them the appearance of truths. He could never be caught until he wrote a letter to Representative HYATT SMITH, of New York, which was referred to by the gentleman from Pennsylvania. This letter embodied many of these misstatements, and an opportunity was sought to bring Van Heusen to trial for these before a general court-martial, and for a time Mr. SMITH's consent to the use of the letter was had.

But when Van Heusen found the letter was in the possession of the Chief Signal Officer, he begged Mr. SMITH to secure its return and to withdraw his consent to its use for the trial, on the ground that it was not intended to be seen at the office. The commonest courtesies required a full compliance with Mr. SMITH's request, and though charges were being drafted they were destroyed. The letter to Mr. SMITH solicited his assistance in connection with official matters, and is of such a character that it could not be regarded as other than an official letter.

The gentleman's assumption that there was any parallel between such a letter and the scrutiny and the theft of private letters from the desk of an officer who long and earnestly befriended Van Heusen only shows that he has been as grossly imposed upon as was the officer in the Signal Office.

The gentleman's frank avowal that he draws all his information from Van Heusen, therefore, would seem to show him to intend no wrong, but makes it perfectly clear that he is the victim of misplaced confidence.

The first part of this assault contains little besides extracts written and published in the Sunday Gazette during the past summer by Van Heusen, and the charges were mainly false. Particularly is this so in his charge that the "Signal Corps is run now exactly as it was under Howgate," and that it has not tried to secure Howgate's arrest and trial, and that it seeks to prevent an investigation, and it is difficult to see how he could make such a statement, since ample evidence to the contrary was in Congress, called for by his own resolution.

It is also an error in the statement that the Signal Service is always adding to its expenditures, for during the two years the present Chief Signal Officer has conducted it, after deducting the cost of the Arctic work, which was added by Congress, and which forms no part of the current expense of this bureau, there were spent for the year 1881 $134,000 less than in 1880, $176,000 less than in 1879, and for the year 1882, when fully 40 per cent. had been added to the work, there were spent $56,000 less than in 1880 and $98,000 less than in 1879.

The second part of this assault is composed of a set of stolen private letters furnished to the gentleman by the person already described.

Boards of trade and other mercantile associations of the country are, from the relation of this bureau to commerce and trade, closely associated with the Signal Service, they having in each a meteorological committee, which inspects and reports upon its station work, and in many other ways gives it valuable support and information. These stolen letters are the expressions of young men who, when on the duty of inspecting stations, are required to confer with these associations to learn their wishes regarding our service; and the statement in his attack that expense was incurred, except for the usual and necessary purpose of this inspection of stations, is not true.

These inspecting officers are required to report in writing as to the sense of these boards upon all subjects of special interest to them and the Signal Bureau. These are sometimes in the form of simple letters, and sometimes as formal resolutions. At the time referred to there was a hope of securing an independent organization, and that the Signal Service be relieved of the great embarrassment of being dependent upon details from regiments for officers, and it was to this subject that the special inquiries of the inspectors, after their regular inspections, chiefly referred.

The advisability of learning the wishes of those organizations upon the subject of a permanent continuance of the Signal Service was discussed with members of the Military Committee when the subject was first brought up, and was then approved. But these persons, hostile to the Signal Corps, always on the alert for something on which to hang a complaint, have represented that these officers were sent out to solicit these resolutions, and that money was spent for that purpose. This is unqualifiedly false. These tours were the ordinary ones which are of necessity made every year to secure and test with standard instruments accuracy of observations. They were made as all other tours are made, and not one cent was expended for the purpose stated.

With a few confederates this person who stole these letters has ever since been preparing this attack, and mutterings of its coming have been reaching the office of the Chief Signal Officer for many months, all the way from Boston to San Francisco, with the boast of the exact number and the names of the newspapers they had engaged to aid them.

From San Francisco the word came on the 11th of January that one of these discharged persons was preparing a case that "seemed very damaging," "paying money for lobbying" being alleged, and a dozen other charges equally false, and that he proposed to "send a copy to Congressman BELTZHOOVER."

On the 15th of January there came from Saint Louis similar warning. The communication goes on to say, referring to the few parties of this class still remaining in the chief office, "you are surrounded by persons who copy your private letters for certain purposes" (meaning for the uses here seen).

What was all this for? Because the present Chief Signal Officer found on assuming his office that there had been, and there was still in it, men who stole its money, and were trying through falsehood and disloyalty to steal and destroy its reputation, and for detecting and arresting the parties to this double villainy he is now arraigned in this House.

Since the arrest of Howgate, which was secured solely by the Signal Bureau, there has been no dishonesty there. There is now nothing in that bureau that any one in it is afraid for the whole world to know. The officers there did all in their power to bring Howgate to trial, with the direct object in addition to bringing him to punishment that the investigation would show the whole world that the office he had disgraced was purged of the obloquy he had brought upon it, and which the gentleman now states remains there.

A great deal is said in these attacks about Fort Myer; that officers there have cows and chickens and horses and flowers and gardens. So they have, and so have they at every military post in all countries, and the innuendo that it is here an abuse and wrong is not true.

Among the most recent acts of this man was his pretense to speak for the Signal Corps in a printed pamphlet, averring that the corps was dissatisfied with a military organization and that the Chief Signal Officer misrepresented them in saying that they preferred it. This was a falsehood and a forgery. Excepting half a dozen, out of a hundred and sixty men, there never was a more loyal body to their work and their chief than the men now in the Signal Corps. They voluntarily state their denunciation of this last-named falsehood in the following most marked and proper terms:

> We most emphatically deny the truth of the statements contained in the pamphlet entitled "An answer to General Hazen's circular criticising Secretary Lincoln's right and competency to judge what is the best interest of his Department."
>
> We also deny *in toto* that they represent our views and opinions. On the contrary, we declare them to be willful lies, and that the pamphlet assuming to give the views of the weather observers is a forgery, calculated to deceive and mislead, and is wholly false in the most minute particular.

The authors of this attack even falsely say the foregoing was secured by coercion, and is not spontaneous or genuine. The observers can speak for themselves.

I repeat that the gentleman from Pennsylvania is only the mouthpiece of those men, and has been deceived by them.

There is scarcely a sentence in his speech that is not recognized by any one who has watched these men as an old acquaintance transferred from some of the many abusive letters that have been published in the Sunday Gazette during the past season.

It matters not what the few supporters of General Stanley say, the old Army of the Cumberland says this is a base slander and falsehood.

The bringing into this attack the findings in the case of General Stanley, a matter that had no relation whatever to it, is an act that needs only an allusion here to show to any fair man its true character. In its general sense it was a falsehood as base and wrong as was ever perpetrated upon a man.

Suppression of Lotteries.

SPEECH

OF

HON. EDWARD W. ROBERTSON,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 23, 1883,

On the bill (H. R. 7563) for the more effectual suppressing and preventing of lotteries by prohibiting the transmission through the mails of publications containing lottery advertisements.

Mr. ROBERTSON said:

Mr. SPEAKER: The question of depriving lotteries the use of the mails is one of serious import to the good people of my State, as also to the law-abiding population of the whole country. Deprive the Louisiana State Lottery Company of the right to carry on its false and fraudulent schemes and devices to deceive and defraud the public as it is now doing every day through its monopoly of the United States mails, and it will be effectually crushed out of existence.

The people of Louisiana will no longer be cursed with the infamy of its debasing influence so notoriously exhibited in our legislative halls and elsewhere during the past three years. Forbid it to enter the United States mail and "its occupation's gone." It will die the death of all such gambling institutions, or, restricted to such narrow limits in its nefarious operations, it will cease to exercise its corrupting influence in politics. Through the connivance of the Postmaster-General in a plain, palpable violation of existing postal laws, which his predecessor enforced and was sustained by the courts, the Louisiana State Lottery Company now enjoys the exclusive privilege of the mails, while all other lotteries are prohibited. Before entering into a discussion on this particular point, it may be well to take a cursory glance of these institutions as they have previously existed in England and this country.

The history of lotteries as a measure of government finance is comparatively of modern origin. Menestrier, who wrote on this subject toward the close of the seventeenth century, ascribes to the Republic of Genoa the invidious distinction of first originating the institution as an adjunct of taxation of the masses. Certainly it spread with frightful rapidity, as we find it domesticated in France early in the sixteenth century, and with its usual concomitants, crime, misery, and poverty. From France it crossed the Channel to England, and the first drawing, it is said, took place at the west door of the cathedral of St. Paul, in London, about the middle of the sixteenth century. Maitland of Stowe informs us of the existence of three offices in the kingdom as early as 1569. It is a lamentable fact that the colonization of America was first attempted by the mother country through the means of these institutions. The earliest statute to be found on this subject was passed by the English Parliament, *temp.* Jac. I, for the purpose of the colonization of Virginia. To the honor of Massachusetts, before the close of the seventeenth century we meet with the proceedings at a meeting held at Boston in the last year of that century in which the ministers "denounce the lottery as a cheat and its agents as pillagers of the people."

The different sects of the Protestant religion have ever since, with singular unanimity, denounced this species of gambling, and though legislative sanctions, under the guise of public works and the pretense of fostering public education or the support of charitable institutions, have granted charters "to pillage the people," yet the influence of the better classes have always been thrown in the scale on the side of stifling such potent measures for the degradation and eventual ruin of the people.

As early as 1762 the Assembly of the Colony of Pennsylvania passed a law under severe penalties prohibiting any and all lotteries, and now in nearly every State in this Union that existed formerly as colonies under the Crown of Great Britain we find laws of similar import dating about or subsequent to that period. As this act of the Assembly, passed on the 17th day of February, 1762, was the beginning of subsequent legislation on the subject in the different States, I give it in full as the best exposition of the sentiments of our ancestors in expressing their abhorrence of this great adjunct in reducing the people all to the same dead level of wretchedness, pauperism, and crime:

An act for the more effectual suppressing and preventing of lotteries.

Whereas many mischievous and unlawful games, called lotteries, have been set up in this province, which tend to the manifest corruption of youth and the ruin and impoverishment of many poor families; and

Whereas such pernicious practices may not only give opportunities to evil-disposed persons to cheat and defraud the honest inhabitants of this province, but prove introductive of vice, idleness, and immorality, injurious to trade, commerce, and industry, and against the common good, welfare, and peace of this province: For remedy whereof, be it enacted, that—

1. SECTION 1. All lotteries whatsoever, whether public or private, are common and public nuisances, and against the common good and welfare of this province.

SEC. 2. No person or persons whatsoever shall publicly or privately set up, erect, make, exercise, keep open, show, or expose to be played at, drawn, or thrown at, any lottery, play, or device, or shall cause or procure the same to be done either by dice, lots, cards, balls, tickets, or any other manner or way whatsoever, and every person or persons that shall set up, erect, make, exercise, keep open, show, or expose to be played at, drawn, or thrown at, any such lottery, play, or device, or that shall cause or procure the same to be done, after the publication of this act, and shall be thereof legally convicted in any court of quarter sessions within the jurisdiction whereof the said offenses shall be committed, or in the supreme court if thereunto removed from any of the inferior courts, within this province, shall forfeit and pay the sum of £500 lawful money of Pennsylvania.

2. SEC. 3. All and every person and persons whatever that shall buy, sell, or expose to sale, or that shall advertise or cause to be advertised the sale of any ticket or tickets, or device whatsoever, in such lotteries, plays, or devices, or that shall be aiding, assisting, or in any wise concerned in managing, conducting, or carrying on such lotteries, plays, and devices, by whatsoever name the same may be called, and be legally convicted thereof in either of the courts aforesaid, shall forfeit and pay the sum of £20, lawful money of Pennsylvania, for every such offense.

3. SEC. 4. All and every person and persons whatsoever that shall within this province buy, sell, or expose to sale, or shall advertise, or cause to be advertised, the sale of any ticket or tickets, or other device whatsoever, in any lottery, play, or device whatsoever, which shall be hereafter set up, erected, made, exercised, kept open, shown, or exposed, to be drawn at, played at, or thrown at, in or at any place or places out of this province (State lotteries erected and licensed by the act of Parliament in Great Britain only excepted and foreprized), and be thereof legally convicted in manner aforesaid, shall forfeit and pay the sum of £20, lawful money of Pennsylvania, for every such offense.

SEC. 5. All the fines, forfeitures, and penalties hereby inflicted shall be paid to the overseers of the poor of the city, borough, or township, where any of the said offenses shall be committed.

A perusal of this act will show how our ancestors regarded this pest to all moral social obligations of the people. The proviso which saved from the general prohibition "all State lotteries enacted and licensed by act of Parliament in Great Britain" only shows the involuntary servitude in which the colonial assemblies were kept by the mother country.

These state lotteries continued in Great Britain down to the beginning of this century, when a combined attack was made in Parliament to prevail upon the government to discontinue this manner of raising a revenue. Though chancellor after chancellor of the exchequer fought to retain this mode of taxation which produced several millions sterling annually toward the budget, yet, by the efforts of Wilberforce, Canning, and Buxton in the House of Commons, and Lyttleton and Castlereagh before and after their elevation to the House of Peers, Eldon, Wellington, Peel, and their other opponents were silenced, and the last drawing took place in October, 1826, and this fruitful source of crime, poverty, and wretchedness was effectually suppressed, never again to rear its head in the territory of Great Britain. During this long contest it was clearly demonstrated that no greater enemy ever existed than lotteries to prevent the accumulation of wealth by the poorer and middle classes, and in every country where they exist savings-banks have always proved a failure. The night of the drawing of one lottery, capital prize £100,000, was signalized with over fifty suicides of unlucky purchasers of tickets.

The facts elicited by the examinations of the different committees of the House of Commons, taken at the solicitation of philanthropists deeply interested in putting an end to the crying evils engendered by lotteries, are almost incredible to any one but who has lived in scenes where the curse exists. The magistrate on the bench, the preacher in the pulpit, the guardian of the peace, the collector of the poor rates, the warden of the prison, the custodian of pledges pawned, were all with singular unanimity denunciatory of the frightful injury that came under their cognizance, and which affected all the different walks of life. It made bad husbands, bad wives, bad children, and bad servants, the most fruitful source of suicide, and hardly a day passed that one of its votaries did not hang himself or cut his throat from disappointment and impotent rage. Such was the testimony obtained from disinterested witnesses drawn from every class of life, and it was particularly noted that women and minors were the most easily tempted to invest their savings in this maelstrom in which honor and virtue was frequently wrecked.

One of the reports on this subject by a committee of the House of Commons thus closes:

Your committee are conscious that they are far from having exhausted the grounds which might be urged, that the lottery ought not to be resorted to as a financial resource. The reasoning upon them appears to your committee to apply with peculiar force to the situation, the habits, and all the circumstances of a great manufacturing and commercial nation, in which it must be dangerous in the highest degree to diffuse a spirit of speculation, whereby the mind is misled from those habits of continued industry which insure the acquisition of comfort and independence, to delusive dreams of sudden and enormous wealth, which most generally end in abject poverty and complete misery.

We now return to the history of lotteries in this country. In 1834 the Pennsylvania Society for the Suppression of Lotteries was formed at Philadelphia and issued an address to the people of Pennsylvania and the United States, and chiefly by its indefatigable and untiring efforts this species of gambling, with the exception of some few trifling enterprises for local improvements, was suppressed in every State of the Union when the late civil war was so unfortunately inaugurated in this country.

In a report of individual cases collected and published by this society in 1837, the following forms the introduction:

If a committee were appointed by each of the State Legislatures to ascertain from living witnesses the effects of lotteries within their respective jurisdictions a mass of private distress and public injury would be brought to light the magnitude of which it is difficult to conceive. We should witness the severance of the closest and dearest connections of life, the violation of the sacred vows of wedlock, and the disruption of the tender ties of consanguinity and nature. Woe would meet our gaze in the various forms of hopeless bankruptcy, cheerless and unmitigated penury, incurable intemperance and infamous vice. But it may be well for the reputation of the country that some of these dread consequences may still be concealed. The colors of the picture would be too somber—the scene, in its collected deformity, too hideous for exposure to the open day.

In attempting, therefore, a miniature sketch from private sources of the results which this engine of human misery and debasement has effected, we shall do all that is within our power in ranging and grouping together a few examples under appropriate heads.

Then follows several hundred cases under the heads of frauds, larcenies, robberies, embezzlements, fraudulent bankruptcies, intemperance, and suicide, and presenting the same sad features of private history that was brought to light in the investigations instituted by the British Parliament. The lottery speculator in both countries meets with the same sad fate:

He becomes poor by successive losses. His poverty leads him to petty villainies. He slowly proceeds from one impropriety to another, till at last his feelings become blunted and his reputation is tarnished. Low dissipation and idle phantasms of golden showers, from being long indulged, have so impaired his faculties and weakened his character as wholly to destroy his ability for any useful pursuit. He looks around for assistance, but the avenues are closed. He is in debt beyond the hope of extrication. His native energy is gone, and his respectability is wasted. Thus prepared for some reckless effort to repair his fortunes, where can he seek refuge but in the principles he has imbibed? What counsellors can he listen to but his desperation and necessities?

On this subject I can not withstand the temptation to quote the words of that eminent divine, Dr. Rankin, of this city, as delivered in a sermon recently on "the inability of the law:"

Good laws are easily made, but to enforce a good law requires good men, men in sympathy with it, men who will not wink at its violation. The laws in this District against gambling are openly infringed every day of the year.

* * * * * * *

There is nothing more destructive to habits of honest industry where a man earns his bread by square, solid labor, where for every day's work comes a day's pay, than any appeal to chance. Industry can pit itself against wages, but not against chance. The daily papers which advertise the great lotteries of the Southwest and South are doing an immense injury to the workingmen of this country. You get your $10,000 prize. It sets you on your feet. But do not be too exhilerated. Where does it come from? It comes from 1,000 men whose wives and children needed it for the comforts and blessings of daily life. Every one of those thousand expected that $10,000. Spend every dollar of it, as of course you intend to do, for benevolences and charities, you can not put it back where it belongs; you can not undo the harm which has been done to those 1,000 families. You can not undo the harm which has been done the morals of society.

An article on the "lottery business" appeared recently in an evening journal of this city, which gives but a faint idea of the extent of the evil as existing in the District of Columbia. I give the following extracts:

The recent police raids on the alleged agents of the lottery companies furnish some interesting facts as to the extent of the lottery business in this city, and the number and classes of persons who deal in it. The paraphernalia of the offices is confiscated by the police, and consists principally of tickets in envelopes addressed to persons and those which have not been sold, also order books and the correspondence of customers.

The information gleaned from these documents shows that the lottery business is becoming quite an institution of this city, and it is stated by those who have investigated the subject that more tickets are sold in this city in proportion to the population than in any other city in the country. It is estimated that $20,000 would be a low estimate for the amount that is monthly paid in this city for lottery tickets. This unusual large traffic in lottery tickets here is explained by those well posted in the business to be due to the large percentage of our people being employés of the Government who have more money to spend than the average citizen. The traffic is not, however, confined to those who have considerable money or make comfortable salaries, for the order-books and other information show that there is almost an incredible number of comparatively poor people who deal regularly if not largely in lottery. The well-to-do class say that they can invest a small sum every month and never miss it.

* * * * * * *

The next class is the clerks who do not generally accumulate much wealth, but who, as a rule, spend all they get; say that they can spare the price of a ticket without missing it, and thereby stand a chance of drawing large prizes. A list of the names on the books and correspondence of an office recently raided shows that the people in every walk of life are trying to make a fortune out of the lottery. There were even names of ministers of the Gospel and judges who had bought tickets and took the same chances of winning prizes as other mortals. The heaviest individual buyers are principally merchants, some of whom buy largely every month.

The largest number of names of any one class on the books are those of Department clerks. Names of mechanics form no small portion of the list, and the old pensioner often tries his luck. In a recent drawing an inmate of the Soldiers' Home held twelve tickets. Even the name of the poor washerwoman is not absent from the list, and often when people of this class can not raise sufficient money to get a whole ticket they chip in and buy one jointly. Comparatively few, of course, get prizes, but the game has a strange infatuation for many of them. They have a great deal of confidence in it and keep on buying with the hope of ultimately getting a large prize.

On August 11, 1868, the Legislature of Louisiana passed an act entitled "An act to increase the revenues of the State and to authorize the incorporation and establishment of the Louisiana State Lottery Company, and to repeal certain acts now in force." This act was approved and took effect as act No. 25 on August 23, 1868.

The following are sections to which I wish to call particular attention:

SECTION 1. *Be it enacted, &c.*, That whereas many millions of dollars have been withdrawn and lost to this State by the sale of Havana, Kentucky, Madrid, and other lottery tickets, policies, combinations, and devices and fractional parts thereof, it shall hereafter be unlawful to sell, offer or expose for sale any of them or of any other lottery, policy, or combination ticket or tickets, devices, or certificates, or fractional parts thereof, except in such manner or by such persons, their heirs, executors, and assigns, as shall be hereinafter authorized.

SEC. 2. That the following-named persons, to wit, Robert Bloomer, Jesse R. Irwin, John Considine, Charles H. Murray, F. F. Wilder, C. T. Howard, Philip N. Luckett be, and they are hereby, constituted and declared a corporation for the objects and purposes, and with the powers and privileges hereinafter specified and set forth:

ARTICLES OF INCORPORATION.

Article 1. The name and title of this corporation shall be the Louisiana State Lottery Company, and the domicile thereof shall be in the city of New Orleans, in the State of Louisiana.

Article 2. The objects and purposes of this corporation are:

First. The protection of the State against the great losses heretofore incurred by sending large amounts of money to other States and foreign countries for the purchase of lottery tickets and devices, thereby impoverishing our own people.

Second. To establish a solvent and reliable home institution for the sale of lottery policies and combination tickets, devices and certificates, fractional parts thereof, at terms and prices in just proportion to the prizes to be drawn, and to insure perfect fairness and justice in the distribution of such prizes.

Third. To provide the means to raise a fund for educational and charitable purposes for the citizens of Louisiana.

Article 3. The capital stock of this corporation shall be $1,000,000, represented by 10,000 shares of $100 each.

Article 4, section 1. The company shall have the right to commence operations when $100,000 of stock is subscribed and paid in.

Section 2. All powers of this corporation shall be vested in a board of directors, to consist of seven persons, each of whom shall own at least ten shares of the capital stock.

Section 3. The corporation shall have the right to sue and be sued, to plead and be impleaded, and to appear in any court of justice, and to do any other lawful act such as any person or persons might do for their own defense, interest, or safety.

Section 4. The president of the board of directors shall be the proper person upon whom to serve citations, notices, and other legal process wherein this corporation may be interested.

Article 5, section 1. The corporation shall pay to the State of Louisiana the sum of $40,000 per annum, which sum shall be payable quarterly in advance, from and after the 1st day of January, 1869, to the State auditor, who shall deposit the same in the treasury of the State, and which sum shall be credited to the educational fund, and said corporation shall be exempt from all other taxes and licenses of any kind whatever, whether from State, parish, or municipal authorities.

Section 2. The corporation shall furnish bonds to the auditor in the sum of $50,000 as security for prompt and punctual payment of the sums set forth in the preceding section.

Section 3. That any person or persons selling, or offering or exposing for sale, after the 31st day of December, 1868, any lottery, policy, or combination tickets, devices or certificates, or fractional parts thereof, in violation of this act and of the rights and privileges herein granted to this corporation, shall be liable to said corporation in damages in a sum not exceeding $5,000, nor less than $1,000 for each offense, recoverable by suit before any court of competent jurisdiction.

Section 4. That this corporation shall be and continue for and during the term of twenty-five years from the 1st day of January, 1869, for which time it shall have the sole and exclusive privilege of establishing and authorizing a lottery, or series of lotteries, and selling and disposing of lottery tickets, policy, combination devices and certificates, and fractional parts thereof.

It was maintained by the Louisiana State Lottery Company in a number of cases, for they were soon embarked on the sea of litigation to uphold the extraordinary powers which they claimed:

First. That neither the constitution of 1864 or 1868 forbid lotteries, but left the matter to the discretion of the Legislature.

Second. The creation of a corporation by a State Legislature, for any purpose not prohibited by the constitution, was a contract between the State and the corporation.

Third. The mere franchise to be a corporation was a contract between the State and the corporation.

Fourth. The lottery franchise granted by the Legislature was a valid contract.

Fifth. The contract was that the company should have a corporate existence for twenty-five years and that it should have during that period the exclusive right to set up lotteries and sell lottery tickets.

All these points in a series of decisions in both the State and Federal courts were decided in their favor.

We challenge the world to produce legislation more infamous than the above. The records of no government in ancient or modern times contain a law more atrocious in every feature or so complete an abdication of the law-making power. The human mind can scarce realize the grant of such unlimited power as is conferred by this statute. It is a permit to inflict every injury to the property and liberty of the citizen by the utterly irresponsible agency of a soulless corporation. No supervision could be exercised over its extraordinary powers of monopoly, and it was even excused from making any statement to the grantor whatsoever. If such a grant had been made to carry on a legitimate branch of business it would have been bad enough in all conscience; but fancy these extraordinary powers being intrusted to exercise a notoriously theiving, swindling, and cheating manner to plunder the people. No check was prescribed as to the mode of swindle, either by the issue of fictitious combinations, prizes offered but never drawn, policy numbers played without a chance to win, every variety of invention which the craft of men might use to rob his fellow-man—all these were permissible under this extraordinary grant.

Thus it will be seen the Louisiana State Lottery Company was incorporated under an act of the Legislature with the rather anomalous title, "An act to increase the revenues of the State and to authorize the incorporation and establishment of the Louisiana State Lottery Company, and to repeal certain acts now in force." This act to authorize the incorporation and establishment of a State lottery company really established the institution, a fact which the reader of the title is not apprised of, but which he is supposed to know by intuition. Howell, J., in disenting opinion expressed in the case of the Louisiana State Lottery Company *vs.* Richoux (23 La. Ann., 746), says:

I am not prepared to concur in the opinion of the court maintaining the constitutionality of the act of the Legislature by which, it is claimed, the Louisiana State Lottery Company was incorporated. Its title does not in my opinion conform to the one hundred and fourteenth article of the constitution.

The supreme court of the State of Louisiana having then declared the act constitutional, it organized, under the extraordinary privileges granted therein, a private detective police force, and proceeded to arrest

all parties who interfered with its special right of monopoly. The State virtually abandoned to this irresponsible institution the highest prerogatives of sovereignty, and the sanctity of the dwelling was ruthlessly invaded under the pretense of searching for lottery tickets.

At the session of the General Assembly which began in January, 1879, an act was passed, which was approved March 27, for the purpose of repealing the charter of the lottery company and also to make the business authorized thereby unlawful.

Section 1 of this act repealed the act approved August 23, 1868, by which the lottery company was incorporated and all other laws passed in the interest of the said institution.

Section 2 declared—

That the Louisiana State Lottery Company be, and the same is hereby, abolished and prohibited from drawing any and all lotteries, or selling lottery tickets, either in its corporate capacity or through its officers, directors, stockholders, members, or agents, directly or indirectly.

Section 3 declared—

That whoever shall sell, barter, or exchange, give or otherwise dispose of, or offer to sell, barter, or exchange, give or otherwise dispose of, directly or indirectly, personally or through an agent or agents, either for himself or others, or shall draw any lottery, or have any connection with or interest in the drawing of any lottery in this State, or shall have in his possession within this State, with intent to sell or offer for sale, or with intent to barter or exchange, or give or otherwise dispose of any lottery tickets or shares, or fractional part thereof, or lottery policy or combination, device or any other writing, certificate or token, intended or purporting to entitle the holder or bearer, or any other person, to any prize, or share or interest in any prize drawn, or to be drawn, in any lottery, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be condemned for each offense to, and shall suffer imprisonment in, the parish prison or jail, as the case may be, not exceeding sixty days, or fined not exceeding $100, or both, at the discretion of the court; one-half of such fine to go to the informer, and the other half to the city of New Orleans, or the parish in which said offense is committed, as the case may be.

Section 4 declared—

That every person who shall set up or promote any lottery in this State, or shall assist or be interested therein, or shall aid by printing or writing, or shall in any way be concerned in the setting up, promoting, managing, or drawing of any lottery, or shall, in any house, shop, or building owned or occupied by him or under his control, knowingly permit the setting up, managing, or drawing any such lottery, or the sale of any lottery tickets or share of a ticket, or any other writing, certificate, bill, token, or other device, purporting or intended to entitle the holder, bearer, or any other person, to any prize, or share of or interest in any prize to be drawn in a lottery, shall be guilty of a misdemeanor, and on conviction shall suffer imprisonment not to exceed sixty days, or a fine not exceeding $500, or both, at the discretion of the court, for each offense; one-half of such fine to go to the informer and the other half to the parish or the city of New Orleans, as the case may be, in which such offense is committed.

Immediately after the passage of this bill the officers of State attempted to enforce the penal provisions of the act, but were met by the action of the United States circuit court for the district of Louisiana, at the instance of the Louisiana State Lottery Company, Charles T. Howard, a citizen of Mississippi, and John A. Morris, a citizen of New York. On the 1st day of April, 1879, a bill of complaint was filed by these parties on the equity side of the above court against Allen Jumel, State auditor, and twelve other citizens of the State of Louisiana, and against the city of New Orleans. The charge of the bill was that this repealing act was an impairment of the obligation of the contract between the lottery company and the State of Louisiana contained in the act of August 11, 1868, and was in violation of the Constitution of the United States, and therefore null and void.

The bill further alleged as follows:

The several defendants are officers of the State, concerned in the enforcement of the laws of the State, without regard to the supreme law of the land, and unless restrained by order of the court they will engage in the arrest of every agent, servant, clerk, or tenant of the lottery company, and that the machinery of the penal code will be by them set in motion to enforce the said repealing act of March 27, 1879, and destroy the rights of the lottery company under an act of August 11, 1868.

The prayer of the bill was that the charter granted by the act of August 11, 1868, to the lottery company might be established and declared valid and operative and binding as a contract between the State of Louisiana and the lottery company; that the said repealing act of March 27, 1879, might be declared inoperative to impair the force and effect of said contract and charter, or the franchises, rights, and faculties therein conferred; that the penal enactments contained in said repealing act might be declared unconstitutional, invalid, and inoperative, and that all the defendants might be enjoined from ordering or allowing any prosecution, arrest, or seizure of the plaintiffs or any of their servants or agents, customers, or persons in any manner connected with the lottery company for doing or performing or being concerned in any act or acts of the drawing of lotteries or the sale or purchase of tickets of said lottery company, and from interfering with them by prosecution or otherwise in the doing of any act or carrying out any purpose authorized by the charter of the lottery company.

This bill on its merits was never heard, but Judge Billings granted an injunction *pendente lite*. A grave responsibility rests upon the officers of the State government for not filing an answer and carrying the case up to the Supreme Court of the United States if unsuccessful in the lower court. By their dereliction of duty the lottery company was enabled to deceive the constitutional convention of 1879 into the belief that this mere interlocutory order was an acknowledgment by the United States court that their charter was a binding contract between the State and the corporation. To allow the case to rest in the attitude of granting provisionally an injunction *pendente lite* by the lower court was virtually to abandon all defense on the part of the State, and leads but to one conclusion in my mind.

The Legislature can not bargain away the police power of the State; and to suppress lotteries, with other forms of gambling, is within the police power. Hence an act of a State Legislature chartering a lottery for a specified term, in consideration of payments to be made to the State treasury, is not a contract protected by the constitutional provision against impairing obligations of contracts. Lotteries are not *mala in se*, but may properly be made *mala prohibita*. They are a species of gambling and wrong in their influences. The right to stop them is governmental, and to be exercised at all times by those in power at their discretion. Any one who accepts a lottery charter does so with the implied understanding that the people, through their properly constituted agencies, may take it back at any time when the public good requires, and this whether it be paid for or not. Such charter is simply a permit, good as against existing laws, but subject to future legislative and constitutional control or withdrawal. (Stone *vs.* Mississippi, 101 U. S., 814.)

I feel not the slightest hesitation in asserting that if the officers of the State government that had charge of conducting the above case of Louisiana State Lottery Company *et al.* *vs.* Fitzpatrick *et al.* (reported in 3 Woods, 222) had done their duty in carrying out the litigation to a legitimate conclusion, the repealing act would have been declared constitutional and the lottery company, with all its infamous surroundings, would have been swept off the face of the earth. On their heads lies the blame.

I now come to the infamous swindle perpetrated on the members of the constitutional convention of 1879. As already stated, they were made to believe that the Federal court had decided that the charter granted by the act of August 11, 1868, was impregnable, and that it was their duty to make the best bargain under the circumstances with the lottery company. The following is the article of the constitution which was the result of this mistaken idea of the validity of the charter as it then existed:

The General Assembly shall have authority to grant lottery charters or privileges, provided each charter or privilege shall pay not less than $40,000 per annum in money into the treasury of the State, and provided further that all charters shall cease and expire on the 1st of January, 1895, from which time all lotteries are prohibited in the State. The $40,000 per annum now provided by law to be paid by the Louisiana State Lottery Company, according to the provisions of its charter granted in the year 1868, shall belong to the Charity Hospital of New Orleans, and the charter of said company is recognized as a contract binding on said State for the period therein specified, except its monopoly clause, which is hereby abrogated, and all laws contrary to the provisions of this article are hereby declared null and void: *Provided*, Said company shall file a written renunciation of all its monopoly features in the office of the secretary of state within sixty days after the ratification of this constitution.

It is on this article and the granting of an injunction *pendente lite* by Judge Billings, in the case of Louisiana State Lottery Company *vs.* Fitzpatrick, that the lottery company bases its claim to possessing a charter. It is a well-settled principle that legislative power can not be delegated or transferred from the Legislature to the people at large. Our governments are republican and not democratic. Laws must be enacted by the representatives of the people, and not by the people themselves. Nor can any State change this. Every State must have a "republican form of government." This is the requirement of the national Constitution, and it is complied with only by that form of State government which vests the law-making power in the representatives of the people. (Rice *vs.* Foster, 4 Harrington (Del.) 479; Parker *vs.* Commonwealth, 6 Pa. State R., 507; Barto *vs.* Heinrod, 8 N. Y., 483; Cinn., Wilm. and Zanesville R. R. Co. *vs.* Commrs., 1 Ohio State R., 84; Geebrick *vs.* State, 5 Iowa, 491.)

I consequently maintain that the lottery company has had no legal existence since the repealing act of March 27, 1879; that it has no right to do a lottery business since that date; that its stockholders are bound *in solido* for every ticket issued since that date, and liable to refund the amount paid for such ticket; and that its agents, servants, customers, and all persons connected with it are liable to the penal provisions of said act, in accordance with the ruling of the supreme court of the State of Louisiana in a recent case which I will notice further on.

I now arrive at a stage in the history of this bogus institution which should cause the blush of shame to mantle the cheek of every patriotic citizen of this great Republic. I refer to the defense of this palpable and unmitigated fraud by a Department of the National Government. The following are the particulars:

As every State in the Union has laws against lotteries, the only manner in which the Louisiana State Lottery Company could ply its nefarious business was by using the United States mails. It was thus enabled to violate with impunity all local statutes, and to extend the ramifications of its extensive swindling all through the land. The abuse of the mails became so great that the Postmaster-General was appealed to with the following results:

The following order was issued by the Postmaster-General to the postmaster at New Orleans, Louisiana, in these words:

POST-OFFICE DEPARTMENT,
Washington, D. C., November 13, 1879.

To the POSTMASTER, *New Orleans, Louisiana:*

It having been represented to me that a certain M. A. Dauphin at New Orleans, Louisiana, is engaged in conducting a scheme or device for obtaining money

through the mails by means of false and fraudulent pretenses, misrepresentations, and promises, and being satisfied from the evidence before me that the said M. A. Dauphin is so engaged, I do hereby forbid the payment by the postmaster at New Orleans, Louisiana, of any postal money-order drawn to the order of the said M. A. Dauphin, or M. A. Dauphin, secretary, or M. A. Dauphin, post-office box No. 692. And the said postmaster is hereby directed to inform the remitter of said postal money-order that the payment thereof has been forbidden and that the sum of said money-order will be returned upon the presentation of a duplicate money-order, applied for and obtained under the regulations of the Department. And upon the same evidence the postmaster at New Orleans, Louisiana, aforesaid, is hereby instructed to return all registered letters which shall arrive at his office directed to the said M. A. Dauphin, M. A. Dauphin, secretary, or M. A. Dauphin, post-office box No. 692, to the postmasters at the office at which they were originally mailed, with the word "fraudulent" plainly written or stamped on the outside of such letters.

D. M. KEY, *Postmaster-General.*

POST-OFFICE DEPARTMENT,
Washington, D. C., February 27, 1880.

SIR: On the 13th of November, 1879, I issued an order addressed to you forbidding the payment of any postal money-order to M. A. Dauphin, or M. A. Dauphin, secretary, or M. A. Dauphin, post-office box 692, and 319 Broadway, New York, and the return of all registered letters addressed to them to the postmasters at whose offices they were mailed.

This party having brought suit against me to enjoin the performance of this order, and having appealed the same to the Supreme Court of the United States, and having this day presented the certificate of the governor and State officers of the State of Louisiana that he has complied with all the legal requirements of that State, and other evidence, and not being satisfied from the evidence submitted to me that the said M. A. Dauphin is engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, I hereby authorize and direct the suspension of said order of November 12, 1879, so far as to relate to said Dauphin, until the case shall have been heard and determined by the Supreme Court of the United States.

D. M. KEY, *Postmaster-General.*

To POSTMASTER, *New Orleans, La., and*
POSTMASTER, *New York, N. Y.*

The case referred to was Dauphin vs. Key, instituted in the supreme court of the District of Columbia, in which the Postmaster-General submitted a demurrer, which was held by the court sitting in banc as good in substance. Dauphin, who was secretary of the lottery company, appealed the case then to the Supreme Court of the United States. Postmaster-General Key then suspended the first order "until the case shall have been heard and determined by the Supreme Court of the United States," and then immediately afterward agrees to a stipulation dismissing the appeal under rule 28, thereby rendering the hearing an impossibility. Could duplicity proceed any further?

The appeal having been dismissed at the cost of the lottery company, the judgment of the lower court dismissing the case stands as a vindication of the Postmaster-General to issue such order.

The present Postmaster-General, Judge Timothy O. Howe, having failed to enforce the order of his predecessor, the House of Representatives on the 29th of March last adopted a resolution, introduced by Mr. MANNING of Mississippi, directing him to inform it on the subject of the enforcement of this order. He replied to this resolution informing the House that he had not enforced it. The whole subject has been referred to the Committee on Post-Offices and Post-Roads, but no report has yet been made.

The following is the resolution introduced by Mr. MANNING, as above:

Resolved, That the Postmaster-General be directed to inform the House of Representatives whether an order was issued by the Post-Office Department forbidding the payment of any postal money-order or the delivery of any registered letter to M. A. Dauphin or any other agent of the Louisiana Lottery Company, and directing the return of the same to the post-offices where first obtained or deposited; if said order was issued, has there been any enforcement thereof, and, if so, for what period of time was it enforced and what was the character of the enforcement? If such an order was issued has there been any subsequent order issued by the Post-Office Department suspending the first-named order, and, if so, when was it issued and for what purpose? Is it operative now as the rule of the Department, and what are the limitations affecting it?

Deeming the reply of the Postmaster-General evasive and unsatisfactory, I addressed him several letters. The replies to two of them, which embody the two of mine answered, I now give:

POST-OFFICE DEPARTMENT, *July* 19, 1882.

SIR: I have the honor to acknowledge your communication, which reads as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., July 10, 1882.

SIR: I have the honor to call your attention to the fact that the Louisiana State Lottery Company is, under cover of this license granted to them to use the United States mails by your Department, violating the laws of the United States.

This institution is an unmitigated fraud. It has no legal status, as its charter was repealed by act of the Louisiana Legislature, by act No. 44, promulgated March 28, 1879, entitled "An act to repeal act No. 25 of the Legislature of 1868 entitled 'An act to increase the revenues of the State and to authorize the incorporation and establishment of the Louisiana State Lottery Company,' and to repeal certain acts now in force and to abolish the Louisiana State Lottery Company," &c., which act will be found published in the acts of Louisiana for 1880.

As I must suppose that your Department would not knowingly lend itself to such an open violation of the law, I would ask that the proper means be immediately taken to enforce the execution of the United States statutes in such case made and provided.

I am, sir, very respectfully,

E. W. ROBERTSON, M. C.,
Sixth District Louisiana.

To Hon. T. O. HOWE,
Postmaster-General.

In answer to your statement that this company "is under cover of this license granted to them to use the United States mails by your Department, violating the laws of the United States," I must answer that no license has ever been granted to this company or any other lottery company by the Post-Office Department to use the mails for the purpose of carrying on its business.

Section 3894, Revised Statutes, is in these words:

"No letter or circular concerning illegal lotteries, so-called gift-concerts, or other similar enterprises, offering prizes, or concerning schemes devised and intended to deceive and defraud the public for the purpose of obtaining money under false pretenses, shall be carried in the mail. Any person who shall knowingly deposit or send anything to be conveyed by mail in violation of this section shall be punishable by a fine of not more than $500 nor less than $100, with costs of prosecution."

It would therefore not be in the power of this Department to authorize the use of the mails by any lottery company, whether legally organized or whether an illegal and fraudulent company, for the purpose of distributing letters and circulars concerning lotteries.

The error into which you seem to have fallen doubtless results from the fact that on the 13th day of November, 1879, Postmaster-General Key issued an order forbidding the payment of any postal money-order to M. A. Dauphin, and directed the return of all registered letters addressed to him to the postmaster at whose office they were mailed. This order was issued under authority conferred upon the Postmaster-General by section 3929 and section 4041 of the Revised Statutes.

On the 27th day of February, 1880, the following order was issued:

POST-OFFICE DEPARTMENT,
Washington, D. C., February 27, 1880.

To POSTMASTERS *at New Orleans, La., and New York, N. Y.:*

On the 13th day of November, 1879, I issued an order addressed to you forbidding the payment of any postal money-order to M. A. Dauphin, or M. A. Dauphin, secretary, or M. A. Dauphin, post-office box 692, or 319 Broadway, New York, and directing the return of all registered letters addressed to them to the postmaster at whose office they were mailed.

This party having brought suit against me to enjoin the performance of this order, and having appealed the same to the Supreme Court of the United States, and having this day presented the certificate of the governor and State officers of the State of Louisiana that he has complied with all the legal requirements of that State, and other evidence; and not being satisfied from the evidence submitted to me that said M. A. Dauphin is engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, I hereby authorize and direct the suspension of said order of November 13, 1879, so far as relates to said Dauphin, until the case shall have been heard and determined by the Supreme Court of the United States.

D. M. KEY, *Postmaster-General.*

You will observe that this suspension of the order of November 13, 1879, against the registered letters and money orders of M. A. Dauphin left him in exactly the position which he had occupied prior to the issue of the order. It was a declaration by the Postmaster-General that he was not satisfied from the evidence submitted to him that said M. A. Dauphin was engaged in conducting a scheme or device for obtaining money through the mails by means of false pretenses, representations, and promises.

The prohibition contained in section 3894 of the Revised Statutes had never been suspended but remained and remains still in force. There has therefore been no license granted to any person, company, or corporation to send any letter or circular concerning lotteries through the mails.

In regard to the further statement made by you of the Louisiana State Lottery Company that "this institution is an unmitigated fraud," I must only answer that no proof has been furnished to me of this fact, and I am not authorized to act upon the simple statement unaccompanied by evidence which shall satisfy me that it is "a fraudulent lottery."

Regarding your statement that this company has no legal status, as its charter was repealed by act of the Louisiana State Legislature, I must refer you to the decision of the supreme court of the State of Louisiana, which is contained in volume 38, commencing at page 719 of the Louisiana Annual Reports, 1880. This decision was rendered in the "State *ex. rel.* Carcasse vs. Judge First District Court of Orleans." The opinion and decree of the court was pronounced by Mr. Chief-Justice Bermudez. In this decision, the effect of the law to which you have referred, and which was approved March 27, 1879, is fully considered, and it is held, that while "its evident object was to forbid absolutely the vending of lottery tickets in the State, and to accomplish that object * * * it went so far as to withdraw the charter of a corporation, up to then in existence, and which had legal authority to deal in the lottery business," yet that section 167 of the constitution of the State of Louisiana, which was ratified by a vote of the people at the election held on the 24 day of December, 1879, more than eight months after the passage of the statute cited, operated "clearly to repeal that portion of the act which contemplated the destruction of the corporation named in the article, and which was previously authorized to deal in lottery tickets, to authorize the further existence up to 1895 of that institution, but to strip it of its pretensions to a monopoly, apparently accorded it by the act under which it was organized." * * * "The insertion in article 167, declaring null and void all laws contrary to its provisions, must be viewed as intended to retain in force the act of 1879, in so far as it was not derogated from by that constitutional enactment, and to lend assistance to its enforcement for the protection of organizations chartered by the State, which shall, as a prerequisite, have paid the required license for the relief of the State and of its charitable institutions." * * * "The Louisiana State Lottery Company previously in existence shall continue its operations on abdicating all its pretensions to a monopoly and on complying with the requirements touching the payment of the license."

In an opinion subsequently rendered by the chief-justice on an application for a rehearing in this case, this language was used:

"By the act of 1879 an absolute prohibition was enacted against the dealing in lottery business and a penalty was provided for infringement of the prohibition.

"By article 167 the absolute prohibition was changed into a relative one. Blended together, act of 1879 and article 167 mean that there shall hereafter be no unrestrained dealing in lottery operations under penalty of fine and imprisonment, but that dealing in the lottery business will be tolerated when carried on by corporations chartered by the State and paying an annual license of no less than $40,000; consequently, that whoever shall otherwise deal in that sort of business without having been chartered and without having paid the license shall be liable to punishment.

"Article 167 formally recognizes the Louisiana State Lottery as an institution chartered by the State, and determines the term of its existence, but without any right of monopoly.

"The framers of the constitution did away with the exclusive privilege, accorded previously to that organization, and provided that hereafter all persons wishing to deal in the lottery business shall have the right to do so, as well as the Louisiana State Lottery Company, on obtaining a charter from the State and paying a license as *pure quietus*. This was done to place all on a footing of equality. * * * No one can claim to enjoy the privileges exercised by the Louisiana State Lottery Company without, like it, obtaining a charter and paying a license. * * *

"In the present instance the act of 1879 was not absolutely and unconditionally repealed. It was relatively or conditionally repealed. * * *

"The penal provisions will be inoperative against individuals dealing in that business in the name of chartered institutions paying license.

"The court has thus construed again the act of 1879 and article 167, and has done so in their mind *in favorem libertatis civis*."

It would seem from these decisions of the supreme court of Louisiana that so far as it was within the power of the State court to adjudicate upon the legal status of the Louisiana State Lottery Company its existing incorporation and legal power to act under its original charter are adjudicated.

The effect of this judgment by the supreme court of Louisiana is expressed by the Supreme Court of the United States in the case of Secomb *vs.* Railroad Company, 23 Wallace, 108, in this language: "When the question is whether under the constitution and laws of a particular State a company professing to be corporate is legally so, this court will receive as conclusive of the question the decision of the highest court of the State deciding, in a case identical in principle, in favor of a corporate business."

To the same effect are the decisions in the cases of Randall *vs.* Bingham, 7 Wallace, 523; Gut *vs.* State, 9 Wallace, 35; Webster, *vs.* Cooper, 14 Howard, 488. Under these decisions my three immediate predecessors in office have felt themselves compelled to recognize the legal corporate existence of the Louisiana State Lottery Company, and I do not feel myself justified in withholding my approval of the conclusion reached by them.

A certificate from the office of the secretary of state for the State of Louisiana, duly authenticated, certifying that the renunciation of the monopoly features of the Louisiana State Lottery Company, as contained in its charter, had been duly filed in that office, has been exhibited to me. There is also a certificate from the auditor of state that this company has paid into the treasury the sum required by law.

The company having thus brought itself within the express terms of the decision of the supreme court of the State of Louisiana, recognizing its existence and declaring that it is authorized to do business until the year 1895, I can not, however willing I might be, bring my mind to accept your conclusion regarding this company that "it has no legal status."

Until, therefore, it can be shown by evidence to be a "fraudulent lottery" I have no official jurisdiction over it.

Your verbal reference to the decision pronounced by the Supreme Court of the United States, in the case of Stone *vs.* The State of Mississippi, wherein it was held that the charter granted to the lottery company was not protected from hostile subsequent legislation on the ground that the charter constituted a contract between the State and the company, has no application to the present case, inasmuch as the latest action of the authorities of the State of Louisiana has, under the opinion of the supreme court of that State, been favorable to the continued existence of that corporation.

Very respectfully,

T. O. HOWE, *Postmaster-General.*

Hon. E. W. ROBERTSON,
House of Representatives.

POST-OFFICE DEPARTMENT,
Washington, D. C., August 1, 1882.

SIR: I have the honor to acknowledge the receipt of the communication of which the following is a copy:

HOUSE OF REPRESENTATIVES,
Washington, D. C., July 28, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of the 19th instant, and in reply would beg to inclose the within slip cut from the Daily Post of this date as evidence: First, that section 3894, R. S., is not enforced, the inclosed being a circular addressed to the public (act March 3, 1879, chapter 108, section 18, 20 Statutes at Large, 360) and circulated by newspapers carried in the mail; second, that neither section 3929 nor 4041, R. S., are enforced, as the within shows that "M. A. Dauphin" is engaged in conducting a (new and improved) scheme for the distribution of money (see price of ticket and capital prizes) by a drawing (at New Orleans, August 8, 1882) and solicits orders to be sent by registered letter or money-order by mail, to be addressed to the said M. A. Dauphin, New Orleans, Louisiana.

In conclusion I respectfully reiterate my request that proper means be taken to enforce the execution of the statutes of the United States in such case made and provided.

Very respectfully,

E. W. ROBERTSON, M. C.,
Sixth District Louisiana.

Hon. T. O. HOWE,
Postmaster-General.

The slip you inclose is an advertisement published in a daily newspaper, and does not, in the judgment of this Department, when thus published come within section 3894, Revised Statutes, which reads as follows:

"No letter or circular concerning illegal lotteries, so-called gift-concerts, or other similar enterprises, offering prizes, or concerning schemes devised and intended to deceive and defraud the public for the purpose of obtaining money under false pretenses, shall be carried in the mail. Any person who shall knowingly deposit or send anything to be conveyed by mail in violation of this section shall be punishable by a fine of not more than $500 nor less than $100, with costs of prosecution."

A "letter or circular" is defined in section 18, act of March 3, 1879, 20 Statutes, page 360, which section is in this language:

"The term 'circular' is defined to be a printed letter which, according to internal evidence, is being sent in identical terms to several persons. A circular shall not lose its character as such when the date and the name of the addressed and of the sender shall be written therein, nor by the correction of mere typographical errors in writing."

This Department would not feel itself authorized to exclude from the mails under the statute in question a regular legitimate newspaper because it contained among the numerous other advertisements that of a lottery company. This section, as you will observe, imposes a penalty when a letter or circular concerning lotteries is knowingly deposited to be conveyed by mail. That penalty of course can only be enforced in a court. It can not be enforced by the Post-Office Department.

Your reference to sections 3929 and 4041, Revised Statutes, is not understood. These sections, as you are aware, apply only to a person who is "engaged in conducting any fraudulent lottery," &c.

In my former letter I advised you that this Department was without "evidence satisfactory" to the Postmaster-General that the Louisiana State Lottery is a fraudulent lottery, and you were advised that upon presenting proof that such was the case the Department would act under the statute. The mere fact that a lottery company advertises in a public newspaper, and solicits the sending of orders by registered letters or of money-orders by mail, does not authorize the Postmaster-General to issue his order directing the return of such registered letters to the sender, or the refusal to pay money-orders thus sent. The additional fact that a lottery company so advertising is a fraudulent lottery must be proved by satisfactory evidence before the Postmaster-General has jurisdiction of the matter.

Very respectfully,

T. O. HOWE, *Postmaster-General.*

Hon. E. W. ROBERTSON,
House of Representatives, Washington, D. C.

HOUSE OF REPRESENTATIVES,
Washington, D. C., August 5, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of 1st instant, and in reply would beg to state that I most emphatically protest against the construction of your Department of section 3894, Revised Statutes, as contained in said communication.

It has never been my intention of asking you to construe section 3894 as a penal statute. This I am very well aware is totally out of your province, and can only be done by the judiciary branch of the Government. I maintain wherever it is made your duty to construe this statute in accordance with the intent which appears to have actuated Congress in passing same, this intent has been declared by the highest judicial tribunal of the United States. Chief-Justice Waite, speaking for the court, uses this language in rendering the decision in Stone *vs.* Mississippi, 101 United States, 819:

"There is now scarcely a State in the Union where lotteries are tolerated, and Congress has enacted a special statute, the object of which is to close the mails against them." (*Revised Statutes*, section 3894; 19 *Statutes at Large* 90, section 2.)

When the Supreme Court of the United States pronounced this as law, names this identical statute, and declares the intent of Congress in enacting same "to close the mails against them," to wit, "lotteries," I can not but be surprised that your Department pursues a course which, while barring the mail against a slight infraction of the letter of the law, yet utterly disregards the spirit by allowing the evil to be practiced with impunity so long as it is done on the most extensive scale and wholesale plan. It is emphatically "straining at a gnat and swallowing the camel."

There is no principle better established by a long series of decisions of the Supreme Court of the United States than that the features of a particular course of legislation shall always be regarded to make apparent the intentions of Congress in enacting any special statute, such as the above decision declares this to be. Now, can you deny that Congress could have had any other intention, namely, "to close the mails against them," and in allowing their advertisements to go through the mails are you not plainly permitting not only a violation of the law in the spirit of the enactment, but as construed by the highest authority in the land?

The imposition of the penalty was to make the previous words of the statute still more strong as an express prohibition, and not to allow by a strained and false technical construction what the law forbids to be done directly to be made lawful by being done indirectly. The slip inclosed is an open printed circular letter addressed to the public, and signed by M. A. Dauphin, and that it is a paid advertisement in a "regular legitimate newspaper," only increases the turpitude of the transaction. It is not only an open defiance of the statute, but in no other way could such a communication reach so large a number of persons and exert a greater demoralizing influence upon the people. Does the fact of inserting said communication in a newspaper do away with the policy of the law as distinctly enunciated by a statutory prohibition? Is it your intention to crush the circulation when confined to a form which can only reach comparatively the few, yet allow free scope in the use of the great channel of communication to the many?

In regard to sections 3929 and 4041, Revised Statutes, please state wherein you do not understand me. Your limitation as to the construction of these statutes "to apply only to a person who is conducting any fraudulent lottery, &c.," is too indefinite, and I await further explanation on your part before replying to that part of your communication.

In conclusion, I would beg to state that such is my confidence in the justice of my position that I feel convinced that on an order being issued from your Department that such journals as contained lottery advertisements would be excluded from the mails, there is not a court in the country possessing jurisdiction that would listen to an application for relief until such advertisements were withdrawn.

Very respectfully, your obedient servant,

E. W. ROBERTSON, M. C.,
Sixth District Louisiana.

Hon. TIMOTHY O. HOWE,
Postmaster-General.

This last letter still remains unanswered, and this fact we deem an admission of the justice of our cause.

As the Postmaster-General quotes extensively the latter part of the opinion of Bermudez, C. J., in the "State *ex rel.* Carcasse *vs.* Judge of the First District Court of Orleans (38 La. Ann., 719), we append that portion of the opinion omitted:

State *ex rel.* Carcasse, Judge of the First District Court, 32 La. Ann., 719 *et seq.*

Bermudez, C. J.: The relator was prosecuted before the first district court for the parish of Orleans for having in his possession, with intent of selling the same, a fractional part of a lottery ticket, the sale of which, it is alleged, is forbidden in this State under penalty of law.

He pleaded guilty, subsequently moved to withdraw his plea, but was not allowed that privilege. Sentence was about to be passed upon him when he applied to this court for relief. The case not being one appealable in character, the court granted a *certiorari*, a provisional restraining order, and a rule to show cause why a perpetual prohibition should not issue. The object of the restraining order was to prevent the judge of the first district court from passing sentence on the relator.

The relator alleged, in justification of the complaint lodged here and of relief sought, that the law under which he was prosecuted, pleaded guilty, and was about to be sentenced, and which he had believed was in force when he refused to defend himself and admitted the charge, had become a dead letter ever since the adoption of the present constitution, which has effectually repealed it in its entirety.

The law in question was approved March 27, 1879, and bears No. 44 of the acts of that year. It contains six sections. Its evident object was to forbid absolutely the vending of lottery tickets in this State, and in order to accomplish that purpose it provided for the infliction of fine and imprisonment on the violators of its prohibitions. It was intended to have a general effect throughout the State, and made no exceptions whatever. It went so far as to withdraw the charter of a corporation up to then in existence, and which had legal authority to deal in the lottery business.

The article of the constitution relied on as repealing this law is in the words following:

"The General Assembly shall have authority to grant lottery charters or privileges: *Provided*, Each charter or privilege shall pay not less than $40,000 per annum in money into the treasury of the State: *And provided further*, That all charters shall cease and expire on the 1st of January, 1895, from which time all lotteries are prohibited in the State. The $40,000 per annum now provided by law to be paid

by the Louisiana State Lottery Company, according to the provisions of its charter, granted in the year 1868, shall belong to the Charity Hospital of New Orleans, and the charter of said company is recognized as a compact binding on said State for the period therein specified, except its monopoly clause, which is hereby abrogated; and all laws contrary to the provisions of this article are hereby declared null and void: *Provided*, Said company shall file a written renunciation of all its monopoly features in the office of the secretary of state within sixty days after the ratification of this constitution."

The intention of the convention of 1879 was clearly to repeal that portion of the act which contemplated the destruction of the corporation named in the article and which was previously authorized to deal in lottery tickets, to authorize the further existence up to 1895 of that institution, but to strip it altogether of its pretensions to a monopoly apparently accorded it by the act under which it was organized. It was the intention of the convention to place on a footing of equality with this corporation all other individuals who might desire to deal in the same business, but on condition, upon being chartered by the State, of the payment of an annual license of not less than $40,000 to the State. In order to render compliance with this condition obligatory and effectual it was necessary that there should be attached a sanction to the law. The convention thought it unnecessary to embody one expressly in the article in question, for the reason that it already was in existence in a statute then in force, *i. e.*, in the act of 1879 already mentioned.

It is expressly provided by that article 167 that all laws contrary to its provisions are declared null and void.

Of course such portions of that law as were inconsistent with the article of the constitution were repealed, but is the act of 1879 in each and all of its parts repugnant to the article of the constitution under consideration? The portions which it is claimed were repealed are those which prohibited absolutely, without any exception, and under all circumstances, the vending of lottery tickets, and which inflicted a penalty for an infringement of prohibition.

The law does not favor repeals by implication.

The insertion in article 167 declaring null and void all laws contrary to its provisions must be viewed as intended to retain in force the act of 1879, in so far as it was not derogated from by that constitutional enactment, and to lend assistance to its enforcement for protection of organizations chartered by the State, which shall, as a prerequisite, have paid the required license, for the relief of the State and of its charitable institutions.

This court has no power to express any opinion or comment upon the morality or immorality of this constitutional provision. Its duty is to construe and apply the law as it finds it in the organic and statutory enactments.

We find no irreconcilable discrepancy between the act and the article of the constitution. We find that the constitution has merely derogated from the general prohibitory provisions of the act by making exceptions and conceding authority to the General Assembly to grant lottery charters or privileges on terms to be complied with as conditions precedent and *sine quibus non*, placing them all on a footing of equality after such chartering and fulfillment of terms and conditions.

Construing the act of 1879 and the article of the constitution together, so as to give full effect to each and all the parts of both, and blending them together, we consider that the law of Louisiana on the subject of vending of lottery tickets simply is:

The sale of lottery tickets in this State is absolutely prohibited unless by organizations chartered by the State which, before dealing in that kind of speculation, shall have paid an annual licence of not less than $40,000 to the State. There shall exist no monopoly for the sale of such tickets or doing of such business. Individuals violating the law by selling lottery tickets or dealing in the lottery business without having previously obtained a charter and paid the required license in the manner provided by law shall be prosecuted and punished by fine and imprisonment. The Louisiana State Lottery Company previously in existence shall continue its operations on abdicating all its pretensions to a monopoly and on complying with the requirements touching the payment of the license.

Finding as we do that the punitory section of the act of 1879 has not been abrogated as far as it affects individuals selling lottery tickets, or dealing in the lottery business, who have not previously obtained a charter and paid the required license, we conclude that the relator is not entitled to protection for the reasons alleged by him against the apprehended sentence of fine and imprisonment.

It would be truly unjust to permit individuals who have not formed themselves into a corporation chartered by the State and not paid any license to enjoy the same privileges as those awarded to a corporation chartered by the State and which has paid the required license.

It is therefore adjudged that the restraining order heretofore made be dissolved, and that the application for a perpetual prohibition be refused at the cost of relator.

This case of State *ex. rel.* Carcasse *vs.* Judge of First District Court, reported in 32 La. Ann., 719, which the Postmaster-General quotes with such gusto in his defense of this unmitigated fraud and swindle, was a suit got up for the purpose, through a decision by the supreme court of the State of Louisiana, to give a quasi-legal status to the lottery company. It utterly failed in its object, as the point of charter or no charter was not before the court. The syllabus contains the only matter which was settled, that "the punitory section of act No. 44 of the Legislature of 1879 relative to the sale of lottery tickets in this State was not abrogated by article 167 of the constitution." This is undoubted law, as the constitution under no republican form of the government can abrogate any act of a Legislature. In such a case it can not enforce itself, and, as already explained, the only manner in which the constitution could be enforced is by an act of the Legislature.

It is a well-settled principle of law that the abrogation of the repeal of a statute does not revive the original statute, even if the abrogation was legal and constitutional, which in this case we have shown that it was not. I defy the lottery company through any process of legal reasoning to prove that it has ever had a legal existence since March 27, 1879, the date of the repealing statute, and this it well knows and has tried "to galvanize the corpse" through an interlocutory order of a Federal Judge and an article of a State constitution obtained after it was a nullity. So convinced is it of this, that in a recent suit which it instituted against Commissioner Morgan, of the District of Columbia, for damages for closing its agency in Washington, that it has itself asked that a demurrer filed by defendant be sustained, and from which it has taken an appeal to the Supreme Court of the United States. There it will play the same game as it did in the case of Dauphin *vs.* Key, and by suggesting at the proper time that defendant has gone out of office will have the appeal dismissed. It is by such subterfuges that it attempts to keep up its credit by the semblance of being a valid institution having a legal existence with the right to plead and be impleaded.

There is a feature of the lottery which has deluded many in submitting to its exactions. I refer to the tax which it pays to the State as a license to transact its nefarious business. But when we reflect on the paltry sum thus paid and the enormous amount stolen from the community under cover of such payment, we stand appalled at the gross ignorance displayed in granting such a franchise for the ostensible purpose of raising revenue to defray the expenses of government. Where the State receives thousands, millions are paid to the lottery by the votaries of this unfortunate species of gambling. The money though thus extracted represents but a small value when we remember the greater evil of idleness, dissipation, licentiousness, and crimes entailed on the community by the existence of this baneful institution.

The Louisiana State Lottery Company during the past fourteen years has paid the sum of but $560,000 to the State; but think of what an amount of misery and wretchedness has it caused during that period of time. This paltry sum sinks into insignificance when we regard this amount as payment for the privilege of extracting millions from that portion of the community which can least afford to part with the fruits of their hard-earned toil and labor.

Such is the history of this institution which has brought the fair name of a great Commonwealth to be but a by-word of contempt to her sister States and of hissing and scorn to all the good people throughout the length and breadth of this great Republic. Knowing no party fealty, but managed with consummate political ability, its president has boasted "that there was not a man in the State of Louisiana that he could not buy;" and it has extended the field of that proud vaunt by invading the capital of the nation. With one hand it bids defiance to the judicial power of the District, while with the other it corrupts the officials of a Department, and this under the eyes of an Executive who is sworn to see that the laws of the United States are executed. Defeated in the lower court, it has through the connivance of the officers of the Department of Justice succeeded in making a mockery and delusion the great remedy of an appellate court.

The doctrine of State rights, which has deluged this continent with blood, it invokes only to place it in a position that it may the more easily violate with impunity the laws of every State in the Union. It would be supposed that in this career of lawlessness and rapine it would seek assistance from its sister institutions of like infamy, but no entangling alliance is allowed to impede its course of meteoric effulgence. It stands alone in its infamy, and has succeeded in crushing every rival, not only in its own domain, where, *imperium in imperio*, it rules with an iron hand, but throughout the breadth of the land it has secured by the use of the mails a virtual monopoly of its nefarious business. In its rapacity of power it is as ready to face the whole power of the General Government in all its might as to stifle the charitable efforts to raise funds to support the widows and orphans of the dead soldiers of the recent civil conflict. It looms up in solitary grandeur amid the wrecks of carpet-bag rule as the last surviving institution made more powerful by a revolution which was inaugurated under the banner-cry of reform, the futility of which it makes by its continued existence so hideously apparent. Caring for no principle of honesty, basing its own existence on corruption and bribery, it ruthlessly slaughters politically every opponent who has the independence and manliness to place himself in its path.

An honest administration in the State of its original creation it hurled from power, and a convention which was called for this purpose by its influence deliberately repudiated the debt of the same State at its imperious dictation. Outraging every sense of honor and propriety in its own action, it was jealous of the fair name of the Commonwealth and never rested until it was brought to its own dead level of degradation. In its original formation it reversed the adage of "honor among thieves," as its first action was to allege its own turpitude to escape the payment of money advanced to procure a charter by bribing the members of a carpet-bag legislature. It has now existed as a blot on the body-corporate for over fifteen years, and no cause so mighty has ever operated to bring every branch of government, both State and national, into more general disrepute. The reports of the courts, both State and national, show the general demoralization: the ermine of the judge sullied, the administration of justice prostituted to the most unworthy ends; the press, that palladium of liberty, bought up or muzzled by fear or ignorance; the official head from governor to constable dependent on its good-will; every office-seeker at its beck; the whole Commonwealth prostrate at its feet; no institution existing but at its mercy. This is not an exaggerated condition of a once powerful sovereignty.

Employing the very highest talent, counting in the ranks of its advocates, from a former justice of the Supreme Court of the United States whose judical reputation is only equaled by the vastness of his judicial knowledge of the great principles of equity down to the ambitious young practitioner of but yesterday's standing at the bar, can we be astonished in contemplating this array of legal talent, that if when reduced to ex-

tremity of the efforts of conscientious and virtuous citizens, who wished to remove the stigma from the State, that it has triumphed and plucked victory from the very jaws of defeat? Let an opponent dare assert himself and its well-drilled cohorts move as an irresistible phalanx to crush him. If his candidature is not strangled in the nominating convention, the whole power of the institution is straightway carried over to the other party to effect his defeat. Acknowledging no other object than the perpetuation of its rule, it rides over every law, human and divine, to effect its purpose and its proud boast that no man of either party can have a political future in the State of Louisiana that refuses to obey its behests or that does not bear it hearty and unswerving allegiance.

There are gentlemen in this House who affect to be surprised at my statement that the State of Louisiana is completely in the power of this swindling institution. They would insinuate that this state of affairs which I have attempted to portray is only the creation of a diseased and distorted imagination. But remember that one of the greatest levers by which it acts is the total ignorance that the people are kept as to its workings. Its unscrupulous audacity is only equalled by the secrecy of its counsels. It acts without warning, it strikes without premonition, and the cries of its victims are drowned in the arrogant exultations over its success. It possesses the power, which it ruthlessly exerts, to plunder the ignorant and unwary of sixty millions, and its dupes may be found in every corner of this vast empire. A monopoly of the worst description, and backed by both national and State authority, it laughs to scorn the impotent efforts of its enemies to arrest it in its course. Every official, judicial, legislative, and executive, is at its beck, and those who dispute its power are soon removed to give place to more pliant tools. Where gold can not reach it finds in a venal press the way to crush and destroy.

No power is too high to attack, no means too low to use, when it suits the policy of its action after being once determined. It illustrates the saying of Lord Coke, "it not only possesses no soul, but it is equally destitute of all pity, all mercy, and all remorse." Once entangled in its meshes there is no escape for its dupes. A bribe once accepted, the threat forever hangs over the devoted head of its victim. And strangest of all, the momentum of its power, contracted by a long series of years of wrong-doing with impunity, has been so great that it can exist in defiance of all law and defies the proof that it exists without a charter; it makes no public statements of its affairs, permits no inspection of its books, and in its grasp of monopoly exercises all the police functions of an independent sovereignty, allied with the inquisitorial power of a secret tribunal. It is a jealous mistress and allows no rival within the fair domain of the State. None can plunder its subjects; it keeps their goods and possessions under guard against the attacks of kindred institutions.

But if the press is venal, gentlemen may point to the pulpit as the forum on which the attack on this hydra-headed monster may be urged. I can dismiss this subject with but a single sentence. This institution has been in existence for over fifteen years, and I have yet to hear of the first sermon preached against this crying sin. If one has been delivered in my State I have neither read nor heard of it. The right reverend father in God the archbishop and through all the grades of the ecclesiastical hierarchy down to the humble preacher of the circuit all ignore the existence of this great evil gnawing at the very vitals of all revealed religion. I have been arraigned as a troubler in Israel, my action denounced as an outrage on the doctrine of State rights in bringing the influence of the General Government to bear on a State institution in depriving it of the use of the mails. They forget that by this use of the mails this bogus State institution has put at defiance the power of every other State in the Union by violating with impunity the laws enacted to bridle its ungovernable license.

In conclusion, I reiterate the assertion that the lottery company has had no legal existence since March 27, 1879; that its charter was then repealed by the Legislature in the exercise of its police powers, and which it had a perfect right to do in accordance with decisions of the Supreme Court of the United States. This charter can only be revived in the same manner that it was repealed, by an act of the Legislature, and which has never been passed. The idea that an interlocutory order of a judge in a Federal court or an article of the State constitution could effect this is preposterous. Even if the article had legislative force, which it has not, the repeal of the act of 1879 did not revive the act of 1868. These are self-evident facts, and which would soon solve the question on an information filed by the attorney-general of the State of Louisiana in the nature of a writ of *quo warranto*.

We thus see that this lottery company is only sustained by the use of the mails in transacting its nefarious business, which supplies the means to employ a horde of counsel to conceal their utter want of legal entity, as also through its extensive advertising to evade exposure of the manner in which that business is conducted. I close with the hope that my unhappy State will soon be delivered from the poisonous fangs of the deadly reptile which has been fastened upon the body-corporate through so many dreary years, and that brighter prospects await her in the immediate future. "Bow thy heavens, O Lord * * * cast forth lightning, and scatter them; shoot out thine arrows, and destroy them."

The Tariff.

SPEECH

OF

HON. MILTON G. URNER,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 27, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. URNER said:

Mr. CHAIRMAN: I have not prior to this taken part in the prolonged discussion of the tariff question during this session, mainly because I recognized the fact that the country expected some tariff legislation at the hands of this Congress, and I was unwilling to do anything that would interfere with a realization of that expectation, as I plainly saw was being done, unintentionally of course, by those who consumed so much time in profitless discussion. In my opinion the tariff bill has been talked to death, and I now desire to submit a few remarks in memory of the deceased. I am compelled to differ with the great majority of the members of this House. I have a theory of my own which is in conflict with the theory upon which the Tariff Commission bill was predicated, in conflict with the theory of the report of the commission, and in conflict with the bill reported by the Committee on Ways and Means, now before the House. I concede that the country has desired a general tariff revision, but that desire was due mainly to the fact that the revenues of the government are in excess of its necessities. A too-full treasury of the government, like a too-full pocket of the individual, begets extravagance and lavish expenditure, and so the people have properly demanded that the revenues should be curtailed. Now, I claim that can be better done in another and more simple and better way than by a general reduction of the tariff duties. The Secretary of the Treasury, in his last report, gives the estimated receipts and expenditures for the fiscal year ending June 30, 1884, as follows:

FISCAL YEAR 1884.

The revenues of the fiscal year ending June 30, 1884, estimated upon the basis of existing laws, will be—

From customs	$235, 000, 000
From internal revenue	145, 000, 000
From sales of public lands	5, 500, 000
From tax on circulation and deposits of national banks	9, 000, 000
From repayment of interest and sinking-fund, Pacific Railway Companies	1, 750, 000
From customs fees, fines, penalties, &c	1, 400, 000
From fees—consular, letters patent, and lands	2, 650, 000
From proceeds of sales of Government property	1, 000, 000
From profits on coinage, &c	4, 200, 000
From deposits for surveying public lands	2, 400, 000
From revenues of the District of Columbia	1, 730, 000
From miscellaneous sources	5, 370, 000
Total estimated ordinary receipts	415, 000, 000

The estimates of expenditures for the same period, received from the several Executive Departments, are as follows:

Legislative		$3, 274, 049 30
Executive		18, 668, 595 78
Judicial		408, 300 00
Foreign intercourse		1, 390, 905 00
Military establishment		28, 901, 445 94
Naval establishment		23, 481, 078 54
Indian affairs		6, 725, 731 54
Pensions		101, 575, 000 00
Public works:		
Legislative	$6, 500 00	
Treasury Department	5, 317, 500 00	
War Department	4, 753, 602 64	
Navy Department	3, 855, 513 00	
Interior Department	417, 100 00	
Department of Agriculture	10, 500 00	
Department of Justice	1, 000 00	
		14, 361, 715 64
Miscellaneous		20, 925, 063 14
District of Columbia		3, 550, 299 06
Permanent annual appropriations:		
Interest on the public debt	$55, 877, 410 72	
Sinking-fund	45, 072, 222 54	
Refunding—customs, internal revenue, lands, &c	7, 417, 100 00	
Collecting revenue from customs	5, 500, 000 00	
Miscellaneous	3, 151, 305 00	
		117, 018, 038 26
Total estimated expenditures, including sinking-fund		340, 280, 162 22
Or, an estimated surplus of		74, 719, 837 78

Excluding the sinking-fund, the estimated expenditures will be $295,207,939.68, showing an expected surplus of $119,792,060.32. It will be seen the estimated receipts from internal revenue are $145,000,000.

During the fiscal year ending June 30, 1882, the internal-revenue receipts were:

From spirits	$69, 873, 408 18
From tobacco	47, 391, 988 91
From fermented liquors	16, 153, 920 42
From banks and bankers	5, 253, 458 47
From adhesive stamps, (including bank checks, $2,318,455.14; friction matches, $2,272,238; patent medicines, &c., $1,978,395.56)	7, 569, 108 70
From penalties, &c	199, 830 04
From collections not otherwise provided for	81, 559 00
Total	146, 523, 273 72

Of this amount, it will be seen $86,027,328.60 are collected from spirituous and fermented liquors, and from all other sources the amount of $60,495,945.12 is collected. If the whole of the internal-revenue tax is abolished, except that on spirituous and fermented liquors, the revenue is at once reduced more than sixty millions of dollars. And why should this not be done? No good reason can be assigned against it. It is said tobacco is a luxury. If it is, it is the poor man's luxury, and should be given him as cheap as possible.

It is an agricultural product, and there is no reason why this one article of all the agricultural products of the country should be singled out and taxed and hampered, while its growth and manufacture are just as legitimate as any other vocations.

But it may be said that, according to the Secretary's report, after this reduction in revenue is made there would still be a surplus. That is true, and I would still further reduce by tariff revision. Not that kind of revision now proposed, which will in all probability disturb values and bring disaster and ruin to many industries, but I would revise the tariff upon such articles only as will afford relief to the people. I firmly believe in the principle of *protection*, and since the present tariff law was enacted industries have sprung up that were not in existence then, and which are not properly protected by the present law and the Treasury rulings thereunder. In such cases there should be revision to give more ample protection. That revision would be an increase of duty instead of a reduction. I do not wish to be understood as not favoring reduction in certain cases. My theory is this: wherever it shall be made to appear that any industry is in its nature and of necessity limited, so that it does not and cannot hope to employ any considerable number of persons, or the investment of any considerable amount of capital, and the product is of general use, upon the principle of doing the greatest good to the greatest number, the tariff upon such product should be reduced or placed upon the free list. In other words, where there is no hope of the production being so increased as to approximate a supply of the demand for the article in this country, so that home competition would reduce the price, I would not consider such article entitled to special protection, and would impose a minimum duty. But where there is reason to believe that the industry, if fostered and encouraged, would grow and give employment to the people, so that the domestic competition would ultimately reduce the price to the consumer, in such case a tariff should be imposed that would give the amplest protection.

A reduction of duty does not necessarily reduce revenue; on the other hand, the tendency is to increase it. The revenue from customs, now estimated by the Secretary of the Treasury at $235,000,000, is regulated by the importations. The effect of a reduction of duty would be to increase importations, and an increase of importations would increase the revenue, unless the duty is very greatly reduced, in which case our own manufacturers, employing the well-paid labor of America, could not compete in the markets of the United States with foreign manufacturers employing the poorly paid labor of Europe. That would result in a destruction of our industries, in the closing of our machine-shops and furnaces, in disaster to all of our manufacturing interests, in sending the honest laborer wandering as a tramp in search of employment for the support of himself and loved ones, in financial panic and ruin; and the foreign manufacturer no longer having a rival here in our markets, would be master of the situation and fix the prices of his goods to suit his own inclination. That a protective duty is a tax upon the people and necessarily increases the cost of the article to the consumer, is a monstrous though somewhat popular fallacy. That protection, when it promotes home competition, reduces prices, is strikingly illustrated in the case of steel rails, which have been reduced in price more than one-half since the imposition of a protective duty.

The country has now lived for twenty years under a protective tariff, and that time has been an era of unexampled prosperity and progress. Why should there be a change of policy now? With our vast domain and its exhaustless resources we should have a fixed and settled policy of protection known as the American system, that would cultivate that domain and develop those resources until we can be as we should be practically independent of the world. With our mountains filled with coal and iron and our forests teeming with the best of lumber, and with a population of industrious, energetic, and intelligent yeomen ready to explore and develop the hidden wealth of the country, why should coal, iron ore, and scrap-iron be imported, the product of cheap labor abroad, and our own people be permitted to be idle or work for half pay? What prudent parent does not try to encourage industry in his children? He may educate them however highly, he may give them line upon line and precept upon precept, yet if he does not encourage them to be industrious, he may expect to have a family of drones. What is true of the individual is true of the Government. It should be the duty of every Government to encourage industry with parental care.

It had been my intention to submit some statistics of the coal and iron industries of my own district, but that seems now to be useless. I will only say that I represent a mining, manufacturing, and agricultural people, all of whom are interested in protection. For by the employment of the people at well-paid labor the farmer has a good and reliable market for his produce, which my section so bountifully yields. But I believe in and favor protection upon principle, and in my acts and votes as a member of the American Congress I have taken a broader view than one circumscribed by the limits of my own district or State. I see no prospect of the passage of this bill, and I can conceive of greater disasters that might befall this nation than the failure to pass this bill. It is well known that the Senate has about completed a tariff revision as an amendment to the internal-revenue bill passed this House at the first session of this Congress. Without knowing all of the particulars of that bill, and without attempting to discuss its merits, I respectfully submit that in my judgment that body has transcended its constitutional functions in attempting to originate tariff legislation. It is true the Constitution says:

> 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.

It is interesting to study the history of the ingrafting of that provision in the fundamental law. The debates of the framers of the Constitution throw great light upon the true intent and meaning of that instrument. It was contended that the money-raising power of the government should be with the representatives of the people and not the representatives of the States. The revenues of the government come from the people, and it is presumed they are appropriated for the benefit of the people, and so it was intended the people's representatives should originate all bills for raising and appropriating the revenues of the government. Upon a fair ratio of representation, the people of Rhode Island have no more nor no less voice through their representatives than the people of New York. But how is it in the Senate? There the little State of Rhode Island with its two Senators is just as potent as the great Empire State of New York with its two Senators. This is no new question. It has frequently engaged the attention of the greatest statesmen of the country, and they have always held against this right of the Senate. In the Forty-first Congress, when this question was raised, Mr. Garfield, then a member, in an exhaustive speech, reviewed and discussed the question in his masterly and inimitable manner, and after reviewing the history of this legislation in this country and England, summarized as follows:

> The results of the investigation are:
>
> First. That the exclusive right of the House of Commons of Great Britain to originate money bills is so old that the date of its origin is unknown; that it has always been regarded as one of the strongest bulwarks of British freedom against usurpations of the King and of the House of Lords, and has been guarded with the most jealous care; that in the many contests which have arisen on this subject between the Lords and Commons during the last three hundred years the Commons have never given way, but have rather enlarged than diminished their jurisdiction on this subject, and that since the year 1678 the Lords have conceded, with scarcely a struggle, that the Commons had the exclusive right to originate not only bills for raising revenue, but for decreasing it; not only for imposing, but also for repealing taxes, and that the same exclusive right extended also to all general appropriations of money.
>
> Second. The clause of our Constitution now under debate was borrowed from England, and was intended to have the same force and effect in all respects as the corresponding feature of the British constitution, with this single exception, that our Senate is permitted to offer amendments, as the House of Lords is not.
>
> Third. In addition to the influence of the British example is the further fact that this clause was placed in our Constitution to counterbalance some special privileges granted to the Senate. It was the compensating weight thrown into the scale to make the two branches of Congress equal in authority and power. It was first put into the Constitution to compensate the large States for the advantages given to the small States, in allowing them an equal representation in the Senate; and when, subsequently, it was thrown out of the original draft, it came near unhinging the whole plan. It was reinserted in the last great compromise of the Constitution, to offset the exclusive right of the Senate to ratify treaties, confirm appointments, and try impeachments.
>
> Fourth. The construction given to it by the members of the constitutional convention is the same which this House now contends for. The same construction was asserted broadly and fully by the First Congress, many of the members of which were framers of the Constitution. It has been asserted again and again, in the various Congresses, from the First till now, and though the Senate has often attempted to invade this privilege of the House, yet in no instance has the House surrendered its right whenever that right has been openly challenged; and finally, whenever a contest has arisen, many leading Senators have sustained the right of the House, as now contended for.

But in the Forty-second Congress the question arose in a manner that placed it on "all fours" with the present case. Then the Senate sought, by way of amendment to a bill to repeal duties on tea and coffee, to make a general revision of the tariff. If there is any difference, the amendments then proposed were more germane than in the present case. Then, the bill amended was one affecting impost duties. In this case, the bill proposed to be amended is one that affects internal revenue alone. Mr. Garfield then also made an able speech against the right of the Senate to so amend, and the House,

properly jealous of its rights, agreed with him in his views. Mr. Garfield then said:

The case now before us is new and difficult. I think the same point has never before come into controversy. It raises the question how far the Senate may go in asserting their right to propose or concur with amendments as in other bills.

We must not construe our rights so as to destroy theirs; and we must take care they do not so construe their rights as to destroy ours. 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 revenue on textile fabrics, but that all the amendments of the Senate should relate to the duty on salt. To admit that the Senate can take a House bill consisting of two lines, relating specifically and solely to a single article, and can graft upon that bill in the name of an amendment a whole system of tariff and internal taxation, is to say that they may exploit all the meaning out of the clause of the Constitution which we are considering, and may rob the House of the last vestige of its rights under that clause. I am sure that this House, remembering the precedents which have been set from the First Congress until now, will not permit this right to be invaded on such a technicality.

I do not see how this House, as the repository of the peoples' rights, can, with a due regard to its responsibilities, treat the proposed revision of the Senate, in the shape of an amendment to the internal-revenue bill, as anything else than an infraction of the spirit of the Constitution, not to be permitted, and which might be made a precedent for repeated and further infractions in the future. The people can afford to live longer under a tariff system that has made them the richest and most prosperous nation in the world, but they cannot afford to stand by and see a violation of that Constitution which is the palladium of all their liberties.

Lee vs. Richardson.

SPEECH

OF

HON. JOHN S. RICHARDSON,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the contested-election case from the first Congressional district of South Carolina.

Mr. RICHARDSON, of South Carolina, said:

Mr. SPEAKER: Availing myself of the privilege granted me by the House to print some additional remarks upon the contested-election case of Lee *vs.* Richardson, I shall attempt to reply to some of the strictures that were made during the debate on this case.

I think I shall be able to show that the attempt has been made to have this case decided upon prejudices unfairly and unwarrantably conjured up. The gentleman from Tennessee [Mr. PETTIBONE], in order to carry his point by any means, whether fair or foul, lugged into the debate on the case (which by the conception of all, as well as by the report of the Committee on Elections, turned upon the rejection or retention of the Darlington poll) questions which had no more to do with the Darlington poll than they had to do with the transit of Venus or the apostolic succession. He very well knew that unless the House, in the hurry of its closing hours and the limited time it had for the discussion, could be misled by presenting to it false issues there would be no hope of overriding the majority report. And the contestant, following the example set by the gentleman from Tennessee [Mr. PETTIBONE], raised and waived the "bloody shirt."

This has been the contestant's only stock in trade for years, and it was not to be expected he could give up the last plank left to his forlorn hope.

In justice to my constituents, who I know will feel themselves slandered and traduced by these uncalled-for aspersions on their good name and character, I desire to notice some of their operations.

This case was most patiently, carefully, and laboriously considered by the Committee on Elections. The sub-committee gave it the most careful consideration, and after several arguments, pro and con, arrived at its conclusion. Then the full committee carefully and maturely considered it, and as the result decided that the contestee was entitled to retain the seat.

This committee (the Committee on Elections), as is known, is composed of nine Republicans, of some at least of whom it can well be said they are "Stalwarts among the Stalwarts," of one Greenbacker, one Readjuster, and four Democrats. Of these, two Republicans (Chairman CALKINS and Mr. MILLER), the Greenback member, the Readjuster member, and all four Democrats united in declaring the contestee entitled to the seat. None other than the clearest and strongest case could have commanded or obtained such a decision. The minority report, after reducing the contestee's majority by illegal and heretofore unheard-of methods, in order to give the seat to the contestant has still to throw out the entire vote given at the Darlington poll. This report (the minority report) was written by the gentleman from Tennessee.

The majority report, without going into all the points raised in the minority report, joins issue with the minority report as to the Darlington poll. And why on that point only? Because if you can not throw out the Darlington poll, though you concede all the other points raised in the minority report, you can not seat the contestant. Those of the Elections Committee who believe the contestee entitled to the seat were willing to rest the case on that issue alone; not because there were not other conclusions reached in the minority report to which they did not agree and which could not be contravened and easily upset, but because the case of the Darlington poll was so clear and strong that there was no use in wasting time in looking further. No one knew better than the gentleman from Tennessee that this was the point and the only point at issue as presented in the majority and minority reports. And yet how does that gentleman proceed to discuss this point?

Without informing the House that he was speaking of transactions which in the testimony were alleged to have occurred over fifty miles away from the Darlington poll, he proceeded to discuss the question of "tissue ballots," and endeavored to make the House believe that the vote at the Darlington poll was affected by the use of "tissue ballots." He went even further than this. He not only left the House to infer he was speaking of "tissue ballots" as used at the Darlington poll, but when asked what county he referred to he in terms stated to the House that "this occurred in all the counties."

No one knew better than this gentleman that he then and there deliberately stated what was not true. There is no charge made in the contestant's notice of contest that there were any "tissue ballots" used anywhere in Darlington County, and none that there were any used at the Darlington poll. There is not a single witness out of the five or six hundred witnesses examined for the contestant as to Darlington County who anywhere makes such a charge. The contestant himself has never made it, and it has been left for the gentleman from Tennessee alone to resort to this unfair and untrue declaration. If this was the only instance in his short speech in which he has applied to the Darlington poll things that had no possible connection with that poll we might, in charity, conclude it was done by mistake. But he made but two points in his speech, and both were equally unfortunate in their application and their truthfulness.

After arguing the case, which, by his own report as well as by his admission, turned upon the legality or illegality of the Darlington poll, and applying to that poll the tissue ballots used in Georgetown County, he then proceeds to persuade the House to throw out that poll and unseat the contestee on account of "ballot-box stuffing." And he brings up a case of "ballot-box stuffing" which he, on being questioned, is forced to admit did not occur at the Darlington poll or in Darlington County.

Without following this gentleman any further in the methods he resorted to to accomplish his purpose, I will simply repeat that there is not in the notice of contest or in all the testimony one single word of "tissue ballots" or "ballot-box stuffing," as applied to the Darlington poll. The ballots in the box at that poll corresponded precisely with the number of names on the poll-list, and nowhere in that county was a single "tissue ballot" voted or used.

The contestant, following the example set him by the distinguished Tennesseean, raised the "bloody shirt" and made the declaration that the "Republicans of South Carolina had met those rifles (Winchester rifles) at midnight as well as at noonday." If such a declaration was to have any force, if it could or ought to influence at all the decision of this case, the declaration must be meant to apply to the campaign which preceded this election, or to the election itself. Now, no one knew better than the contestant himself that there never was a more peaceable, quiet, and orderly campaign than the one out of which this contest grew.

Not a single Republican meeting was prevented. Free discussion was had everywhere, and nowhere during the campaign or on the day of the election were there any Winchester rifles or other guns or rifles displayed or used. That there had been such displays of fire-arms in former elections could have no possible bearing on this election, and the least regard for fairness or truth would have compelled the contestant to have said to the House he was speaking of some former election. And had he done so, truth would have compelled him to have added that these rifles were used at the polls in South Carolina in former elections as much, if not more by the Republicans than by the Democrats.

But I will not consume time in commenting upon such injustice and unfairness. Perhaps it was to have been expected and ought not to excite surprise. It was the only chance left by which to mislead the House and draw it off from the point at issue and have the case decided in favor of the contestant at any cost, by fair or foul means. I will now content myself with printing as a part of my remarks the report in my favor made by the sub-committee. It embraces all the points at issue as made by Mr. PETTIBONE'S report, and embodies my views thereon as presented by me in the discussion of this case before the sub-committee.

Among other points it fully discusses the Darlington poll and exposes the utter groundlessness of the claim that it should be rejected. I am willing that my claim to the seat and the justification of myself

and my constituents shall rest on the argument and the facts presented in this report:

The Congressional district comprises eight counties, as follows: Georgetown, Sumter, Williamsburgh, Horry, Darlington, Marlborough, Marion, and Chesterfield. The pleadings in the case are as follows:

"*Notice of contest.*

"To Hon. JOHN S. RICHARDSON, *Sumter, S. C.*:

"SUMTER, S. C., *December* 15, 1880.

"SIR: You are hereby notified that I will contest your right to a seat in the Forty-seventh Congress of the United States as a member of the House of Representatives from the first district of South Carolina, for the following reasons:

"First. That a majority of the legal votes polled at the election held on the 2d day of November, 1880, in the first Congressional district of South Carolina were cast for me.

"Second. That owing to frauds, violence, and intimidation committed in your interest by your partisans and supporters in each and every county in the Congressional district, the true result of the election was defeated and a pretended and fraudulent majority made to appear for you.

"Third. That the returns made to the State board of canvassers by the commissioners of elections of Sumter, Williamsburgh, Georgetown, and Horry Counties do not contain true and correct statements of the votes cast for a member of Congress in said counties.

"Fourth. That according to the returns of the election made by the managers of election of the several voting precincts in the counties of Sumter, Williamsburgh, and Georgetown, I received a majority of the votes cast in each of the said counties.

"Fifth. That in Sumter County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the following voting precincts, to wit, Sumter No. 1, Carter's Crossing, and Rafting Creek.

"Sixth. That in Williamsburgh County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the following voting precincts, to wit, Salters, Gourdins, and Midway.

"Seventh. That in Georgetown County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the following voting precincts, to wit, Upper Waccamaw, Lower Waccamaw, Santee, Sampit, Choppee, and Pee Dee, or Birdfield.

"Eighth. That in Horry County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the voting precinct of Martin Hill.

"Ninth. That in Sumter, Williamsburgh, and Georgetown Counties at the following voting precincts, to wit, Lynchburgh, Mayesville, Shiloh, and Privateer, in the county of Sumter, and Kingstree, Gourdins, Black Mingo, Greelyville, Salters, Cedar Swamp, Prospect Church, Pipkins, Anderson's, Scranton, and Graham's, in the county of Williamsburgh, and Georgetown, Upper Waccamaw, Sampit, and Carver's Bay, in the county of Georgetown, the vote actually cast for me was larger and the vote actually cast for you was smaller than appears on the face of the returns made by the managers of election at the voting precincts aforesaid; that the difference between the vote as actually cast and the vote as returned by the managers aforesaid arises from the fact that at each of the aforesaid polls, numerous ballots bearing your name for Congress, were fraudulently placed in the ballot-box, for the purpose of creating an excess of votes over voters and thereby compelling the managers to draw out and destroy the excess of ballots thus created, in order to reduce the number of ballots in the box to the number of names on the poll-list; that in drawing out of the box at each poll the excess of ballots fraudulently created as aforesaid, numerous ballots bearing my name for Congress, and which had been legally voted, were drawn out and destroyed, and in their place was counted a corresponding number of ballots, with your name for Congress thereon, which had not been legally voted; wherefore, to the vote returned for me by the managers of election at each of the polls aforesaid should be added the ballots bearing my name for Congress which were drawn out and destroyed, and from the vote returned for you at each of the polls aforesaid should be deducted a corresponding number.

"Tenth. That in Marion, Marlborough, and Chesterfield Counties, at the following voting precincts, to wit, Marion Court-House, Berry's Cross Roads, Campbell's Bridge, Little Rock, Friendship, High Hill, Mount Nebo, Marsbluff, Aerial, and Stones, in the county of Marion; and Bennettsville, Smithville, Adamsville, Brownsville, Brightsville, Hebron, Clio, Red Bluff, and Red Hill, in the county of Marlborough; and Chesterfield Court-House, Mount Croghan, and Hebron Church, in the county of Chesterfield, for the causes set forth in the preceding paragraph (No. 9) the vote actually cast for me was larger and the vote actually cast for you was smaller than appears on the face of the returns made by the managers of election at the voting precincts aforesaid. Wherefore to the vote returned for me by the managers of election at each of the polls aforesaid should be added the ballots bearing my name which were drawn out and destroyed, and from the vote returned for you at each of the polls aforesaid should be deducted a corresponding number.

"Eleventh. That the polls required by law to be held at Stateburgh, in Sumter County, and at Griers, in Georgetown County, were not opened, because the managers of election, who were your partisans and supporters, and members of the political party whose nominee you were for Congress, neglected and refused to act, in consequence of which numerous voters who went to said polls for the purpose of casting their ballots for me for Congress were deprived of the opportunity to vote for me for Congress, as they intended and desired.

"Twelfth. That at Black River or Brown's Ferry voting precinct, in Georgetown County, two hundred and seventy-six votes were cast for me and twenty votes were cast for you; that at the close of the poll, upon opening the ballot-box and counting the votes therein, the managers found that there were six hundred and two tickets in the box; that this excess of three hundred and six ballots was caused by your partisans and supporters fraudulently placing in the ballot-box that number of small tissue ballots bearing your name for Congress; that when it was ascertained that the ballot-box had been stuffed as aforesaid, a controversy arose between the United States supervisors and the managers as to the duty of the latter under the circumstances, and not being able to agree the managers sealed up the box and delivered the same to one of the supervisors without making a canvass and return of the votes required by law; wherefore, the vote cast as aforesaid at said precinct should be added to the vote returned for you and for me respectively by the commissioners of election of Georgetown County, to-wit, twenty for you and two hundred and seventy-six for me.

"Thirteenth. That at Cheraw voting precinct, in Chesterfield County, the poll-list kept by the managers of election and their clerk was falsified in your interest by the insertion thereon of one hundred and sixteen fictitious names, and for the names thus fraudulently placed on the poll-list a number of ballots bearing your name for Congress were surreptitiously placed in the ballot-box and counted, canvassed, and returned for you; wherefore, from the vote returned for you at said precinct should be deducted the number of ballots so illegally counted, canvassed, and returned for you.

"Fourteenth. That in each and every voting precinct in the counties of Chesterfield, Horry, Marlboro', Williamsburgh, Darlington, and Marion numerous illegal votes were cast for you by persons not qualified to vote and by persons who voted more than once.

"Fifteenth. That at each and every precinct in the counties comprising the first Congressional district a large number of colored voters who desired and intended to vote for me for Congress were denied that right, without good and sufficic at cause, by the managers of election.

"Sixteenth. That throughout the Congressional district the supervisors appointed by the circuit court of the United States to represent the Republican party, whose nominee for Congress I was, and the deputy marshal of the United States were obstructed, hindered, and prevented by your partisans and supporters from fully and freely performing the duties required of them by the laws of the United States.

"Seventeenth. That at each and every voting precinct in the eight counties comprising the first Congressional district all the managers of the election were known to be your political partisans and supporters, and members of the political party whose candidate for Congress you were; that in the reception and rejection of votes and in the general management and conduct of the election the managers of election aforesaid at each and every poll acted in your interest and for your benefit; that at each and every precinct where there was an excess of ballots in the box the managers of election as aforesaid in drawing out such excess acted in your interest, manipulating the ballots in such a way as to draw out mostly tickets with my name for Congress thereon.

"Eighteenth. That in Darlington County there was not a free and fair election, owing, first, to the repeating, illegal voting, and ballot-box stuffing, which was committed in your interest and by your partisans and supporters at each and every voting precinct in the county; second, to at Darlington Court-House poll, Florence, Effingham, James Cross Roads, Gum Branch, and Timmonsville, by the poll-list being falsified by the insertion thereon of fictitious names, repeating, violence, intimidation, illegal voting, and by the rejection of a large number of qualified voters who desired and offered to vote for me for Congress; wherefore, the entire vote returned as having been cast at each of the above-named polling precincts should be rejected and entirely excluded.

"Nineteenth. That in Darlington County, at the following voting precincts, to wit: Effingham, James Cross Roads, Gum Branch, Timmonsville, Lisbon, Lydia, Society Hill, Leavensworth, and Mechaniesville, for the causes set forth in paragraph No. 9, the vote actually cast for me was larger, and the vote actually cast for you was smaller, than appears on the face of the returns made by the managers of election at the voting precincts aforesaid; wherefore, to the vote returned for me by the managers of election at each of the polls aforesaid should be added the ballots bearing my name which were drawn out and destroyed, and from the vote returned for you at each of the polls aforesaid should be deducted a corresponding number.

"Twentieth. That at Graham's Cross Roads, Scranton, and Cedar Swamp, in Williamsburgh County, the ballot-boxes were stuffed, the poll-lists falsified by the insertion theron of fictitious names, violence, intimidation, repeating, and illegal voting committed in your interest and by your partisans and supporters, to such an extent that it is impossible to tell how many legal votes were cast at said voting precincts; wherefore the entire vote returned as having been cast at said polls should be rejected and entirely excluded."

To the notice of contest the sitting member filed exceptions and answer as follows:

"SIR: In reply to your notice of intention to contest my seat in the Forty-seventh Congress of the United States as a member from the first district of the State of South Carolina, served on me on the 20th day of December, 1880, I have to say—

"I. That I deny and except to your right to contest my seat, either in your own behalf or in the interest of the voters of the first Congressional district of the State of South Carolina, for the reason that you were not at the time of the general election on the 2d of November, 1880, either a legal voter or a citizen of the said district or State. I allege that two years previous to said election, with the intention of removing from South Carolina, you sold whatever property you owned in South Carolina and removed with your family beyond the borders of said State, and returned to the said State less than twelve months previous to said election.

"II. I object and except to your notice so far as you charge force and intimidation on the part of my supporters, because you do not specify, as the law and practice require, or pretend to specify, a single instance of force or intimidation committed by any of my supporters anywhere in the Congressional district on any of the voters of said district. Nowhere in your notice do you state who was forced to vote for me, or who was intimidated by my supporters and prevented from voting for you, or in what manner, place, or town such intimidation was had, or by whom it was done.

"III. Because your specifications of grounds of contest are insufficient in law, and do not set forth facts sufficient or of such a character as to enable you to contest my right to said seat. And not waiving my aforesaid exceptions, but expressly reserving and relying on the same, I do hereby expressly deny, on information and belief, all the charges and allegations in your said notice contained and set forth, and require you to prove the same, except as hereinafter admitted.

"To the first ground of your contest I deny the same, and each and every allegation therein contained. On the contrary, I allege that my official majority, as found by the State board of canvassers for the State of South Carolina, was 8,468.

"To the second ground of your contest I deny the same, and each and every allegation therein contained.

"To the third and fourth grounds of your contest I object, and except to them as indefinite and insufficient in law. If true, as alleged by you, they do not show or allege that I am not entitled to said seat, or that you are; and they do not state how or wherein the said returns are not true and correct, or what would be your majority in said counties if the said returns were corrected as claimed by you. In reference to your allegation in said third ground of contest, while I do not admit it because I do not know it to be true, but on the contrary require you to prove it, I claim and allege if true, as alleged by you, I would still have a large majority of the votes cast at said election, and be entitled to said seat.

"In reference to the fourth ground of your contest, I answer that I believe it is true, as alleged by you therein, that a majority of the votes cast in said counties of Sumter, Williamsburgh, and Georgetown were cast for you, but I object and except to your specification as indefinite and insufficient in law. It does not state what returns, from what voting precinct, how or wherein the said returns are not true or correct, or what would be your majorities in said counties; and I expressly and emphatically deny that you would, if your said allegations were true, thereby or by reason of anything alleged in said third and fourth grounds of contest, have a majority of the votes cast in said district or be entitled to said seat.

"To the fifth ground of your contest I answer that I do not know or admit that in Sumter County the commissioners of elections illegally refused to count and include in their statement the votes cast and returned at Sumter precinct No. 1, Carter's Crossing, and Rafting Creek. I admit that the votes cast at said voting precincts were refused and excluded. As to the votes cast at Sumter precinct No. 1, I waive the question as to whether the same were legally or illegally refused and excluded by said commissioners, and agree that the same may be counted. And I allege and claim, if they be counted, I would still have a large majority of all the votes cast in said district. As to the votes cast at Carter's Crossing and Rafting Creek, I deny, on information and belief, that they were illegally refused and excluded from the said statement, and I allege and claim, if they be counted, I would still have a large majority of all the votes cast in said election.

"To your sixth, seventh, eighth, ninth, and tenth grounds of contest, on information and belief, I deny the same and each and every allegation therein contained.

"As to so much of the allegation contained in your ninth ground of contest as alleges that there is such a voting precinct as Mayesville in Sumter County, I deny the same; and though I received a majority of the votes polled at said supposed precinct, I allege that there is no such voting precinct established by law, and ask that the vote returned and counted from said supposed voting precinct be excluded.

"To your eleventh ground of contest, on information and belief, I deny that the poll at Stateburgh, in Sumter County, and at Grier's, in Georgetown County, were not opened. I deny that said polls were not held because the managers neglected or refused to act. I deny that because said polls were not held numerous voters who desired to vote for you were thereby deprived of the opportunity to vote for you.

"On the contrary, on information and belief, I allege that the poll at Grier's, in Georgetown County, was held, and I charge and allege that your partisans and supporters, with force and arms, took from the possession of the managers of said poll the box containing the ballots cast for a member to Congress and carried off the same, refusing to allow the said managers to count the ballots and ascertain the result. And I further allege that no one was prevented from voting for you who desired to do so, by anything that was done at either of said voting precincts by my partisans and supporters, or by the managers at said precincts.

"To your twelfth ground of contest, on information and belief, I deny the same, and each and every allegation therein contained; and I charge and allege, on information and belief, that your partisans and supporters, with force and arms, took from the possession of the managers of said Black River, or Brown's Ferry precinct the box containing the ballots cast at said voting precinct, and refused to allow the same to be counted by the managers, as by law required to be done.

"To your thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, and twentieth grounds of contest, on information and belief, I deny the same, and each and every allegation therein contained. As to your seventeenth ground of contest, and all other grounds where similar allegations are made by you, I charge and allege that the managers of the election were appointed, and the purging of the ballot-boxes, where the same was found to be required by law, was done in strict accordance with the laws of South Carolina governing in such cases, and that said laws were framed and passed by the political party of which you are a member, and the appointment of said managers and the purging of the boxes were done in strict accordance with the practice adopted and acted on by the party of which you are a member when said party were in power in South Carolina. I further charge and allege that the party to which I belong have not altered, amended, or repealed the said laws in one iota.

"As to so much of your allegation contained in your eighteenth and nineteenth grounds of contest as alleges that there is such a voting precinct as James Cross Roads, in Darlington County, I deny the same, or that there was any vote polled at or counted from any such voting precinct.

"The undersigned alleges and charges that there is no such voting precinct established by law as Mount Clio, in Sumter County, and claims that the vote counted and canvassed as polled at said supposed voting precinct should be excluded.

"The undersigned further denies that if the irregularities alleged by you to have been committed did occur (of which he has no knowledge or information), they were of a character in any degree to affect or invalidate his true and lawful election. On the contrary, he alleges and claims that, counting the entire vote polled at every voting precinct in the Congressional district, and accepting the returns made by the Republican supervisors, wherever they made returns, as to the number of such votes and the persons for whom they were cast, the contestee received a large majority of all the votes cast for a member to Congress from the first district of the State of South Carolina at the election held for such member on the 2d day of November, 1880.

"While the undersigned denies that there was any 'force or intimidation' whatever used or practiced anywhere in the Congressional district by his partisans and supporters, he alleges and charges that there was great force, undue influence, violence, and intimidation practiced by you and your partisans and supporters upon and over a large number of colored voters who desired to vote for him, and who in consequence of such force, violence, undue influence, and intimidation were prevented from voting for him, and forced by fear of violence and injury to their persons or property to vote against their wishes for you. That this was notably the case at each and every voting precinct in the counties of Sumter, Williamsburgh, and Georgetown. That to render this intimidation more complete and effectual you and your partisans and supporters caused large numbers of the colored people to be formed into clubs and appointed captains over them, who were charged to march their squads in a body to the polls, and there see that they voted the Republican ticket. That you and your partisans did so officer them and march them in squads to the polls, and by such means massed large bodies of colored voters at certain polls, thereby crowding out Democratic voters, and preventing them from voting thereat, and thereby overawed, intimidated, and forced many colored voters to vote the Republican ticket who desired to vote the Democratic ticket. That you and your partisans and supporters procured certain little blank books, which you and your partisans and supporters caused to be placed in the hands of certain of your partisans and supporters, and gave out that these books were furnished by the United States authorities or by the national Republican party who were in authority, for the purpose of entering therein the names of all colored men who voted the Republican ticket, to be returned to the said authorities as evidence that they had so voted.

"The undersigned further alleges and charges that you intimidated a large number of colored voters and prevented them from voting for contestee by procuring yourself to be appointed a United States deputy marshal, and acting as such in the interest of your own election. That you and your partisans and supporters procured the appointment of a large number of special deputy marshals, whom you and your partisans and supporters caused to be stationed at each and every poll in the Congressional district without warrant of law, there being no city or town in the district of 20,000 inhabitants. That these deputy United States marshals had displayed on their persons the badges of their authority obtained from the United States authorities, and were active partisans and supporters of yourself, overawing and forcing many colored voters to vote for you who would otherwise have voted for him.

"The undersigned further alleges and charges that in order the more effectually to intimidate and force the colored voters to vote for you you caused your name as a candidate for member to Congress to be printed on a thick, stiff, and striped-back card, easily discerned at a considerable distance, thereby seeking to prevent, and in a great many instances did prevent, the colored voters from voting a secret ballot, as is contemplated by the law; that many of these colored voters desired to vote the Democratic ticket, on which contestee's name was printed as a candidate, and would have done so could they have voted it without its being known to your partisans and supporters for whom they voted; that many colored voters actually came to the friends and supporters of the undersigned and stated that they intended and desired to vote the Democratic ticket, but could not do so, for fear of your partisans and supporters, unless the Democratic ticket could be pasted on the inside of your striped-back ticket, and these—when this device was resorted to to shield and protect them against the violence and intimidation of your partisans—voted the Democratic ticket.

"The undersigned alleges and charges that your partisans and supporters armed themselves with guns and pistols, openly displayed on their persons, and went to the polls so armed and equipped, and there threatened and intimidated many colored voters who intended and desired to vote the Democratic ticket, and prevented them from so doing; that this was so done at each and every voting precinct in the counties of Georgetown and Williamsburgh, and at Sumter Court House, Carter's Crossing, and Rafting Creek, in Sumter County."

The issues raised by the pleadings and the arguments of counsel on both sides present the following prominent points:

First. The district comprises eight counties, in which were located one hundred and one voting precincts, at which the election was held on the 2d of November, 1880.

Second. The election and the result thereof, as ascertained and returned by the officers or managers at seventy precincts, is not contested in the testimony or in the arguments by either party, and is, therefore, not in issue, but is admitted and accepted as lawful and just by both parties to this contest.

Third. The election and the result thereof, as found by the officers of the law at the thirty-one remaining precincts, is attacked in the pleadings upon the ground of fraud, violence, and intimidation, and various irregularities in the conduct and return of the same.

The result of the election, as lawfully ascertained at the seventy uncontested precincts, is as follows:

Counties.	Precincts.	As returned by election officers.	
		Richardson.	Lee.
Georgetown	Santee	23	476
	Lower Waccamaw	45	250
	Choppee	41	197
	Pee Dee	33	469
		142	1,392
Sumpter	Bishopville	353	9
	Providence	137	40
	Swimming Pens	99	233
	Wedgefield	190	232
	Spring Hill	224	181
	Corbett Store	79	346
	Manchester	28	69
	Sumter No. 2	398	91
	Sumter No. 1	9	1,499
	Rafting Creek	51	313
	Carter's Crossing	29	407
		1,587	3,420
Williamsburgh	Anderson	112	59
	Graham's Cross Roads	563	78
	Indiantown	18	548
	Muddy Creek	117	0
	Pipkin	74	109
	School-House	83	14
	Scranton	333	0
	Sutton	73	108
	Midway	72	155
	Salter's	49	426
	Gourdin's	80	217
		1,526	1,544
Darlington	Cartersville	195	69
	Mechanicsville	51	349
	Gum Branch	143	29
	Effingham	142	95
	Hartsville	187	44
		608	586
Marlborough	Adamsville	331	80
	Clio	214	59
	Red Bluff	187	65
	Brightsville	237	181
		969	385
Marion	Hymansville	167	277
	Evergreen	214	0
	High Hill	350	74
	Kentyre Church	190	74
	Stoney	238	116
	Old Arc	52	5
	Mullins	488	153
	Little Rock	469	230
	Mount Nebo	126	105
	Mars Bluff	201	415
	Aerial	192	54
		2,687	1,505
Chesterfield		1,434	608
Horry		2,186	771

SUMMARY OF UNCONTESTED POLLS.

Counties.	Richardson.	Lee.
Georgetown County	142	1,392
Sumter County	1,587	3,420
Williamsburgh County	1,526	1,544
Darlington County	608	586
Marion County	2,687	1,505
Marlborough County	969	385
Chesterfield County	1,434	608
Horry County	2,186	771
Total	11,229	10,211

Majority for Richardson, 1,018.

The aggregate vote found at the foregoing seventy uncontested precincts comprises more than two-thirds of the votes cast in the entire district.

At the remaining thirty-one precincts the result of the election as ascertained and returned by the managers of the election differs widely from the result claimed by contestant.

At two of these precincts, Darlington Court House and Florence, the contestant claims there was intimidation and violence sufficient to exclude these polls from the count, and at Cheraw poll that there was fraud in falsifying the poll-list, and for that reason it should be excluded.

At twenty-eight of these precincts the testimony in the record discloses the fact that there were found in the ballot-boxes an excess of ballots over the names on the poll-list, and contestant complains that in the process of drawing out this excess, in purging the boxes, under the statute of South Carolina, injustice was done to him.

Much of the contest in this case has rested on the correct ascertainment of the vote at these twenty-eight precincts, but after argument the vote at nineteen out of these twenty-eight polls has been virtually settled. As to some of these nineteen polls, Mr. PETTIBONE, for the contestant, has decided not to disturb the returns made by the precinct managers, and in the others the contestee, while protesting against the mode adopted to purge the boxes, agrees that the vote shall stand and be counted as corrected by Mr. PETTIBONE. The following is the vote at the polls thus settled as above stated, to wit:

Counties.	Precincts.	Richardson.	Lee.
Sumter	Shiloh	134	189
	Mayesville	137	404
	Privateer	127	17
	Concord	152	
Williamsburgh	Black Mingo	71	120
	Cedar Swamp	85	30
	Greeleyville	95	141
	Kingstree*	309	592
	Prospect	82	149
Darlington	Leavenworth	286	308
	Lydia	572	193
	Lisbon	278	245
Marlborough	Bennettsville	283	516
	Red Hill	330	205
	Hebron	206	145
	Smithville	167	295
Marion	Friendship	86	157
	Berry's Cross Roads	279	261
	Campbell's Bridge	254	141
	Marion Court House	520	576
	Total	4,453	4,654

Majority for Lee in the twenty polls agreed on, 201.

Contestant complains that a number of precincts were rejected on merely technical ground, and not counted by the managers, at which he received a majority of the votes cast. It is not necessary to consider the sufficiency of the reasons raised by the county and State boards of canvassers to the counting of these precincts, as the contestee has insisted that all votes cast and legally or sufficiently ascertained shall be counted without reference to technical objections. Your committee has therefore restored and counted these rejected precincts throughout the district.

There remain now in contest, first, nine polls at which there was an excess of ballots in the box over names on the poll-list; second, the Cheraw poll, contested for fraud; and, third, the Florence and Darlington polls, contested for violence and intimidation. The questions at issue in this case are thus limited to the above twelve polls.

Now, as to the first class, to wit, the nine polls contested on account of an excess of ballots in the box over the names on the poll-list. Five out of these nine polls are in Georgetown County; one in Sumter County, to wit, Lynchburgh; one in Marlborough County, to wit, Brownsville; two in Darlington County, Timmonsville and Society Hill.

GEORGETOWN COUNTY.

In this county the State board of canvassers rejected all the polls except one. Why they did this does not appear in the record, but it may be stated that this was the only county in which a real tissue ballot was used, and they were found in a number of the boxes. Why they agreed to count only one box, and that one a box at which tissue ballots were found, is not explained. But it may be said unless they had done this no county officers could have been declared elected. The box they agreed to count and did count gave the offices to the Republicans and a majority to the contestant. The contestant asks to have all these boxes counted, and the contestee has insisted that all precincts shall be counted without reference to technical objections. We have therefore reinstated them.

Now, as to the five contested polls in Georgetown County. The precinct managers returned the vote at these five contested precincts in this county as follows:

Precincts.	Richardson.	Lee.
Sampit poll	176	256
Upper Waccamaw	90	341
Carver's Bay	183	97
Court House	302	617
Brown's Ferry	95	201
Total	846	1,512
Majority for Lee		666

In addition to the above, Mr. PETTIBONE, for the contestant, insists that the contestant shall have given to him and added to his majority every Republican vote that was withdrawn in pursuance of the statute of South Carolina requiring the withdrawal of the ballots in excess of the names on the poll-lists, and that contestee shall have the same number subtracted from his vote, to-wit, as follows:

	Richardson subtracted.	Lee added.
Carver's Bay	19	19
Sampit	18	18
Upper Waccamaw	48	48
Court House	169	169
Total	254	254

Is there a particle of legal evidence on which this claim is based? Let us see.

Carver's Bay poll.

Take the evidence relating to Carver's Bay poll. At this poll 283 votes were cast. Three hundred and seventy-seven ballots were found in the box. There is no evidence in the record to show that the stuffing of this ballot-box was done more by one party than by the other. The Republican United States supervisor in his official report (see record, page 822) says in reference to this poll:

"The number of Republican ballots found with one or more Republican ballots folded within the same was 31.

"The number of Democratic ballots found with one or more Democratic ballots within the same was 24."

Here is evidence, unquestioned and uncontradicted, submitted by the contestant, and given by one of his own witnesses, which plainly shows that Republicans voted more than one ballot, and the stuffing was done by the Republicans as well as by the Democrats. From the evidence it appears that the managers destroyed all the ballots that were inclosed in others, and that there was an excess of 39 ballots left in the box. These were withdrawn, and 20 Democratic and 19 Republican ballots were drawn out and destroyed. To say that all the managers were Democratic amounts to nothing, unless there is some evidence to show that they had a hand in this stuffing of the ballot-box. By the law of South Carolina the voters deposited their own ballots, and the managers have nothing to do with placing them therein. The officers are strongly presumed to have done their duty, and the box having been purged, in pursuance of the statute law, of the excess, the result thus obtained should stand. We therefore decline to deduct 19 votes from the contestee's and add them to the contestant's vote, and this box will therefore stand for Richardson 183 and for Lee 97.

Sampit poll.

Take the evidence relating to Sampit poll.

The poll-list showed 437 ballots, and 495 ballots were found inclosed in the ballot-box. Twenty ballots called "tissue ballots" were found in the box. The managers promptly destroyed them.

Four Democratic ballots were folded together. The 3 inclosed ballots were also destroyed. This left an excess of 37 ballots in the box. That excess was drawn out and destroyed in pursuance of law; 18 were Republican and 19 were Democratic.

There were double the number of Republican ballots in the box that there were of Democratic ballots, and yet a majority drawn out were Democratic.

Not a syllable of direct or positive proof was offered to show who put this excess in the box. But the proof introduced in the record by the contestant tends to show that it was done fully as much by Republicans as by Democrats. The two United States supervisors (Republican and Democratic), page 810 of the record, make their official report, in which they say:

"The number of mixed ballots found with one or more Republican ballots folded within the same was 20 tissue.

"The number of Democratic ballots found with one or more Democratic ballots within the same was 4."

There is no evidence in the record to contradict this sworn return of the United States supervisor. Here again Republicans are found voting more ballots than one.

Has not Richardson just as much reason to presume Republicans committed the fraud as Lee to insist that Democrats stuffed the box?

It is enough to say here, as we did as to Carver's Bay, that without proof no presumption can be made either way, and the box having been purged, according to the statute law of South Carolina, of the excess, the result thus obtained must stand—Richardson, 176; Lee, 256.

Mr. PETTIBONE says in his report that 18 "tissue ballots" were counted for Richardson. The record shows that every tissue ballot was eliminated and rejected. His suggestion, therefore, is wholly without proof.

Upper Waccamaw.

In this precinct there was on the poll-list 432, and 482 ballots were found in the box. There was also found one Democratic ballot with 12 ballots inside, and one Republican ballot with one inside (record, page 812). These were destroyed, except the outside ballot in each case. Then the balance of the excess, 50, were drawn out and destroyed, leaving the vote stand 341 for Lee and 90 for Richardson.

Not a word of evidence is adduced to show how these ballots in excess got in the box. There is no more evidence on which a guess could be made that one party did it rather than the other.

Complaint is made that in drawing the excess 48 Republican ballots were drawn out and only 2 Democratic.

But remember when the drawing commenced there were in the box 389 Republican and only 92 Democratic ballots. And if they had been drawn in that proportion there would have been drawn 40 Republican and 12 Democratic ballots.

But at Sampit they drew just about as many ballots in excess of the proportion against the Democrats, showing that in both cases it probably arose from the operation of chance in drawing by lot. We can find no evidence as to this poll in the record which can justify us in changing the return made by the precinct managers. This box should stand—Richardson, 90; Lee, 341.

Georgetown Court House poll.

At this precinct it appears from the evidence that there were 169 tissue ballots in the box and 169 ballots in the box in excess of names on the poll-list, and that these tissue ballots were not destroyed by the managers, but returned to the box and mixed with the other ballots and then the excess withdrawn. The contestee thinks that they should have been destroyed, and therefore we eliminate them, and then this poll will stand as corrected by Mr. PETTIBONE for the contestant—for Richardson 190, and for Lee 729.

Brown's Ferry poll.

The result of the vote at this precinct was never ascertained by the managers or any of them. The vote was never counted or reported by any one authorized to count or report the result. The ballot-box was seized by an infuriated mob before it was counted and taken charge of by the Republican supervisor, who

*Mr. PETTIBONE decides in his report to count this poll as it was returned by the managers. It was returned by the managers as 309 for Richardson, but by mistake Mr. PETTIBONE carries to his table only 305.

says he kept it in his room for months with the door unlocked and the aperture to the box unclosed.

The contestant proposes to take the statement of a bystander, who says he saw two hundred and one persons vote the Republican ticket and ninety-five vote the Democratic ticket; but this is not the way in which the law requires a box to be counted nor the way by which a vote can be proved. Besides, by the law of South Carolina, the ballot must be voted folded so that it can not be seen, and as the witness did not and could not examine the face of the ballots to see who they were for or whether any of them were scratched, it is impossible for the witness to say who they were for. How many may have been scratched no one knows. It seems therefore impossible to legally ascertain the actual result at this box, and we therefore reject it.

The result, therefore, at the five contested polls in Georgetown County will stand:

Precincts.	Richardson.	Lee.
Sampit poll	176	256
Upper Waccamaw	90	341
Carver's Bay	183	97
Court House	190	729
Brown's Ferry		
Total	639	1,423
Add the result at the uncontested polls in this county	142	1,392
	781	2,815
Majority for Lee		2,034

It is worthy of notice that the evidence (see record, page 677) shows that in 1876, in a hotly contested election, when all the election officers were Republicans, and Richardson ran for Congress against Joseph H. Rainey, a native and resident of Georgetown County, Richardson received in this county 1,152 votes against 2,864 for Rainey, Rainey's majority being 1,532. In this case we give Lee 2,034 majority, and Richardson 371 less than he received according to the returns of Republican managers.

It is also worthy of notice that in 1876 Richardson received at the Georgetown Court House poll (see record, page 677) 302 votes, the exact number he was given in this election by the Democratic managers. It is true that at his request we have reduced his vote at this poll to 190.

Next, as to the contested poll in Sumter County, to wit:

SUMTER COUNTY.

Lynchburgh poll.

The precinct managers and State board of canvassers give Mr. Richardson 319 votes and to Mr. Lee 181 at this poll. There were 107 more ballots in the ballot-box than names on the poll-list. These were withdrawn and destroyed, as the statute of South Carolina requires. There is no evidence in the record to show how many Republican tickets or how many Democratic tickets were withdrawn and destroyed. Doubtless some of each kind were destroyed, but there is no evidence to show how many of each. Mr. PETTIBONE says "the record is silent as to who they were for." In his report he says that all the managers being Democrats, "it is difficult, not to say impossible, to believe that the fraud was perpetrated in favor of Mr. Lee." Is not this begging the question?

There is no proof that the fraud was committed by the managers—not one word of such proof in the record; and the officers are presumed to have discharged their duty. No presumption can be raised against them in the absence of proof. The ballots in excess of the poll-list were doubtless deposited in the box, in this instance, as in others proved in the record, by the voters; but whether it was done by the Democrats or the Republicans there is not one word of proof in the record to show, unless it be the testimony of James Levy, to which we shall refer. Mr. Pettibone complains that the managers did not let the United States supervisor see the tickets they destroyed. We must not forget that the law of South Carolina requires that the ballots withdrawn "shall be immediately destroyed" without being seen by any one, and we can not unite in censuring them for doing their duty. If the law is wrong it is one thing, but whether the law is right or wrong the officers were bound to obey it.

But it is claimed in that report that the contestant shall have his vote increased to 242, and that the contestee shall have his vote decreased to 258. This claim is made on the testimony, as we are told in the report, of one James Levy (record, page 25), who says he kept a list of those who voted the Republican ticket and that there were 242 persons voted that ticket.

In the first place, the said James Levy was not a legal witness; no notice was given the contestee that he would be examined, as is required in the United States statutes, and he was examined against the protest and objection of the contestee. (See record, page 25.)

And in the next place, we do not know any law which authorizes us to set aside the sworn returns of the election officers upon such evidence. As we have said, there is no evidence to show who did the stuffing, or which party committed the fraud. In fact, the only evidence in the record bearing upon the point would tend to show it was done by the Republicans, for this very witness (James Levy, page 25), in his testimony, makes the following answer to a question asked him about this excess of 107 votes:

"Question. Was that excess made up by two or more tickets being folded together, or by too many single tickets?

"Answer. I did not see but one case where two tickets had been folded together, two Republican tickets, and they were at once destroyed."

In the absence of proof to show which party should suffer for this fraud we conclude that this poll must stand as returned by the precinct managers, to wit: For Richardson, 319; for Lee, 181.

Brownsville poll.

This poll is located in Marlborough County. The precinct managers and the State board of canvassers both return the vote as being 290 for Richardson and 90 for Lee.

There was not a single witness examined as to the vote at this poll, and there is no evidence at all in the testimony to question the accuracy of the precinct managers' returns; but it seems the contestant put into the record, while he was taking testimony in another (Darlington) county, and before he took testimony in Marborough County, a private letter of the Republican supervisor to the chief supervisor, and also a statement purporting to be the report of the two supervisors for this poll.

This letter and so-called report were not proved or attempted to be proved, and they were inserted in the record without the knowledge or consent of the contestee or his counsel (Mr. Knox Livingston), for the county and poll to which they relate, and after objection and protest of his counsel for Darlington County. The question naturally arises, why was the letter and so-called report not reserved and offered along with the other reports which contestant put in evidence, and introduced in the testimony when and while he was taking his testimony in Marlborough County, in which this poll is located, and where contestee's counsel for that county would then have thereby had notice of it.

The first question is, is such a paper evidence? We think not. But upon inspection of the original of this so-called report it is evident, from marks and erasures appearing on its face, that it has been tampered with and altered. No one who inspects this paper can for a moment doubt this.

The contestee offered in evidence before the sub-committee the affidavit of both supervisors, whose names are attached to this report, declaring that the report as published in the record is not the report they signed; and though, perhaps, it may not be safe to rely on this affidavit if it stood alone, for the reason for deciding that the said report is not evidence, or at least not such reliable evidence as to justify the committee in relying on it to alter the return of the officers of the law, yet as the said report bears on its face the marks of having been altered and tampered with, and was never proved or attempted to be proved, but was inserted in the testimony under the circumstances referred to, we insert the said affidavit here for what it is worth:

UNITED STATES OF AMERICA,
State of South Carolina, first Congressional district:

Samuel Lee, contestant, *vs.* John S. Richardson, contestee.—Contested election.

Personally appeared before me William B. Drake and Moses W. Pearson, who, upon being severally sworn, says, each for himself, that he was United States supervisor of elections at the general election in 1880 at Brownsville polling precinct, in the county of Marlborough, in the State of South Carolina, the former acting as the Democratic supervisor and the latter as Republican; that he endeavored faithfully to perform the duties imposed upon him by law, and in obedience to instructions inclosed with his commission the two supervisors united in a report to the chief supervisor of elections for said State.

Deponents further say, on oath, that, owing to the manner in which the excess of ballots found in the box were drawn out and destroyed, deponents did not and could not see or tell the number that bore the names of the Republican and Democratic candidates, respectively, and consequently in their report to the chief supervisor they did not, because they could not, designate the number of ballots drawn out of the ballot-box and destroyed by the managers because of excess of votes over names belonging respectively to the Republican and Democratic candidates.

Deponents further say that they have been informed that while contestant was taking testimony in another county he introduced in evidence a report purporting to be the report made by these deponents as supervisors, in which the number of ballots drawn out and destroyed for the Republican and Democratic candidates, respectively, are designated. Deponents say no such statement was contained in the report made by them, and that the report contained in the printed testimony, and purporting to be a true copy of their report, is not in fact such a copy, but has been altered and changed since it left their hands.

W. B. DRAKE,
MOSES W. PEARSON.

Sworn to and subscribed before me May 9, 1882.
[SEAL.] T. E. DUDLEY, *Notary Public.*

Upon the strength of this so-called report alone, without one word of proof even tending to show who or what party stuffed the ballot-box, if it was stuffed, Mr. PETTIBONE in his report deducts 126 votes from the contestee and adds that number to the vote of the contestant. We can find no law or evidence in the record on which we can come to any such conclusion. This poll must stand as returned by the managers—for Richardson, 290; for Lee, 90.

Cheraw poll.

This poll is returned as 483 for Richardson and 458 for Lee.

The vote at this poll and throughout this county shows that a full vote was polled. The contestant received several hundred more votes in the county than the Republican candidate for Congress did in 1876, when all the election officers were Republicans, and no one is produced who says he was refused the right to vote. The only charge made in the notice of contest is as follows:

"That at Cheraw voting precinct, in Cesterfield County, the poll-list kept by the managers of the election and their clerk was falsified in your interest by the insertion thereon of 116 fictitious names, and for the names thus fraudulently placed on the poll-list a number of ballots bearing your name for Congress were surreptitiously placed in the ballot-box and counted, canvassed, and returned for you; wherefore, from the vote returned for you at said precinct should be deducted the number of ballots so illegally counted, canvassed, and returned for you."

There is no law which authorizes the committee to examine into any other matters. We are confined by the pleadings to this single charge. Is it true?

The contestant examines but one single witness as to this poll, to wit, Thomas E. Smith, page 164. He testifies on this point as follows:

"Question. State the irregularities that you witnessed at that poll at the close of the election.

"Answer. There was a great many more names on the poll-list than there were ballots in the box; how many I don't recollect."

Not one word beyond this is found in all contestant's testimony to substantiate this charge.

In regard to the deficiency of ballots, as compared with poll-lists, there is no evidence as to numbers. No one says whether the excess was five or ten. Perhaps, as is often the case, clerks write down the name of a voter when he approaches the polls, thinking he will vote, but for some cause his vote is rejected, but his name stands upon the list. The presumption is, the returning officers did their duty and can not be held responsible because the ballots which they did not handle until counted were short the names on the poll-list. How many persons may have presented themselves to vote, and their names taken down by the clerk, and then on being challenged may have been refused, but their names not erased from the list, no one knows. It is usual for the voting to be principally done during the forenoon; but we do find from Mr. A. A. Pollock's testimony, page 582, that after 1 o'clock p. m. a good many such instances happened at this poll, and out of the number some five or six were refused.

A. A. Pollock (record, page 582):

"About 1 o'clock I was called into the hall in which the election was held, and from that time forward I was principally in that room. I witnessed the voting from that time forward, and all that I saw I thought proper. There were some voters challenged for cause; some as non-residents; some were challenged as minors; some, upon being challenged, satisfied the managers that they were entitled to vote, and were then allowed to vote; others again were rejected, the managers being satisfied they were not entitled to vote; and I do not think there were more than five or six rejected, if that many."

How can the committee tell how many ballots there were lacking? The contestant should have furnished the evidence if he expected the committee to sustain him in the charge quoted above; and, having failed to do so, we can do no more or less than to let the return stand as reported by the election officers.

Mr. PETTIBONE refers to something said in the testimony about tissue ballots being voted at this poll. If it were true, there is nothing in the pleadings about tissue ballots being used here. But this witness, Thomas E. Smith, is contradicted by no less than nine or ten respectable witnesses on the part of the contestee, who deny that tissue ballots were used, and though his witness was thus contradicted and he had the reply in evidence, the contestant has failed to even attempt to sustain his witness.

As we have said, the witnesses for the contestee all deny that any tissue ballots were used. They say a ballot somewhat thinner than those furnished by the State executive committee of the Democratic party, and very nearly about the same size, was used; and they furnish the reason why this ticket was voted.

They state that the ticket furnished by the executive committee did not have on it the name of one of the candidates running for a county office, and the ticket complained of was printed by the local committee to correct this defect. They further state that this ticket was generally voted. No one contradicts this statement on the part of these witnesses. The contestant had the reply in evidence and did not attempt to contradict it.

We do not see how this committee can come to the conclusion that these witnesses have borne false testimony, and if they did not there is nothing left on which we could stand to authorize any interference with this box. We let it stand.

Let us now go to

DARLINGTON COUNTY.

There is a discrepancy between the result in this county as certified by the State board of canvassers and the vote as shown by the certificate of the clerk of the county, and without a word of evidence, so far as we can see, Mr. PETTIBONE charges that "Richardson's majority grew to the number of 104 votes by his own testimony after the polls were closed and the result declared."

There seems to be no excuse for this charge. Mr. Richardson has nowhere asked or claimed that the vote should be counted as certified by the State board of canvassers; he was neither a witness in his own behalf in this case before the State board of canvassers nor during the taking of testimony, nor did he introduce any witnesses' returns or papers before the State board of canvassers; and the certificate referred to by Mr. PETTIBONE, as found on page 228 of the record, was put in evidence by the contestant. We are content, as the contestee has been, to take the figures most unfavorable to Richardson, and have elicited enough not to charge an honorable man for a gross fraud without proof.

Society Hill poll.

The precinct managers give Richardson 198 and Lee 337. There were 44 ballots in the ballot-box in excess of the names on the poll-list. (See United States supervisors' returns, page 263.) This excess was drawn out by the managers and destroyed. There is no evidence to show who or which party placed them in the box. In Mr. PETTIBONE's report he refers to the report made by the two United States supervisors, who unite in their report—and from that report he finds that there were 12 ballots drawn out and destroyed "which had Richardson's name on them"—but he fails to state that by same report (see record, page 263) it is shown that there were 32 Republican ballots drawn out and destroyed. We can not see how, if this report is good and sufficient evidence on which to find that 12 Democratic ballots were drawn out, why it is not equally good evidence to show that 32 Republican ballots were withdrawn.

If the method adopted by Mr. PETTIBONE for purging the ballot-box was followed here, of course only 32 votes should be deducted from contestee, to wit, 198 less 32=166, and a like number added to Lee's vote, to wit, 337 plus 32=369. But on the testimony of one of the managers, who testifies from memory, it is claimed that the excess was 58 instead of 44, and that as 12 ballots were drawn out with Richardson's name on them there were 46 Lee ballots drawn out. This is only inferential and is not positive proof. Whereas we have positive proof in the joint report of the Republican and Democratic United States supervisors that 32 Lee ballots were withdrawn. If, then, the vote as returned by the precinct managers is to be altered at all, it should stand, for Richardson, 166, and for Lee, 369; but in the absence of any proof to show who placed the excess in the ballot-box, and of any charge in the testimony of any unfairness in the withdrawal of the excess, we must let this poll stand as returned by the managers, to wit, for Richardson, 198; for Lee, 337.

Timmonsville poll.

The precinct managers return 533 votes for Richardson and 75 for Lee. Mr. PETTIBONE says in his report that "United States supervisor (record, pages 68 and 69) reports 608 votes as counted for Representatives in Congress," but he omits to say that the same supervisor (pages 68 and 69) in the report he quotes from confirms the return of the precinct managers, and reports that 533 votes were counted for Richardson and 75 votes for Lee. Mr. PETTIBONE further states that "the ballot-box was stuffed at Timmonsville, and the excess drawn out and destroyed;" but though he had the report of the United States supervisor (he refers to) before him he fails to say that the excess, as shown by that report, was only eleven ballots, and that in drawing out this excess only four Republican ballots were withdrawn, and seven Democrats.

I. O. Byrd (record, page 568) also says:

"Question. Was there present on that day a Republican supervisor who witnessed the balloting and the count at the poll?

"Answer. Yes, there was—Townsend Rafra. He told me that it was the fairest election he had ever seen in Timmonsville.

"Q. When the ballots were counted, did they tally with the number of names on the poll-list?

"A. There were a few in excess.

"Q. What was done about that excess?

"A. They were dealt with according to law; that is, according to the instructions the managers received. They were all put back into the box and stirred up and the excess were drawn out and destroyed."

We quote from the supervisor's report, pages 68 and 69:

"The number of ballots drawn out of the ballot-box and destroyed by the managers of elections because of the excess of votes over names on the poll-list was 11:

"Of which 4 ballots bore the names of the Republican candidates.

"Of which 7 ballots bore the names of the Democratic candidates.

"The whole number of votes counted by the managers of elections for member of Congress was 608:

"Of which 75 votes were counted for Samuel Lee.

"Of which [illegible] votes were counted for John S. Richardson.

"The whole number of votes counted by the managers of elections for Presidential electors was 609:

"Of which 75 votes were counted for T. R. Johnston.
"Of which 75 votes were counted for A. S. Wallace.
"Of which 75 votes were counted for W. A. Hayne.
"Of which 75 votes were counted for E. A. Webster.
"Of which 75 votes were counted for T. N. Tolbert.
"Of which 77 votes were counted for Wilson Eark.
"Of which 75 votes were counted for B. P. Chatfield.
"Of which 534 votes were counted for E. W. Moise.
"Of which 534 votes were counted for Samuel Dibble.
"Of which 534 votes were counted for J. S. Murray.
"Of which 534 votes were counted for Cadwallader Jones.
"Of which 534 votes were counted for G. W. Croft.
"Of which 514 votes were counted for John L. Manning.
"Of which 534 votes were counted for William Elliott.

J. T. RAFRA, *Supervisor.*"

But Mr. PETTIBONE claims that this sworn return of the election officers and of the Republican United States supervisor should be set aside and the statement of a bystander, one J. E. Keeler (record, page 373), who it seems kept a list of those he thought voted the Republican ticket, taken in their stead. This man Keeler says he kept a list of those who voted the Republican ticket, and that there were 199. Upon this testimony alone he sets aside the returns of the managers and the United States supervisor, and deducts 124 ballots from Richardson and adds that number to Lee, making a difference of 248 votes in the count.

There were only four Republican ballots drawn out when the box was purged of the excess, and surely the actual count of the vote in the box is better evidence than the list kept by a bystander, especially when there is no charge in the evidence as to any unfairness in the election at this poll in the count or in the purging of the box.

But let us look a moment at the testimony of this J. E. Keeler.

J. E. Keeler sworn (page 373):

"Question. Where did you reside at the last general election?

"Answer. At Timmonsville, Darlington County.

"Q. Were you present at the polls; if so, in what capacity?

"A. I was present from the time it opened until it closed. I was assistant supervisor a part of the day.

"Q. What do you mean when you say you were assistant supervisor?

"A. I mean that I assisted the supervisor in putting down the names of the voters in general.

"Q. Did you keep a list of the voters, both Democrats and Republicans?

"A. No, sir.

"Q. What list did you keep?

"A. A Republican list.

"Q. Have you that list with you?

"A. I have.

"Q. Will you turn to that book?

"A. Yes, sir, I will.

"Q. Is that the list you kept?

"A. Yes, sir.

"Q. Does that contain the Republican votes cast at Timmonsville?

"A. It does, of those I saw vote myself."

On his cross-examination he says:

"Q. Where did you get this book?

"A. It was given to me.

"Q. When and by whom?

"A. It was given to me the day before election by Mr. E. H. Deas, I think.

"Q. Were you at the polls all day?

"A. Yes, sir.

"Q. Did you keep a full list of all Republican votes?

"A. I did from the time I got the book."

Here is a witness—a bystander—who says he began to make up his list "from the time he got the book," and he says he got the book the day before the election.

Will it be safe to rely on such evidence to set aside the returns of the managers and supervisors? We can not see our way to do this, and this box must stand as returned by the managers—533 for Richardson and 75 for Lee.

Florence poll.

Mr. PETTIBONE recommends that this poll be rejected—

First. Because the clerk of court did not certify to the correctness of the returns.

Second. Because the United States supervisor was unlawfully interfered with and prevented from discharging his duties.

Third. Because the poll-list was falsified by the managers by the insertion thereon of fictitious names.

Fourth. Because men who voted at Timmonsville voted there for Richardson.

Fifth. Because 208 of Lee's supporters were prevented from voting there.

To the first and second grounds stated by Mr. PETTIBONE it would be a sufficient reason to say that there are no such charges alleged against this poll in the pleadings, and by law we are not allowed to raise such issues as we may select, but are confined to those raised in the pleadings. But it is perhaps best to say, as to these two charges—

First, that there is no charge made in the pleadings, in the testimony, or in the briefs against the correctness of the count or the returns as made by the managers; secondly, that the clerk of court could not and never does certify to the "correctness" of returns filed in his office. All he can do or is allowed by law to do is to certify that the copy of the returns furnished by him from the files of his office is a true copy of the returns as on file in his office. This the clerk did in this instance. And, thirdly, that the proof contradicts the charge that the United States supervisor was unlawfully interfered with. Lemuel W. Gadsden was the supervisor and Edmund Deas was one of the Republican leaders. From Gadsden's own testimony it is shown what interference he met with.

Lemuel W. Gadsden sworn (page 365):

"Question. What position did you hold on the day of the last general election?

"Answer. United States supervisor at Florence precinct.

"Q. Please state what occurred at the poll during the day.

"A. I arrived at the guard-house lot where the poll was held about a few minutes after 5 o'clock a. m.; the managers were there then; the door was guarded leading to where the poll was; the place was crowded with a lot of Democrats; I could not get within ten feet of the door; a few minutes before the time for the poll to open I attempted to go to the guard-house to go in that I might witness the opening of the poll and examine the box, but I was obstructed from getting in where the box was by a crowd of town authorities or policemen; I pulled out my commission as United States supervisor and showed it to them and told them I was going in; they said I should not; they said no one was allowed to go in but constables and policemen; that time Captain Gaillaid came up and asked what was the matter; I told that I was United States supervisor, and that I was prevented from going to the poll.

"Q. Did you get in?

"A. Yes, sir; I got in afterwards. Captain Gaillaid told me that I must wait until he saw Captain Blackwell to find out whether I had any right in there or not. He came back and told me that it was all right, I could go in. I started and was stopped again. Captain Gaillaid then got in front of me and told me to follow him, and I went to the poll with him. When I got there the box was locked, and the voting had been going on for about ten or fifteen minutes. Six persons had voted up to that time."

Surely this interference, not by the officers of the election, is too slight to affect the polls.

Z. T. Kershaw, a Northern man, who says he does not belong to either the Democratic or Republican party, but says he voted the Republican ticket where he lived, in Paterson, New York (record, page 524), testifies as follows. The last paragraph of his testimony, as quoted, is very pertinent:

"Question. What poll did you attend on the day of the last general election?

"Answer. Florence poll.

"Q. State what was your official character on that day?

"A. I was State constable.

"Q. Were you at the polls when Edmund Deas came up? State whether he came by himself or with others, and what he did.

"A. He marched in the yard with a large crowd of colored men and started to take possession of the guard-house where the polls were; he ordered those in advance to take possession of the polls; he with them attempted to take possession of the polls.

"Q. Was he checked by the proper authorities?

"A. He was.

"Q. When he was restrained and removed, was there any further attempt to take possession of the polls?

"A. There was not.
"Q. Was there any other disorder at that poll that day except that caused by his attempt to take possession of the polls?
"A. There was no further disturbance during the day.
"Q. State whether there were sticks or scantling held at that poll on that day, by whom they were held, and for what purpose?
"A. There was such a large crowd trying to get to the polls that it was found necessary to put some bar in front of the door. There were some scantling procured and they were held up by the voters themselves, the marshals standing inside of the circle composed by the scantling, and allowing the voters to enter as fast as the managers could vote them.
"Q. Was this scantling held up by men of any particular race or any particular party?
"A. They belonged to both parties. As they came up to vote they took hold of the scantling, and Republicans and Democrats alike held it up.
"Q. Did that arrangement facilitate Republican and Democratic voters alike in reaching the box and casting their ballots?
"A. It did.
"Q. Was there any violence or intimidation on the part of any Democrats against any Republicans at the polls on that day?
"A. I saw none and heard none. I was at the poll all day.
"Q. In their efforts to keep the entrance to the polling place clear was there any discrimination by the constabulary and the marshals against Republican voters?
"A. None that I know of. I was there all day, and was one of the State constables.
"Q. How long did you remain at that poll on that day?
"A. I remained until the final count was made and announced by the managers.
"Q. Was Lemuel W. Gadsden there when the count was finished; and in what capacity was he there?
"A. He was there as United States supervisor.
"Q. Did he say anything in regard to the result? And, if so, state what it was.
(Contestant objects to the question because it is hearsay, and because L. W. Gadsden has testified himself.)
"Q. After the count was closed, Mr. Gadsden, who seemed to be in very good humor, said to the managers that he was very glad that everything had passed off so peaceably and fairly."

Jerome P. Chase (page 516):
"Question. What poll did you attend on the day of the last general election?
"Answer. Florence poll.
"Q. Was there any violence or intimidation on the part of Democrats against Republicans then and there?
"A. None that I saw or heard of.
"Q. Was there any discrimination against Republican voters by the constabulary or police force?
"A. It was currently reported here that the colored people had been told from the pulpits in their churches to get possession of the polls here the afternoon or night before the election and hold them, and that the Republican vote would be massed at this place; the Democrats, in order to get a chance to vote, went to the polls about half past 12 or 1 o'clock the night before, built fires, and staid there until daylight; the Republicans tried to get possession of the polls and the constabulary had to hold them back in order to protect the polls. The Republicans came in a body and marched around; they came up between 4 and 5 in the morning.
"Q. Was not this disorder caused by that attempt of the Republicans to take possession of the polls?
"A. Yes; this disorder took place before the polls were opened.
"Q. Was not Edmund Deas at the head of this body of Republicans?
"A. Yes, sir; he seemed to be in command of them.
"Q. When he was restrained and checked by the proper authorities did not the threatened trouble on the part of the crowd then and thereafter cease?
"A. So far as I know, it did."

Theodore S. Gaillard (record, page 514):
"Question. State your age, residence, and occupation.
"Answer. Thirty-seven years old; Darlington County; express agent.
"Q. What poll did you attend on the day of the last general election?
"A. Florence precinct.
"Q. Was there not an unusually large number of Republicans at that poll on that day?
"A. Yes; they massed here.
"Q. Did you draw a pistol at any man during that day?
"A. I did not.
"Q. State whether you had one at the polls.
"A. I have not owned a pistol since the late election of Hampton, and I had none with me on that day.
"Q. Did those Republicans have in their hands sticks and clubs?
"A. Most of them had fresh-cut clubs.
"Q. Was there any disorder at that poll on that day? And, if so, state its cause.
"A. There was but one effort at disorder, caused by one E. H. Deas attempting to get to the polls.
"Q. Did he not with a crowd of colored Republicans attempt to take possession of the poll?
"A. He did.
"Q. Was there any violence or intimidation on the part of Democrats against Republicans?
"A. None whatever."

The record contains much similar testimony, from pages 507 to 525. We do not think the evidence sustains these charges if we could consider them.

To the third charge made against this poll it is enough to say there is no proof in the record whatever that a false list was prepared beforehand, or designedly made during the election. It is not shown that any particular names were fictitious. There were only a few names in excess of the ballots, according to the testimony, and this may have occurred without being designed. The proof is there was a very large crowd present and great crowding about the polls—1,030 persons voted and 208 could not vote. Persons may have presented themselves at the polls and offered to vote, their names taken down by the clerk, and on a challenge and investigation they may have been refused and their names on the poll-list not erased.

To the fourth charge there is no legal evidence that a single man who voted at Timmonsville voted at Florence. There are only six men who are named and charged as having voted at Florence who came from Timmonsville, and there is no proof that they had voted at Timmonsville.

Lemuel W. Gadsden, the witness, referred to by Mr. PETTIBONE (page 365), says:
"Question. Did you not keep any record of the voting that day?
"Answer. I did of a few names of persons that came from Timmonsville in the evening.
"Q. Who were these parties that came from Timmonsville and voted here?
"A. Alexander Taylor, Yanty Byrd, H. M. Oliver, Wm. Hand, W. J. Stradford, Geo. Montgomery, and several others I can not recollect."
This charge is flatly denied in the testimony of the contestee.

J. T. Jordon sworn (record, page 557):
"Question. State your age, residence, and occupation.
"Answer. Thirty-nine; Darlington County; farmer.
"Q. Were you at the Timmonsville poll on the day of the election in 1880?
"A. Yes, sir.
"Q. Did you with a party of others on that day go on the evening freight train from Timmonsville to Florence?
"A. I did.
"Q. Why did you go?
"A. We had heard that the Republicans were about to take the Florence poll and not allow the white men to vote.
"Q. When you got there did you find that that was true?
"A. No; everything was quiet.
"Q. What time did that train reach Florence?
"A. About 4, I think.
"Q. Did you go immediately near the poll?
"A. Yes; we went immediately near the poll. After we got to Florence everything was quiet.
"Q. Was there any violence or intimidation, or any interference whatever, on the part of those men that were with you against any class of voters at the Florence poll?
"A. There was none.
"Q. Did you vote at the Florence poll that day?
"A. I did not. I voted at Timmonsville, before I left there.
"Q. Did you stand in a position near the Florence poll where you could see voters cast their ballots?
"A. I did.
"Q. Did you know all of the men who went on that train from Timmonsville to Florence?
"A. Very nearly every one of them.
"Q. Did you see any of those men vote at the Florence poll?
"A. No; not one.
"Q. If they had voted there, do you think you necessarily would have known it?
"A. I think I would."

W. A. Lester sworn (page 558):
"Question. What poll did you attend on the day of the last general election?
"Answer. I attended the poll at Timmonsville and voted there.
"Q. Did you, with a party of others, go on the evening freight train that day from Timmonsville to Florence?
"A. I did.
"Q. Why did you go?
"A We heard that the Radical party had gathered around the polls and were preventing the white voters from voting.
"Q. When you reached Florence did you find that to be the case?
"A. I did not.
"Q. Did you or your party commit any act of violence or intimidation against any class of voters at Florence, or in any manner interfere with the voters at that poll?
"A. We did not.
"Q. Did you vote at the Florence poll?
"A. I did not.
"Q. Did you know any of that party to vote at the Florence poll?
"A. No."

Reddick Langston sworn (page 559):
"Question. State your age, residence, and occupation.
"Answer. Sixty-two; Darlington County; farmer.
"Q. What poll did you attend and vote at on the day of the last general election?
"A. Timmonsville.
"Q. Were you one of the party who went on the evening freight train from Timmonsville to Florence on that day?
"A. I was one of a party of about seventy-five or eighty.
"Q. Why did you and that party go to Florence that evening?
"A. We heard that the whites were not having a fair showing at the polls and we went to see that all, both white and colored, had a fair showing.
"Q. When you reached Florence did you find everything quiet and orderly?
"A. Yes.
"Q. Did you or your party commit any act of violence or intimidation against any class of voters or in any manner interfere with any voter or voters at the Florence poll?
"A. I did not, and if any of the rest did I do not know of it.
"Q. Did you vote at the Florence poll?
"A. I did not.
"Q. Do you know that any of that party voted at the Florence poll?
"A. I do not."

J. H. Stokes sworn (page 560):
"Question. What poll did you attend and vote at on the day of the last general election?
"Answer. Timmonsville.
"Q. Did you with a party of others go on the evening freight train from Timmonsville to Florence on that day?
"A. Yes; I went with a party of about seventy-five.
"Q. Why did you go?
"A. We heard that the polls were crowded with the voters there.
"Q. Did you hear that they were crowded in such a manner that any class of voters were crowded out?
"A. Yes, the Democrats were crowded out, we heard.
"Q. What did you go for?
"A. To have a fair election.
"Q. Did you vote there?
"A. No.
"Q. Do you know that any other of that party voted there?
"A. I do not.
"Q. Did you find when you reached there that the Democrats were crowded away from the polls, or was it quiet and orderly?
"A. It was quiet and orderly."

W. F. Morris and J. R. Morris (page 561), K. R. Charles (page 566), and J. C. Byrd (page 568), all testify to the same effect.

This charge seems to be utterly unfounded.

Seeing "seventy-five men on the top of box-cars going in the direction of Florence" does not raise an inference that they voted there. And the fact that certain persons came from Timmonsville and voted at Florence is no evidence they voted at Timmonsville. To prove that persons voted at both Timmonsville and Florence the persons who did so must be named and they must be proved to have actually voted at both places. There is no such proof in the record.

Fifth. If voters are shown to have been ready and prepared to vote at Florence for Lee and could not do so, and have not voted elsewhere, give Mr. Lee their votes; but the vote of the precinct should not be rejected because they could not vote there. One thousand and thirty electors should not lose their votes because two hundred and eight persons could not vote.

Let the box be counted, but give Mr. Lee the 208 votes he has proven. The vote will then stand: for Richardson, 582; for Lee, 647.

Darlington Court-House poll.

The vote at this poll, as shown by the return of the precinct managers, as certified to by the clerk of court for Darlington County, was: for Richardson, 1,271; for Lee, 117.

This certified statement was introduced in evidence by both the contestant and the contestee—by the contestant as shown on page 406, and by contestee as shown on page 571 of the record—and is as follows:

STATE OF SOUTH CAROLINA,
County of Darlington:

Returns of precinct managers of results of the general election of 1880 in the county of Darlington.

Box.	Congressional.		
	Richardson.	Lee.	Total.
Leavensworth	396	197	593
Cartersville	195	69	264
Lydia	572	193	765
Mechanicsville	31	349	380
Timmonsville	533	75	608
Gum Branch	143	29	172
Effingham	142	95	237
Lisbon	317	176	493
Society Hill	198	337	535
Darlington	1,271	117	1,388
Hartsville	187	44	231
Florence	582	436	1,018
	4,567	2,117	6,684

"*Returns of county canvassers to the office of clerk of the court.*

"*Congressional.*—Total co. vote, 6,788: Richardson, 4,671; Lee, 2,117.

"STATE OF SOUTH CAROLINA,
"*County of Darlington:*

"I, J. N. Garner, clerk of the court of common pleas and general sessions in and for the county and State aforesaid, do hereby certify that the boxes returned to my custody by the board of county canvassers for said county subsequent to the general election of 1880 contained the several returns of the precinct managers at each and every polling-place in the said county of Darlington, and that the foregoing schedule represents truly and correctly the result of the balloting for member of the Forty-seventh Congress by the voters of said county, as shown by the said precinct managers' returns.

"In testimony whereof I have hereunto set my hand and affixed my official seal this 12th day of January, A. D. 1881.

"[SEAL.] "J. N. GARNER, *C. C. P.*

"STATE OF SOUTH CAROLINA,
"*County of Darlington:*

"I, J. N. Garner, clerk of the court of common pleas and general sessions in and for the county and State aforesaid, do hereby certify that the certified return of the county board of canvassers for the said county of Darlington was duly filed in my office, as required by law, on the 10th day of November, A. D. 1880; that the same is made in proper form, and shows the result of the Congressional election at the general election of 1880 to be 4,671 votes cast for John S. Richardson, and 2,117 votes cast for Samuel Lee.

"In testimony whereof I have hereunto set my hand and affixed my official seal this 12th day of January, A. D. 1881.

"[SEAL.] J. N. GARNER, *C. C. P. & G. S.*"

Mr. PETTIBONE claims in his report that the clerk of court did not "certify to" this statement of votes, and for that reason the box should be rejected. The box stands on the same basis as regards this objection as the other boxes of the county, and as all the boxes of Georgetown and Williamsburgh Counties, where none of the precinct returns were forwarded to the secretary of state, and where the contestant received and has had given him large majorities. In order to count these boxes which were rejected by the State board of canvassers the contestee has insisted on disregarding all technical objections, and we have done so, and it will not do now to adhere to technical objections where it affects the contestant and disregard them where the contestee is concerned.

If we are now to regard these mere technical objections to the counting of the Florence and Darlington boxes, we should, in common decency and justice, retrace our steps and inquire whether the technical objections urged against the eight boxes in Georgetown County, three in Sumter, three in Williamsburgh, and one in Horry by the county and State boards of canvassers are valid and sufficient. But we can not think that this technical objection can be seriously insisted on. Our answer to it is, that the foregoing certificates show what he did much better and more correctly than he (Garner) can explain. We repeat here, as we did in reference to the vote at Florence poll, that the clerk is never required or allowed by law to certify to the "correctness" of any paper on file in his office. All he does is to certify that it is a correct or true copy of a paper or statement on file in his office. That is just what the clerk did in this instance, and we do not understand him anywhere in his testimony to say the statement he certified to is not a true copy of the returns on file in his office. The ballot-boxes are one thing, and the returns quite another. We must not confound them. The ballot-boxes are usually merely placed in the jury room and kept under lock for a time, but the returns are made out by the managers, and a copy of them filed with the clerk, and are kept by him in his office for all future reference. Here is what the clerk says as to these returns:

I. N. Garner (page 737):

"Question. Please state what, if anything, was filed in your office by the county canvassers, or either of them, bearing upon the last general election for member of Congress in Darlington County?

"Answer. Election papers were filed in my office by the commissioner of election, J. G. McCall.

"Q. Please state what those papers were.

"A. I can not; I did not examine them.

"Q. Have you not had occasion to examine those papers since they have been filed in your office?

"A. I have not.

"Q. Then you have no idea of what papers are filed in your office bearing upon the election of member of Congress in Darlington County at the last election?

"A. I know there were election returns bearing upon the last election. They have been examined repeatedly by others, but not by myself.

"Q. Do you know if those returns in your office are correct or not?

"A. I do not know anything about them.

"Q. Were those returns filed in your office delivered to you in or out of the ballot-boxes?

"A. They were delivered to me in an envelope outside of the ballot-boxes.

"Q. Have you not had occasion to certify to the correctness of the precinct returns, from the various precincts in Darlington County, touching the last election for member of Congress?

"A. I don't think I did, because I could not certify to the correctness of the returns, as it seems to me that commissioner ought to do that.

"Q. Did you or not?

"A. I did not.

"Cross-examined by GEORGE W. BROWN, Esq.:

"Q. You were asked about the correctness of the returns made to your office by the commissioners of election, and also as to the correctness of the precinct managers' returns in the boxes. While you could not certify to the correctness of either, are not the characters of the commissioners of election and of the several precinct managers sufficiently strong to give you faith in the honesty and fidelity of all of their official or private acts?

"A. Yes.

"Q. Are you, or not, generally acquainted with the whole voting population of Darlington County?

"A. I am not thoroughly acquainted, but perhaps know as many people as any man in the county.

"Q. Do you, or not, know that the commissioners and several precinct managers of the last election in this county were men of the highest probity and integrity in the communities in which they respectively live?

"A. I don't recollect who all of the commissioners were except Mr. McCall. I know them, but I can not think of their names. As far as I can recollect their names they were. Mr. McCall is a gentleman of the highest type in this community.

"Q. Have you a deputy clerk?

"A. I have.

"Q. Is he, or not, authorized by law to do all acts which the clerk himself can do?

"A. I have forgotten the law; I feel almost sure that he is.

"Q. Does he, or not, do the clerical work of that office and have general supervision of it?

"A. He has general supervision, and does the clerical work of the office.

"Q. Does he, or not, generally prepare certificates of records and compare the copies of such record to the originals for verifications, and then submit them to you for your signature and seal?

"A. He does.

"Q. Your deputy is under oath, is he not?

"A. He is.

"Q. When he has thus prepared a certificate of a record or passes upon the correctness of a copy, do you further question such certificate or copy, or do you sign and seal it as a matter of course?

"A. I sign and seal it without further question."

What he says about the ballot-boxes is not material, but here is the sum and substance of what he says:

"Q. Were the ballot-boxes ever filed or deposited in your office?

"A. They were, as they usually have been, in my office."

We can see no cause for rejecting this poll for this reason, as urged by Mr. PETTIBONE, if we could consider it; but it has not been charged as an objection to the counting of this poll in the pleadings. The contestee has had no notice that there was, or would be, any objection to the counting of this poll for any such reason. If he had had notice, doubtless he could have proved *aliunde* what the vote was; and, such being the case, we can not make up a pleading for the contestant of which he gave no notice.

We proceed, then, to consider the objections alleged in the pleadings against this poll, and shall confine ourselves to them.

In the notice of the contestant he alleges against this poll that the "poll-list was falsified by the insertion thereon of fictitious names, repeating," "and illegal voting;" but there is no evidence in the record to sustain these charges, and they have been abandoned, and are not insisted on. It is also charged that there was—

First. "Violence and intimidation."

Second. "The rejection of a large number of qualified voters who desired and offered to vote for the contestant."

These are the only two charges made in the pleadings that are insisted on, and to these we must confine our consideration.

First, then, as to the charge of violence and intimidation.

This charge is based in the evidence and in the briefs and arguments as well as in Mr. PETTIBONE's report on two distinct allegations, which we will examine separately.

First. That there were arms at or near the polls, and that this prevented Republicans from voting for the contestant.

If the arms were there and did not prevent any one from voting, it would amount to nothing.

What is the testimony as to arms being at or near the polls?

One Aimwell Western, jr. (record, p. 92) says that—

"On the night before the election two wagons loaded with guns came on the back street, and they were carried down the street next to the court-house. A portion was placed in the store of one Early and some were put in the court-house, where the ballot-box was."

This witness, on cross-examination, says the arms were "tied up in blankets in large bales." When asked how many were put in the court-house he said, "That I could not tell;" and then, on further cross-examination, he says:

"Q. How many did they put in John Early's store?

"A. The best portion was put in John Early's store, and what was left was carried over to Barry Early's.

"Q. Did they take the blankets from around them or not?

"A. They had them tied up in bundles, with blankets around them, and carried them in."

In the first part of his cross-examination, he says:

"Q. Will you swear that within three feet of those wagons you could discern with what they were loaded, and are unable to tell whether the drivers were white or black?

"A. I say I was busy looking after the wagons; my idea was they were black men; the wagons were loaded with guns.

"Q. How many men were with those wagons?

"A. There was two with each wagon that I seen."

On further cross-examination, he says:

"Q. How many men did it take to unload those wagons?

"A. There was about eighteen or twenty to the two wagons, Democrat niggers and Democrat poor buckrers unloading the wagon; Dorsey Lewis and others shooting anvils with powder, calling the attention of the rest of the people, while these men were unloading the wagons.

"Q. You watched the wagons, did you not?

"A. You bet I did.

"Q. How long did it take them to unload those wagons?

"A. I did not time them; I had no watch."

At first he says there were two men with each wagon and then that there were eighteen or twenty to the two wagons.

One other witness (Burrell McIver, record, page 335), and only one other, testifies to having seen arms at Darlington Court House, as follows:

"Question. Did you see any men with guns, and to what political party did they belong?

"Answer. The Democratic; I saw no arms but theirs.
"Q. Where were these men with their guns?
"A. In a store in front of the court-house."

Mr. PETTIBONE, in his report, quotes this witness, but he neglects to say that on cross-examination he says:

"Q. Who were those men that you saw with guns?
"A. I could not tell that; I saw them through the window."

Now, this is all the evidence in the record as to arms being seen by any one at Darlington Court House. Arms, then, are claimed to have been seen by one man the night before the election "wrapped up in blankets," and carried secretly through the streets, and on the day of election by one other man in "a store," and he saw them "through the window."

Suppose this was all true. Is this such a display of arms at the polls as "to deter men of ordinary firmness from voting?" If the testimony of these two witnesses is to be believed, the effort seems to have been to conceal the arms, not to display them. Who could possibly be deterred from voting by the arms referred to? Certainly no one, unless those who saw them, and the seeing of arms was confined to two men. There were no arms seen by these two men, or any one else, at or about the polls; no witness says there were. If there were arms in a store it must have been some distance from the polls. The court-house is described as in the center of a public square with a street running all around it, and stores on the opposite side of the street from the court-house. If, therefore, Burrell McIver saw any arms, they were some distance from the polls, and they certainly were not displayed, for he had to look through a window to see them.

But it is strongly denied in the testimony for the contestee that there were any arms, even those referred to, about the polls. Here are some extracts on this point from the testimony:

It will be remembered that the witness, Ainswell Weston, jr. (page 92), stated that the arms were carried to Mr. Earley's store, and the witness, Burrell McIver (record, page 335), says that he saw men with arms through the window, "in a store opposite the court-house."

Dr. B. C. Normets (record, page 551):
"Question. State your age, residence, and occupation.
"Answer. Forty-eight; Darlington Court House; physician.
"Q. What poll did you attend on the day of the last general election?
"A. Darlington poll. Just before sunrise I was waked up by a messenger from a man who was very sick at John Earley's store, to come and see him. I went to see the sick man about sunrise; I went in to see Mr. McSween.
"Q. It is what is known as John Earley's store, a building just opposite the front of the court-house?
"A. Yes, sir.
"Q. State who the sick man was, and whether you went into that store more than once during that day?
"A. The man was William McSween, and I went into the store three times during that day.
"Q. Did you see any arms in that store on that day?
"A. I did not."

On his cross-examination, he says:

"Q. Could there not have been guns stored in Mr. Earley's store and you not have seen them?
"A. I was in the three rooms of the store, and saw none; it is possible that they may have been stored there and still I might not have seen them; I was in the store half an hour at one time, and went into all three of the rooms; still I did not look for guns, and saw none.
"Q. Would you undertake to say that no guns were stored away by Democrats in the vicinity of the polls on the day of the election at Darlington?
"A. None, to my knowledge.
"Q. Was there not a current rumor that there were such guns stored away?
"A. I heard such rumors subsequent to the election."

Philip Lewenthol (page 545):
"Question. State your age, residence, and occupation.
"Answer. Thirty-five; Darlington Court House; merchant.
"Q. What poll did you attend on the day of the last election?
"A. Darlington Court House poll.
"Q. In what capacity did you attend that poll?
"A. Clerk of board of managers.
"Q. Were there any Democratic arms stored away at any place within the polling-place?
"A. There were none.
"Q. Do you know of any Democratic arms being stowed away, and where, within the vicinity of the polls?
"A. I do not know of any.

"Cross-examined by SAMUEL LEE:

"Q. Will you swear that there were no Democratic arms stored away in the rooms of the court-house on the day of the election?
"A. I will most positively swear it.
"Q. Did you go into each and every room in the court-house during that day?
"A. There are but two rooms, and I went into both of them."

W. P. Cole, the sheriff of the county, on page 529 of the record, says:

"Q. If you had believed that any particular class of citizens had stored away arms in the town of Darlington on the day of the last general election, for the purpose of violating the public peace, or otherwise to do injury to any other class of citizens, would you or not, as the chief executive officer of the county, have regarded it your duty to investigate the truth and prevent impending trouble?
"A. I did on that night, as soon as I heard the rumor, examine either place, and was satisfied that there were no arms in either of them."

C. S. McColloch, page 527, says, in answer to Mr. Lee, on his cross-examination:

"Question. Will you state positively that there were no arms stored in the court-house or any part of it on the day of election?
"Answer. There were none up there, and, as far as I know, none elsewhere."

There is much more testimony of a similar kind on this point in the record, but this is enough.

We can not conclude from the evidence that there was such a display or use of arms at this poll as will bring this case within the rule as laid down by McCrary.

SEC. 416. The true rule is this: "The violence or intimidation should be shown to have been sufficient either to change the result, or that by reason of it the true results can not be ascertained with certainty from the returns. To vacate an election on this ground, if the election were not in fact arrested, it must clearly appear that there was such a display of force as ought to have intimidated men of ordinary firmness."

We come now to the only remaining objection to the counting of this poll, to wit, "That a large number of qualified voters who desired and offered to vote for contestant" were refused or prevented from doing so by the supporters and adherents of the contestee. What says the testimony on this point as shown in the record? It is not denied that there was a large crowd of colored people assembled very early in the morning at and around the store where they expected the polls to be opened, and that they had complete possession of the supposed poll. But the poll was not opened at the place they expected it to be. It was opened at the court-house, and it was fully a half hour after the poll was opened before the colored people were aware that it was being held at the court-house, and by that time the whites were assembled there in considerable crowds, and were not voting. As soon as the colored people knew where the poll was being held they tried to get to the box to vote, but the whites were already at the polls in such numbers that the colored people could not get to them at that time.

Great excitement among them ensued and increased with the difficulty to get to the polls. About this time a difficulty occurred somewhere out on the public square between "two lads," as the witness for the contestant says—a white man or a boy and a colored man or a boy, about some private matter not connected with politics. Blows were struck and the police interfered and arrested both offenders; and while taking them to the guard-house some resistance to their being carried to jail was made on the part of their friends, and certain persons drew their pistols in support of the police; but the offenders were lodged in the guard-house and the whole fuss was over in a few moments and no further disturbance occurred during the election. During this little disturbance there was considerable excitement, especially among the negroes, and just then J. A. Smith, the Republican county chairman, got upon a cart or wagon and ordered the colored people to go home, saying, "they could not vote there that day." Thereupon the colored people, in a considerable crowd, left the polls and went off. This occurred about half past 9 or 10 o'clock a. m. Now, as to the facts stated above, there is no dispute in the testimony. The contestant, however, claims that his supporters left because it was evident that they could not vote, or would not be allowed to do so, and the contestee denies that such was the case, and claims that had they remained all could have voted who cared to do so, and all would have been allowed to do so who presented themselves to vote.

This is the point at issue, and it can only be determined by the evidence, and we therefore quote it.

E. C. Baker (record, page 537):
"Question. State your age, residence, and occupation.
"Answer. Fifty years old; Darlington Court House; lawyer.
"Q. How long have you resided in the town of Darlington?
"A. I came here in the fall of 1869.
"Q. Where did you reside prior to that time?
"A. Massachusetts.
"Q. Did you hold any official position in Massachusetts?
"A. Yes, sir; I was a member of both branches of the State Legislature at different times, and was president of the Massachusetts State senate in 1856, and subsequently about three years a member of the State board of insurance companies, and practiced as a lawyer for ten years in the State and Federal courts.
"Q. Do you hold any commission under the United States Government, and what is it?
"A. Yes; I am United States commissioner.
* * * * * * *
"Q. What poll did you attend on the day of the last election?
"A. Darlington poll; I got there about 10 o'clock.
"Q. In what condition did you find the court-house steps when you came to them?
"A. There was no one on them at all when I came here?
"Q. Was there not then ample opportunity for any class of voters to come up and vote?
"A. Yes; I came up the steps on one side of the door; there was nobody on them then. I voted and stood and talked with managers for a few minutes, and to my recollection there was nobody in front of the door while I was there. I then went down the steps on the other side and saw nobody there.
"Q. Did you know of any violence or intimidation on the part of Democrats toward the Republicans?
"A. I saw nothing of that kind. There was plenty of time from that time until the polls closed for any one to have voted who had chosen.
"Q. To your best knowledge and information and belief were there not many colored men who voted the Democratic ticket here on that day?
"A. I think so, sir.
* * * * * * *
"Q. Were you in your office the night prior to the last general election?
"A. I do not think I was; but I was there on Saturday night preceding the election at the request of one Edmund H. Deas, as being United States commissioner, to qualify various parties who had been commissioned as United States deputy marshals and United States supervisors of election in this county. Mr. Deas came in about dark with several parties; six or eight; I don't remember now. Their commissions were produced, and I qualified them. After that Mr. Deas proceeded to give them instructions. After making explanations of their printed instructions he proceeded to develop his plan for election morning, and among other things he stated that the colored people as they came in on different roads were to halt and concentrate, and as soon as it was daylight or at crack of day, as he said, the word would be passed to gather in, and then they were to lose no time, but rush for the polls and surround them. He explained to them where the ballot-box was to be at the market-house. They were to gather round the window in a solid body and stand their ground. He had a very large cane with him and advised them all to get good, large, tough sticks. He then showed them how to take hold of their sticks and form a line around the ballot-box. He told them to stand steady, and under no circumstances allow their line to be broken."

C. S. McCollough (record, page 526) is asked what he saw when he went to the place where the polls had been held in 1878, and he answers:

"I saw two or three hundred colored men gathered around the window.
"Question. Was that just before the opening of the polls?
"Answer. Yes; they gathered there about 5 o'clock.
"Q. If the poll had opened at that time, would they not have had entire possession of it?
"A. Yes; it looked like the whole window was crowded.
"Q. Was the voting early in the morning rapid?
"A. Yes, very rapid until 10 o'clock; after 10 o'clock any one could have voted who had chosen; about 8 o'clock the box was crowded by colored men.
"Q. After 6 o'clock the polls closed; did the number of ballots in the box tally with the poll-list?
"A. Yes, sir.
"Q. Was the count fair, and the return made by the managers in accordance with that result?
"A. It was."

On his cross-examination he says:

"Q. Was not the court-house steps crowded with men in red shirts and with red bands around their hats during the day?
"A. Part of the day they were there and part of the day they were crowd with colored people who did not have on red shirts.
"Q. What part of the day was it crowded with colored
"A. About 8 o'clock in the morning.
"Q. Did the men in red shirts prevent the colored men from reaching the ballot-box while they were crowding the stairways?
"A. No; they did not. Every Republican in town could have voted that day if they had wanted to do so.
* * * * * * *
"Q. Do you not know that a large number of colored men left without voting?
"A. No; I do not know it; but I heard that Jack Smith advised the colored people to go home and not vote. They could have voted if they had wanted to do so."

W. P. Cole (page 528):
"Question. State your age, residence, and occupation.

"Answer. Age, thirty-five; Darlington Court-House; and occupation, sheriff of Darlington County.

"Q. Did Jack Smith, the county chairman, ever make any remark in your presence in regard to the result of that election; and, if so, state what it was?

"A. I recollect a conversation between Rufus Vaun and Jack Smith, in which Jack admitted to Rufus that from 9 o'clock until the polls closed every man had an opportunity to vote, and that the election was fair.

"Q. Did you have occasion at any time before the opening of the poll to pass near the market-house, where the polls were held in 1878?

"A. There were about two hundred colored people in front of the window of the market-house, in two or three lines, and in between each line I noticed that they held large sticks, and what the sticks were for I do not know.

"Q. Did they occupy half of the space or the whole space in front of that window?

"A. The whole space.

"Q. After the polls had been opened at that place would they not have had entire possession of it?

"A. Yes, sir.

"Q. Has it or not been the custom or practice of Republicans in this county at previous elections to reach the polls before daylight in the morning and take possession of them?

"A. It always has."

I. I. Ward (page 530):

"Question. Did you go into the vicinity of the market-house, were the poll was held in 1878?"

"Answer. I did.

"Q. State what you saw there.

"A. At about half past 5 o'clock a very large body of colored persons marched into the public square, each with a large cudgel in his hand. They formed around the window where the polls were held in 1878 and extended back to the drug-store. They formed in two ranks and crossed their clubs, which they had previously held on their shoulders as they marched.

"Q. How many men do you suppose were around that window?

"A. Taking those who were formed in ranks and others around, I suppose there were between four and five hundred.

"Q. Did they occupy the whole space or only half the space?

"A. The whole space. No one could have voted at that poll except by violence without their consent.

"Q. When the polls opened at the court-house door, was there not a crowd in the early part of the day at the polls?

"A. The polls were opened at 6 o'clock, and were crowded about two hours and a half before they were accessible to every one who wanted to vote.

"Q. Were you in front of the polls when they were opened?

"A. No; I was in front of the market-house.

"Q. About what time did the press of voters cease at the Darlington Court-House poll?

"A. About two hours and a half after they were opened. I left the poll at 8 o'clock, and got back at half past 8, and when I got back any one could have voted that had wished.

"Q. Did you hear any order given by Jack Smith to colored Republicans on that day?

"A. Yes; he told them to go home about 8 o'clock, as near as I can recollect. I know it was before 10 o'clock.

"Q. Did you talk to any colored Republicans here on that day in regard to that order?

"A. Yes; I told them to go back and vote; that I had no doubt that their leaders had ordered them to go away, but that they could vote if they wanted to, and it would not benefit them to refuse. They replied, some of them, that they were not allowed to vote and they were going home. They did not vote after that in a body, but individuals of them did. They said they were not allowed to vote when they wanted to and they would not vote at all."

On his cross-examination he says:

"Q. Do you swear that the Democrats did not take possession of both steps leading to the polls and prevent a large number of Republicans from reaching the polls to cast their vote?

"A. When the polls were opened the Democrats were nearest to them and they made a rush for them, and both steps were crowded with Democratic voters for the space of about two hours; during that time I doubt if any Republican votes were cast, and I am sure no Republican made any effort to get to the box after that time; they had every opportunity to vote until the polls closed; the crowd upon the steps voted as rapidly as possible, and made room for others; the body of Republicans stood off during that time, paying very little attention to what was going on."

J. A. Law (page 532) the Democratic county chairman:

"Question. Immediately after the polls were open did you go to or in the vicinity of Trial Justice Warley's office, where the polls were held in 1878?

"Answer. I did. I heard a good many men laughing and going toward Captain Warley's window, and I asked if they were still holding the window. I then went around to the window and saw them standing there with their sticks crossed, and I heard several say: 'Close up and hold fast, boys, the Democrats are just trying to fool you. The polls are going to open here.' While I was standing there J. A. Smith, the Republican county chairman, and several other prominent Republicans came from that direction, walking near by me. I said to Smith: 'Why don't you tell your people that it is no use to stay at that window, for the polls have already been opened for some time at the court-house.' He replied, pointing to the court-house, 'Look yonder. Is there any chance for a Republican to vote there?' I pointed to Captain Warley's office and said: 'Look yonder, if that had been the right place, what chance would there be for a Democrat to vote there?'

"Q. What time did the press of voters on the court-house steps cease?

"A. Before 9 o'clock. As soon as I saw that the press upon the steps was about over I went up home to breakfast. When I came back, about half past 9, there was no press at all any more than at any ordinary election. They seemed to be voting about as fast as the managers could take them in.

"Q. From half-past 9 o'clock during the remainder of that day were the polls easy of access?

"A. They were. There was steady voting up to about 2 o'clock. The polls were not blocked at all.

"Q. Did you hear any order given by Jack Smith to Republicans on that day?

"A. No, I did not; I did hear him say that he would advise the Republicans to go home. I told him not to do so, for I would see that every man had a chance to vote; that the Democrats now were voting, and the Republicans could vote afterward.

"Q. If the Republicans had remained at the polls, contrary to the advice of their leaders, could they not all have voted without difficulty?

"A. I think they could; the polls were almost clear from 2 to 6 o'clock.

"Q. Did you hear any of them say why they would not vote after they had an opportunity to do so?

"A. Yes, sir; as I was coming from breakfast I saw a great many Republicans on Pearl street. As I came through them I remarked, 'Why do you not go back and vote?' They said, 'We have agreed not to vote.' I agreed at the time that if they would go back I would see that they had a fair chance to cast any vote they pleased. They refused to go, giving me the same answer as before.

"Q. Was there any violence or intimidation on the part of the Democrats against Republicans at the Darlington poll on that day?

"A. None at all.

"Q. Did you know of any Democratic arms being stored away in the town of Darlington for the purposes of that election?

"A. I did not.

"Q. Did you at any time during that day go into what is known as John Early's store, opposite the court-house?

"A. I did once.

"Q. Did you see any arms there?

"A. I did not."

I. Gregg McCall (page 110), one of contestant's witnesses:

"Question. Did all Republicans, who wished to do so, have an opportunity of casting their ballots at this poll on that day?

"Answer. Yes, sir; I considered that everybody here on that day had ample time and opportunity to vote. Because the white people happened to get charge of the polls that morning first, they could not vote at the very time they came up, and they were advised by Jack Smith, just after that little difficulty, to go home. I considered the polls was clear from about 9 o'clock in the morning; the white folks had charge of them up to that time, and any one could have voted after that time if he wanted to."

Other witnesses for contestee testify to the same facts and state of things. Their testimony is found in the record from page 526 to 554.

The contestant examines two hundred and forty witnesses to prove they could not vote at this poll. They nearly all say so, but none of these witnesses say they remained at the polls and tried to vote until it closed. One of them says he staid until 2 o'clock. A few say they staid until 1 o'clock, and a few until 12 o'clock, but nearly all say they left the polls before or about 10 o'clock a. m.

The law nowhere guarantees to the citizen that he shall vote at or before any particular hour of the day, but it does undertake that he shall have the opportunity to vote some time between the opening and closing of the polls, that is, some time between 6 o'clock in the morning and 6 o'clock in the evening, but he must endeavor to exercise that right diligently during the hours the polls are open. It will not do for the voter to leave the polls before they are closed and then say he was deprived of the opportunity to vote.

As to this poll, no witness says that these two hundred and forty persons could not have had the opportunity to vote had they remained. None of them went to the polls and tendered their votes and were refused. Many witnesses say they could have voted had they remained, and that the pressure was over after 2 o'clock p. m. at the furthest. J. A. Law says from 2 o'clock to 6 p. m. there was ample opportunity, and he is not contradicted.

It must be borne in mind that the contestant had the reply in evidence, and that he examined no less than thirty-two witnesses in rebuttal, fourteen of whom were examined in reference to Darlington County, and yet he has failed to contradict the witnesses of the contestee on this point or even attempted to do so. Not one of his witnesses in rebuttal says there was any difficulty in voting after 2 p. m. Let us now see what some of these two hundred and forty witnesses say on their examination. Here are some extracts from their testimony:

Wesley Dargan (page 359):

"Question. Did you vote?

"Answer. No, sir.

"Q. Why not?

"A. There seemed to be a fuss, and as I met the Republicans going back home who said they could not vote, and when I got here I did not try.

"Cross-examined:

"Q. Could you have voted if you had tried?

"A. I think I could have if I had tried."

Henry Perkins (page 360):

"Question. Could you have voted after 12 o'clock had you tried?

"Answer. I could have, but it was too late.

"Q. Why was it too late?

"A. Everybody had cut out and gone home."

Samuel Marshall (page 361):

"Answer. I did not stay around the polls all the time; do not know if there was a chance to vote or not."

Dallas Dargan (page 362):

"Question. Why did you not try?

"Answer. Because I had been prevented the first part of the day."

Simeon Jackson (page 385):

"Question. Was it impossible for a Republican to vote?

"Answer. I did not notice the poll to that effect."

Toney Rhodes (page 396):

"Answer. After I heard what Mr. Smith said (Smith was the Republican chairman who told them to go home) I never tried to go up the steps."*

Peter Singleton (page 397):

"Answer. The cause of that order was a scuffle between two lads, one colored and one white."

Caltin McIver (page 131):

"Question. Was it impossible to reach the polls?

"Answer. No; it was not so all the time."

Jacob McIver (page 133):

"Answer. The steps were not so crowded all the time; sometimes it was vacant."

Alexander Thomas (page 319):

"Answer. I never tried but once."

Moses Wilds (page 322):

"Answer. Was crowded about 12 o'clock, but in the afternoon they did not hinder any one."

Joseph Marks (page 352):

"Answer. I will not swear it, for they left the steps some time during the day.

"Question. When they left the steps could not Republicans vote?

"A. Some few of them could have, but the most of them had been gone home."

Ned Evans (page 358):

"Answer. I didn't try."

Andrew Gitson (page 115):

"Question. Were you obstructed in getting upon the steps to get to the ballot-box to vote?

"Answer. I did not make any effort, for the steps were crowded."

Ben Alexander (page 309):

"Question. Did you try to get to the ballot-box?

"Answer. I did not go near the court-house, as I saw no chance of voting."

John Freeman (page 318):

"Question. Did you make an attempt?

"Answer. I went to the bottom steps.

* The "order" referred to was I. A. Smith's order to the colored people to go home.

"Q. Did that crowd of Democrats prevent you from reaching the ballot-box and casting your ballot?
"A. I wheeled away."

Henry James (page 324):
"Question. What prevented you from voting?
"Answer. A fight took place betwixt a white man and a colored man.
"Q. Tell me what prevented you?
"A. One of our leading men told me it was the best for us to go home."

Entrum Pooler (page 328):
"Question. Why not?
"Answer. I heard the order after I got to Darlington that it was not worth while, and I did not persevere.
"Q. From whom did those orders come?
"A. I heard them from the Republican party, that we couldn't."

After such evidence as this from so many of these two hundred and forty witnesses of the contestant, can it be seriously contended that there was no opportunity to vote?

There is no proof that any one who offered to vote was denied or refused that right, and the returns for the poll show that 117 Republicans actually voted.

We can not conclude from the testimony that there was such an exclusion of or purpose to exclude Republicans from voting as will justify us in rejecting this poll on this allegation.

These two hundred and forty men at Darlington who testify that they were prevented from voting no doubt lost their votes, but not by being rejected at the polls by the managers.

The facts disclosed by the testimony are that they never approached the polls for the purpose of voting. They made no effort to vote, but, having failed to get to the poll first in the morning, on account of the crowd already there, they acted upon the advice of one of their leaders, Jack Smith, and went away before 10 o'clock in the day. They made no "*diligent effort*" to vote, and by their own act disfranchised themselves. But that is certainly no just cause for disfranchising the 1,388 legal voters who did succeed in casting their ballots at that poll. But your committee does not consider it necessary to decide whether or not to count these 240 votes, as it will not change the result of the election in the district. The vote cast at Darlington, as returned, was as follows: Total vote, 1,388, of which Mr. Richardson received 1,271, and Mr. Lee 117. Majority for Richardson, 1,154.

Let us now see how the vote of the district stands as corrected by the committee:

Polls.	For Richardson.	For Lee.
Total vote in seventy uncontested precincts	11,229	10,211
Total vote in the nineteen precincts agreed on	4,453	4,654
Total vote in the five contested precincts in Georgetown County	639	1,423
Vote at Lynchburgh poll	319	181
Vote at Brownsville poll	290	90
Vote at Cheraw poll	483	458
Vote at Society Hill	198	337
Vote at Timmonsville	533	75
Vote at Florence	582	647
Vote at Darlington	1,271	117
Total vote in the district	19,997	18,193
Majority for Richardson		1,804

Rivers and Harbors.

SPEECH
OF
HON. JOHN VAN VOORHIS,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, February 28, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on riversand harbors, and for other purposes.

Mr. VAN VOORHIS said:

Mr. SPEAKER: The River and Harbor bill has for years been the great log-rolling bill of this House. It is composed, usually, of three hundred, more or less, independent measures, grouped together in one bill, in order to make its passage sure.

It would seem that in preparing a river and harbor bill the first duty of the Committee on Commerce is to allot to each member of that committee the amount that he desires for his State or locality, and the next duty is to apportion the remainder of the bill in such a way as to secure votes enough to pass it. It is on this account that so many useless and worthless and illegal appropriations find their way into the bill.

I am in favor of proper appropriations for those rivers and harbors which are of national importance. I believe the sentiment of the country is in favor of such improvements. It is the dishonest features of these bills and the more than questionable methods adopted to pass them which has brought the whole river and harbor appropriation business into disrepute. At an earlier day an appropriation for a river or a harbor was made upon its merits. Now the case is quite different. The river and harbor bill of the last session had in it items for many important and much needed improvements. While that is true, it is also true that more than half of the items of that bill were appropriations not fit to be made. Members of the Committee on Commerce complain that the metropolitan press is against the river and harbor bill. They might have included almost the entire press of the country. Does it follow that a bill is a good one because the press is against it? In my judgment the press speaks the voice of the people on this measure.

The press is the great exponent of public opinion. It may sometimes be wrong, but, generally speaking, when the press is substantially unanimous, there can be no doubt but that it is right, and that the people are with it. The trouble with the last river and harbor bill is that there were too many Cheesequake Creeks and too many Sacramento Rivers in it. The chairman of the committee complains that the country is against improving the rivers and harbors. That gentleman knows well where the trouble lies. For example, there is found in the river and harbor bill of the last session an item of $250,000 to begin a work estimated by the engineers to cost a million and a half of dollars. And what is this great work—this great national improvement. It is simply a job to take out of the Sacramento River the *detritus* which the miners of California put in and are continuing to put in. In order to get so odious an appropriation as that, one hundred and fifty items, or thereabouts, were put in, equally dishonest, and each of those was supposed to command a vote for the bill.

The President, in mild but unmistakable language, in his veto message expressed his disapproval of that bill. But there were votes enough secured for it to pass it over his veto. The press of the country and the public sentiment of the country approved the President's action.

When the present session of the House convened, the chairman of this committee, with a manner approaching to insolence, sought to catechise the Secretary of War in respect of some views that officer was supposed to entertain concerning the river and harbor appropriations of the last session; and on his motion, on the 9th of December, 1882, this House passed a resolution requesting the Secretary of War to report to the House, among other things, the following information:

Whether any moneys appropriated by the act of August 2, 1882, "making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes," were appropriated for works or objects that are not in the interest of or do not benefit commerce and navigation, and, if so, to name such works or objects, and the respective amounts so appropriated.

Whether any of the moneys appropriated by said act have been or are being used or expended under its provisions upon works or objects that are not in the interest of or do not benefit commerce or navigation; and, if so, to name such works or objects and the respective amounts so used or expended.

It had been bruited that the Secretary of War held views adverse to the propriety of some portions at least of the river and harbor bill, and the chairman of the Committee on Commerce thought to get the War Department in a corner by the astuteness of his questions. The letter of the Secretary in reply shows how utterly he failed.

The Secretary says:

My wish to give a satisfactory answer to the inquiries of the House has compelled me to make a new and very extended examination of the subjects covered by the act.

Having done this, it has appeared to me that, in many instances, the results of substantial benefit to general commerce were so obscure and apparently insignificant as to vindicate the doubt on the part of the House of Representatives indicated by the inqury presented in the resolution.

He gives a list of ninety-one works appropriated for which are of the character mentioned in the resolution. Among these is the improvement of the Sacramento and Feather Rivers.

This is, as I said before, an appropriation of $250,000 to enable the United States to begin a work which will, in the opinion of the Secretary of War, cost one and a half millions of dollars. It is a sample of the bad items of that river and harbor bill. The Secretary, referring to that work, states:

IMPROVING SACRAMENTO RIVER, CALIFORNIA.

For improving and protecting navigable channels of Sacramento and Feather Rivers $250,000

So far as appears from the reports of the engineers the main part of this appropriation, and of expected appropriations for each one of eight years to come, would seem to be intended to be expended in the protection not only of the Sacramento and Feather Rivers, but of large areas of adjacent arable land from the effect of hydraulic mining; but this particular item will be made the subject of some remarks in another part of this response. If it was the intention of Congress to protect these lands from the flow of *detritus* it would be, in my opinion, to that extent a local work and not in any way in the interest of commerce and navigation.

Balance in Treasury July 1, 1882	$5,000
Appropriated act of August 2, 1882	250,000
Drawn on requisition, July 1 to December 31, 1882	15,000

And the Secretary remarks upon it, in another place, as follows:

The matter of the improvement and protection of the channels of the Sacramento and Feather Rivers in California requires a special remark. Previous appropriations for the improvement of the Sacramento River have been mostly expended in dredging the channel, and of the present appropriation $40,000 have been allotted for the continuation of this particular kind of work. The project submitted to me for the expenditure of the remaining part of the appropriation is for the erection of restraining barriers upon the Yuba, American, and Bear Rivers, tributaries of the Sacramento and Feather, to hold back the flow of *detritus* caused by hydraulic mining. In submitting the project, the Chief of Engineers makes a slightly qualified recommendation, and I have therefore been led to examine with some care the papers in this Department relating to the project, which is the result of careful consideration by the Engineer Bureau. The problem seems to be to prevent the injury caused by the downflow of about 38,000,000 cubic yards of *detritus* annually, caused by the artificial washing away of gold-bearing gravel-banks, in doing which 870,000,000 cubic yards of water are annually used. The records indi

cate that this downflow is injurious, not only to the navigable streams below, but enormously destructive to agricultural lands, both directly and by raising the flood levels of the rivers, and that the owners of these lands are equally if not more than any other class of citizens interested in preventive measures.

The streams and the mining works are within the State of California, and it seems that in at least one instance a mining enterprise has been enjoined by a local court from prosecuting its work in such way as to cause the injuries complained of, but I have not learned that it has been decided by the highest court whether the injury to navigation and agricultural interests can be prevented by judicial action.

The act of the Legislature of California, passed in 1880, the purpose of which was the raising of funds by taxation for certain objects, described as "the control of *débris* from mining and other operations, the improvement and rectification of river channels, and the erection of embankments or dikes necessary for the protection of lands, towns, or cities, from inundation," was, in the next year declared unconstitutional by the supreme court of the State upon several grounds. One of them, as stated in the leading opinion, was—

"That the storage of *débris* is, in its nature, a private enterprise, in which the few only are interested. * * * To promote a public purpose by a tax levy upon the property within the State is within the power of the legislature, but the legislature has no power to impose taxes for the benefit of individuals connected with a private enterprise, even though the private enterprise might benefit the local public in a remote or collateral way."

Consequently the efforts of the State authorities of California to impound the *detritus* from hydraulic mining enterprises were brought to an end.

The work projected would involve the expenditure, within the next eight years, of nearly a million and a half of dollars, with doubtful results; and, as the exact character of the work to be done is not indicated in the act, in my hesitation as to approving the project I have thought proper to refer to the debate in the House upon the passage of the particular clause in question. I have gathered from remarks made in the debate, which seemed to receive the unqualified assent of the chairman of the Committee on Commerce reporting the bill, that it was not the intention to commit the Government to the policy of providing reservoirs for the storage of *detritus* from future mining operations, it being thought that they were but a partial remedy, and would not accomplish the purpose designed if hydraulic mining should continue, and it is stated that the committee did not adopt the plan sketched in the engineer's preliminary reports.

The project now before me for the expenditure of the main part of the appropriation seems to be in exact accord with those reports which did not receive the approbation of the committee. I have not, therefore, yet considered it proper to do more than continue the dredging operations.

This is but a sample of the ninety-one items criticised by the Secretary of War. I have not time or space to give specific attention to each item of the ninety-one. There are many other items in that bill equally bad with the ninety-one mentioned that are not referred to in the Secretary's letter, probably because the records of the War Department do not show their character. The ninety-one cases are shown by the records in the War Department to be of the character stated in the resolution. They are, in the opinion of the War Secretary, of no substantial benefit to general commerce.

This letter is carefully considered, is based upon the records of the War Department and the opinions of the engineers, and is a conclusive condemnation of the river and harbor bill of 1882.

Instead of compelling the young but able Secretary of War to surrender, the Committee on Commerce were compelled to retire before his Gatling guns, routed and discomfited.

But there seems to be no end to the ambition of that committee. Notwithstanding the adverse sentiment of the country; notwithstanding the adverse opinion of the Secretary of War; notwithstanding the adverse advice of the President, expressed in his message and in his veto, that committee, with a sort of unpleasant bravado, as much as to say "we know how to get the votes, and we defy you," have reported the present bill calling for about eight millions of dollars, a bill only better than the bill of last year because the amount appropriated is ten millions of dollars less. I have had some experience with this Committee on Commerce; I know its "tricks and its manners."

To illustrate the powers which that committee has sought to exercise I will state an incident of that experience which is in point.

I had the misfortune to incur the displeasure of that committee in the last session, because I opposed the passage of their river and harbor bill. Happening to be concerned in a personal controversy with a member of the House, arising out of matters which occurred on the floor of the House, the Committee on Commerce took up this controversy, usurping jurisdiction over it, and, without notice to me, placed upon its records a resolution, which it, ignorantly, thought would determine the matter in controversy. That action was communicated to me by letter, to which I replied on the 27th of July. My reply, which will explain the whole matter, is as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MINES AND MINING,
Washington, July 27, 1882.

To the Committee on Commerce of the House of Representatives:

GENTLEMEN: I have the honor to acknowledge the receipt of your letter, signed by your clerk, dated July 20, 1882, informing me officially of the passage by you on the 7th instant of certain resolutions relating to what you are pleased to call an "attack" by me upon one of you (Mr. REAGAN) on the floor of the House of Representatives. The text of the resolutions is as follows:

"*Resolved*, That the Committee on Commerce consider it a duty to take formal notice of the unprovoked and unjustifiable attack upon their colleague, Mr. REAGAN, by Mr. VAN VOORHIS. They desire to record their recognition of Mr. REAGAN's integrity and honorable conduct, and appreciation of the dignity, forbearance, and ability characterizing his conclusive, unanswerable, and truthful refutation of the statements made by the member from New York, in connection with the bill to regulate emigration.

"*Resolved*, That these resolutions be entered upon the journal of the committee, and copies of the same be sent to Messrs. REAGAN and VAN VOORHIS."

In answer to this communication I have to say:

First. I had seen some time ago in the public newspapers these resolutions, with the statement that you had authorized them. I preferred to wait until officially informed before taking notice of them. I did not feel warranted in assuming, in the absence of official notification, that you had committed so high a breach of the privileges of the House. Your action seems to have been informed with ignorance and falsehood and inspired by malice.

Secondly. I feel bound to say that I believe most of you were ignorant that the Constitution of the United States prohibits you from calling me to account for words spoken in debate in the House of Representatives. For your information I respectfully call your attention to section 6, article 1, of the Constitution, which treats of the privileges of Senators and Representatives, and which contains this clause: "And for any speech or debate in either house, they shall not be questioned in any other place."

The attack which you charge me with making on Mr. REAGAN is in my speech in the House on the 27th of June last. In violation of the Constitution you organize yourselves into a tribunal, you sit in judgment secretly on my speech, and the first notice you give me of your proceeding is through the associated press, which announces your verdict. You took no testimony. You heard no argument. You allowed your impulses to travel off with your judgment. You did what cannot be justified by anybody who believes in fair play. I made my speech and Mr. REAGAN took an hour to answer me. I had no opportunity to reply to him or his many misstatements. He was not satisfied, but, as I am told, vexed the committee so continuously that you took this action in order to get rid of his importunities.

Again, you seem to be utterly ignorant of your powers under the rules of the House. Your committee is a creature of the rules. You have and can have no powers not conferred by law. The rules give you jurisdiction over "subjects" referred to you relating "to commerce, life-saving service, and light-houses." That is all. You ignorantly supposed that you could settle a controversy which arose in the House of Representatives between Mr. REAGAN and myself by the fiat of your committee, although it had never been referred to you. Again, not but one of you has or had any personal knowledge of the question at issue between Mr. REAGAN and myself. You relied solely upon Mr. REAGAN's statements, and were misled by him as to the truth of the case. Here again your ignorance is displayed. You made no legitimate inquiry into the facts, but assumed your facts from *ex parte* statements of the most interested party. I could have shown the falsity of his claim, by himself, if you had given me the opportunity to cross-examine him. I do not believe that more than one of you understand the real issue in controversy. You are, therefore, with one exception, ignorant of the facts as well as of the law, having been deceived by false statements.

The motive which inspires your action on the part of that one of your number who procured it is too plain to need to be mentioned. You are a band of brothers, and you stand by one another, whether right or whether wrong.

Thirdly. You have given Mr. REAGAN a character. He was sadly in need of one. If he don't lose it before he gets back to Texas it will doubtless be of use to him in his canvass for re-election. Such things help in far-off Texas.

You have indorsed him, but who shall indorse the indorsers?

You have washed (or, rather, whitewashed) Mr. REAGAN, but tell us who shall wash you?

"The river Rhine, it is well known,
Doth wash your city of Cologne,
But tell me, nymphs, what power divine,
Shall henceforth wash the river Rhine?"

You have constructed the wickedest river and harbor bill ever presented to the House of Representatives. You have also doubtless killed the immigration bill. Beyond these exploits I know nothing except "*cheek*" that entitles you to bedeck yourselves with such airs. It is my humble opinion that your indorsement will be taken for just what it is worth. It is REAGAN indorsing REAGAN, and that is all there is of it. It is a base use to which you have brought the Committee on Commerce.

Fourthly. In your resolution you assert that I made an "unprovoked and unjustifiable attack" on your colleague, Mr. REAGAN. It is plain that you don't understand the case. You are ignorant of the issue. I was not the attacking party. Let me state the issue raised by Mr. REAGAN, and I will state accurately from the record.

The immigration bill passed on June 19th. On June 21st Mr. REAGAN arose in the House and said:

"I rise to a question of privilege. House bill No. 6596, to regulate immigration, was referred to the Committee on Commerce, considered by that committee and amended. The gentleman from New York, [Mr. RICHARDSON,] a member of the committee, was authorized to report the amended bill as a substitute for the orignal bill. In his absence the amended bill was brought to me purporting to be the substitute bill with the report of Mr. RICHARDSON, with the request that in his absence I should report the bill to the House. Acting on that suggestion, and after conference with some members of the committee, I reported the bill to the House, and it was passed under a suspension of the rules. The committee, on examining the bill passed by the House, have ascertained it is different in some respects which they deemed material from the bill reported by them, and they have instructed me to offer a resolution requesting the Senate to return the bill."

Mr. REAGAN here charges that the amended bill was brought to him purporting to be the substitute bill, &c. The committee on examining the bill "have ascertained it is different in some respects from the bill reported by them."

Although my name was not mentioned, it was made known and charged that I had given the bill to Mr. REAGAN, and that he supposed it was the identical bill which the committee had ordered reported. There is no intimation that Mr. REAGAN knew or had heard of any alteration of the bill, or any modification of it.

On the 22d of June a sub-committee of the Committee on Commerce, of which Mr. REAGAN was a member, made a report or statement, which was given to the associated press and published the next day. In that report Mr. REAGAN states the issue which he makes with me explicitly. He says:

"On the following Monday, during Mr. RICHARDSON's absence, Mr. VAN VOORHIS, with the consent of certain other members of the committee, asked Judge REAGAN to report the committee's bill, but handed to him with the accompanying report, the bill afterward passed, with the statement that it was a correct copy of the bill agreed to by the said committee, when in point of fact it was a materially different bill from that which the committee had authorized Mr. RICHARDSON to report favorably to the House. Under this assurance Mr. REAGAN looked hastily over the bill, and discovering what he conceived to be clerical errors of omission, one or two amendments that he had himself offered and which had been adopted in committee, changed the phraseology to conform to his recollection of the committee's action, and subsequently, still relying on the assurance of Mr. VAN VOORHIS, offered the said bill and stated that it was the bill favorably recommended by the committee."

Here the charge is that I told Mr. REAGAN that the bill I gave him "*was a correct copy of the bill agreed to by the said committee*," when in point of fact it was materially different. This is a charge against me of false representations plainly made. Up to this time I had not said a word in the House.

On the 27th of June Mr. PAGE, chairman of your committee, restated REAGAN's charge in a report to the House as follows:

"On Monday, the 19th instant, by unanimous consent, Mr. REAGAN, of Texas, representing the Committee on Commerce, moved to suspend the rules and pass House bill (H. R. No. 5669) to regulate immigration. The bill which he offered was handed to him by Mr. VAN VOORHIS, of New York, and purported to be the bill agreed to by the Committee on Commerce. Mr. REAGAN and the members of the committee present were misled in regard to the bill which was passed, they supposing it to be a true copy of the bill agreed to by the committee. The committee recom-

mended and asked that the House by unanimous consent do substitute the true bill, now in possession of the committee, for the one passed."

Here the charge is repeated in a modified form, but it is just as obnoxious as before. It is that the bill which I gave Mr. REAGAN "purported to be the bill agreed to by the Committee on Commerce" and that Mr. REAGAN was "mislead in regard to the bill, supposing it to be a true copy of the bill agreed to by the committee." The charge was three times repeated before I said anything. The question is, did I state to Mr. REAGAN that the bill he offered "*was a correct copy of the bill agreed to by the committee*," and did Mr. REAGAN suppose that the bill he offered was a "true copy of the bill agreed to by the committee?" I deny both propositions. I did not tell Mr. REAGAN that the bill I gave him was "*a correct copy of the bill agreed to by the committee*," and Mr. REAGAN knew when he offered the bill that it was not such copy. If I did deceive Mr. REAGAN with such a statement, then I deserve all the censure that can be heaped upon me. If I did not, then how unjust is your action in the premises!

The evidence is clear, and so strong that I did not doubt that if Mr. REAGAN should swear to his statement, in any proceeding where false swearing is perjury, I could convict him of perjury before any impartial jury of twelve men.

If Mr. REAGAN did agree to a change of the bill before he offered it, in any particular, then his charge is false. I assert that he did. I will refer to two items of evidence.

First. I quote from his speech (see RECORD of January 28, page 34):

"It is enough for me to say that he brought the bill purporting to be the bill of the committee and brought the report which had been prepared in writing by Mr. RICHARDSON, and delivered them to me with the statement that the bill was the committee's bill, except that a portion of it relating to immigration over the Canadian border had, by consent of the committee, or members of the committee, been agreed to be changed from the committee's report if I assented to it. I said, 'We did not discuss that in committee; but if it is the wish of the committee to change it I have no objection.'"

Here the gentleman admits that I told him it was not the committee's bill. It had an important exception. It had a provision which would prevent the flooding of the country with paupers through Canada. And that is all the difference there is between the two bills of any importance. He thus admits that the three several reports of the committee are false.

Second. Mr. REAGAN told a distinguished member of the House [A. S. HEWITT] just before he offered the bill that in conference with me he [REAGAN] "had assented to such a modification of the bill as would protect the border districts from pauper emigrants coming in from Canada."

That modification is the only modification I desired. If he agreed to it, as I can show he did, how false and unjust is your action in the premises. I refer to these two items of evidence. I have much more. Nothing would please me better than an opportunity to present the evidence before some competent tribunal to show how false is Mr. REAGAN's charge.

Having raised that issue, what I did and all I did was to defend myself. My defense seems offensive to you. If I used the offensive-defensive, it was because I had a right to do so, and the occasion demanded it. No other honorable course was left open to me. Is it your position that if a member of your committee makes a false and mean charge against a member of the House he must submit to it in silence or incur your censure? If I deny a false charge, does that make me the attacking party? Your colleague, Mr. REAGAN, when I deny this charge, squeals and runs to the cover of his committee and opens fire from a masked battery. How brave!

Fifthly. This is not the first time Mr. REAGAN's veracity has been questioned in the House of Representatives. He complains in his speech that I had sought to cast odium upon him by alluding to him as the ex-confederate postmaster-general. I know such an allusion would be odious to him, but I did not make it. He himself has brought his former official connection with the confederacy before the House. I shall mention, now that it has been introduced, a single incident. There were certain United States mail contractors in the Southern States who went into the rebellion, not having time to settle and get their pay. This comprises a period of time shortly prior to June 1, 1861. The United States owed these contractors for services rendered just before their States seceded. Mr. REAGAN procured from the confederate congress the passage of a law authorizing him to pay these contractors, and an appropriation of $800,000 was made, and placed to his credit as postmaster-general of the confederacy to enable him to do so. This was on the 13th day of October, 1862. Mr. REAGAN proceeded to pay these contractors, taking an agreement from them to the effect that if the United States Government should ever pay them anything, then these claimants should pay back to the confederate government what they had received. Mr. REAGAN himself prepared and issued instructions to that effect. On the 7th of December, 1863, he reported that he had paid out $502,017.19 of this fund. He took vouchers from the claimants. He reported to the confederate government from time to time what he had paid. These facts were only known to Mr. REAGAN in the House of Representatives at the time to which I am about to refer. Now, what happened?

The sundry civil appropriation bill passed March 3, 1877, contained a clause appropriating $375,000 to pay these same mail contractors for services performed just prior to the war, and before their several States had engaged in the war, with the following proviso:

"Providing that any such claims which have been paid by the Confederate States Government shall not be again paid."

This was put into the appropriation bill on motion of Mr. ATKINS.

The Secretary of the Treasury held that he would not pay any of these claims until all had been presented and audited, and then if there was not sufficient of the appropriation to pay all the claims, he would pay them *pro rata*.

This ruling of the Secretary was not satisfactory to the gentleman from Texas (REAGAN), and on the 16th of November, 1877, he introduced into the House a joint resolution, requiring the Secretary of the Treasury to begin at once and pay these claims in full as they were presented.

This resolution omitted the proviso and authorized the payment of all claims, whether they had been paid by the confederate government or not.

When the joint resolution came up for consideration, this omission was deemed a suspicious circumstance. While it was under discussion, Mr. REAGAN, in order to induce the House to credit his statements, protested that he had "never participated in theft, wrong, swindling, or any dishonorable act." There were those who thought the gentleman did "protest too much," and he was called upon to state why those words were omitted. In explanation of the omission he said:

"In the preparation of this joint resolution those words were omitted because I knew there was no necessity for them."

He was speaking of his personal knowledge as postmaster-general of the confederate government. He preceded in the most emphatic and solemn manner to assert that the confederate government never paid a dollar to a mail contractor that had been earned prior to the first of June, 1861. He said: "Now, upon the point that the confederate government has not paid their claims, I will state that the confederate government *only undertook to pay for the services from the time it took charge of it* on the 1st day of June, 1861, and *it had nothing whatever to do with the payment for services rendered previous to that date*."

Again he said

"The Confederate Government * * * never paid a dollar to a contractor which had become due before the 1st of June, 1861."

If this statement were true the proviso was, as he asserted, unnecessary. But it was utterly false.

Mr. REAGAN's statement on the floor of the House that the confederate government had never paid any of these claims was not credited. A postponement was had and its falsity conclusively established by his own reports, vouchers and records, found in the confederate archives at the War Department, papers which he supposed were not in existence.

The joint resolution ignominiously failed. But for the sagacity, the ability, and the diligence of a distinguished lawyer and member of the House from Michigan, Judge WILLETS, who examined the records and exposed the fraud, the Treasury would have been mulcted in the sum of $375,000, which, according to agreement, would have to be paid over to the confederate government, and the Texas gentleman seems to be all there is left of that, and of course he would get the money. I will quote from the debate on that resolution a few words:

"Mr. CONGER. Now, sir, if I remember my remarks of the other day, I said that it did seem strange to me that a law appropriating $800,000 passed by the confederate government, and a public report printed by the postmaster-general of that government, saying that he had appropriated over half a million of that $800,000 to the payment of mail contractors for services prior to May 31, 1861, could have existed without coming within the knowledge or memory of my friend, the late postmaster-general of the confederacy, or of gentlemen who were then members of the confederate congress. * * * The gentleman's denial that he remembers such a law or such a report is the denial of one man, but the circumstance is still just as strong, just as unaccountable. And when we find that portion of the eighteen claims audited by the auditor of the confederacy and paid by the postmaster-general of the confederacy out of the $800,000 appropriated by that government; when I find that fourteen of those claims (I have a list of them here and will have it printed with my remarks) are on file in the auditor's department, and are among the very class of claims which this resolution proposes to pay, having been paid once by the confederate government, it does seem to me that I was justified in saying that, with all the intelligence and knowledge, and good memory, and vigorous intellect of my friends on the other side of the House, there ought to have been some one of them ready to call the attention of this Congress to this matter, and to have corrected any error into which we might have fallen. I do not say that there is anybody here who has sought to have a claim paid twice. I make no charge of that kind; but I present fourteen claims that have once been paid by the confederate government, and are now pressed for payment again in the auditor's office of this Government. Does not this require some explanation? At least some inquiry?

"Mr. REAGAN. The gentleman will allow me to say that this very resolution provides that these payments shall be made under the previous law, which itself declared that no one who had already been paid should be paid again.

"Mr. CONGER. But in this resolution that limitation is stricken out.

"Mr. REAGAN. But the resolution directs payment to be made under the law already passed.

"Mr. CONGER. The very agreement of the contractors whose names I have here provided, that if they could get this money from the United States they should pay it back to the confederate government, and, therefore, it is a duty for them to follow into the Government of the United States their claim, and recover it from the United States again according to their contract, in order that they may pay it back to the lost cause or some one else. [Laughter.]

"I do not blame the contractors, for they pledged themselves to the confederate government that if it paid out the $800,000 to them they would get it out of the United States and pay it back. They are acting honorably. [Laughter.]

"Mr. TOWNSEND, of New York. That is high-toned—clear up. [Great laughter.]

"Mr. CONGER. Under the law passed last year, which provided that these claims should not be paid if they had already been paid, these claims were presented and filed for payment by the Government, and they had to swear that they had not been once paid. Here are the papers to which I have referred and which I wish to make part of my remarks. I hear no objection. [Here follows the list of claims.]

"Mr. CONGER. There is the list of '*the twice-told tales*' of what came so near being '*the twice-paid claims*.' There also is the circular of our Government, quoting both the law of Congress and the opinion of the Solicitor of the Treasury, and, in addition, the rules of the Department respecting these very claims, and yet these claims are filed, sworn to, and payment demanded. I have said enough. The matter tells its own story."

I allude to this incident of Mr. REAGAN's record only because it bears upon your action—you were, without doubt, ignorant of it, all but one of you. You can see that Mr. REAGAN's integrity needed some indorsement.

Sixthly. Mr. REAGAN, in his speech, said that he had offered the immigration bill as a favor to me. If that were so, the presumption follows that it was the bill as I desired it to be. I could hardly be expected to ask him, as a favor to me, to pass a bill I was opposed to. The bill, as I offered it, contained a provision to prevent the immigration of paupers into this country through Canada. Mr. REAGAN's amendment struck this all out. It thus became REAGAN's bill, and not mine. I might be supposed to be anxious to keep that provision in the bill, but if Mr. REAGAN supposed it was his bill, and not mine, that he offered, he could hardly have believed he was doing me a favor. If he thought he was favoring me it was because he knew the bill had been made satisfactory to me.

Seventhly. You seem to have organized your committee into a "school for scandal," or literary bureau, for supplying the newspapers with news that emanates from you. Perhaps you will give this brief communication an airing in the same manner. Perhaps you will enter it upon the journal of your committee in order that it may enjoy an equal immortality with your resolutions.

Very respectfully,

JOHN VAN VOORHIS.

Upon this letter the *Democrat and Chronicle* contained the following editorial:

MR. VAN VOORHIS'S LETTER.

Elsewhere is published the letter of the Hon. JOHN VAN VOORHIS in reply to the resolution of the Commerce Committee of the House, virtually censuring him for his action on the immigration bill. It is a caustic analysis of the impertinence and the injustice of the action of the committee and a most searching review of the record of Mr. REAGAN, not only in reference to the chief issue involved, but also in reference to certain other matters which do not confirm whatever reputation for veracity that gentleman may have achieved.

Mr. VAN VOORHIS, in that vigorous language of which he is a master, makes a strong, and, as we believe, an impregnable showing for his side of the case. As has been before stated in these columns, the issue is one simply of veracity between Mr. REAGAN and Mr. VAN VOORHIS, with the circumstantial evidence in favor of the version of the latter gentleman. This view is fortified by the presentation which Mr. VAN VOORHIS now makes, and which should commend itself to the judgment of fair-minded men; and certainly the usurpation of power on the part of the committee in attempting to censure Mr. VAN VOORHIS is clearly demonstrated.

To that letter the Committee on Commerce made no reply. It has by its silence admitted all that it contains.

It is no compliment to the Speaker of this Houses that he made the mistake of placing the important powers and trusts of this House which relate to the commerce of the country in incompetent hands.

Mr. Speaker, I have not the slightest personal feeling against any

member of that committee; neither the bulldozing of the chairman of the committee, nor the drivel of the gentleman from Maryland, now in his second childhood, has disturbed me. All this is to be expected from this committee. I oppose this river and harbor bill because it is not needed. I oppose it because it is an unnecessary burden upon the laborers of the country, who are taxed to raise the money which we are squandering. I oppose it because the people of my district and of my State are opposed to it.

The Tariff.

SPEECH

OF

HON. RICHARD W. TOWNSHEND,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the bill (H. R. 5538) to reduce internal-revenue taxation.

Mr. TOWNSHEND, of Illinois, said:

Mr. SPEAKER: In the expiring hours of this session I feel no hesitation in hazarding the assertion that this Congress will go down into history as having done more harm and less good than any which has assembled since the Government was founded. The evil influence of monopoly has hung over it and exerted a powerful influence over its action from its incoming down to this hour of its outgoing. The hired agents of bank, railroad, and tariff monopolies have constantly crowded our lobbies and committee-rooms, and besieged members upon questions deeply affecting the public welfare.

The fell spirit of monopoly has paralyzed and defeated the most salutary and just measures in the interest of the people. I shall not dwell upon other measures but at once call attention to this. We are now brought directly to the consideration of the crowning act of wrong and injustice of a Republican majority in this Congress. This conference committee has aimed a fatal blow at the public good, and in its subserviency to the protected classes has exceeded its duty as a conference committee. Instead of confining its action to an adjustment of differences between the two Houses, it has disregarded its instructions and set at defiance the action of both Houses. I will not stop to examine details, but for a moment will ask your attention to one or two items in the metal schedule in order to show how it has exceeded its duty.

Let it not be forgotten that the authority conferred on this committee was that it should seek to harmonize the matters of difference between the two Houses. Now, see how it has discharged its duty. The Senate fixed the duty on iron ore at 50 cents per ton; the House did the same. There was of course no difference between the two Houses for this committee to adjust, but this committee, without any ground for its action, raised the duty to 75 cents per ton. In whose interest was this done? Was it in the interest of the people? Of course not. It was solely in the interest of the owners of iron ore. When we remember that iron ore lies at the foundation of all our iron industries, and all the articles so universally used which are made from that metal, we can easily see how much the cost of iron ore affects the public interest.

Take steel rails. The House fixed the duty at $15 per ton, the Senate at $15.68. Now, did this committee, in the interest of harmony between the two bodies, divide the difference or adjust it? No. The committee, in the interest of the steel monopoly, raised the amount of tax over and above that established by the two Houses and placed it at $17 per ton.

Sir, the members of this committee have ignored the will of the majority in both Houses. In a star-chamber proceeding they have struck down the rights of the people. They have repudiated the action of the Tariff Commission and of both Houses of Congress.

It is claimed by the advocates of this bill that it greatly reduces taxation; but where does the reduction fall? The first lines of the first section read as follows:

> That the taxes herein specified imposed by the laws now in force be, and the same are hereby, repealed, as hereinafter provided, namely: On capital and deposits of banks, bankers, and national banking associations, except such taxes as are now due and payable; and on and after the 1st day of July, 1883, the stamp-tax on bank checks, drafts, orders, and vouchers, and the tax on matches, perfumery, medicinal preparations, and other articles imposed by Schedule A following section 3437 of the Revised Statutes.

You talk about relief to the poor. Is there any relief in that section for the poor man or the laborer. Do they own banks. Do they manufacture matches or medical preparations. Do they manufacture or use perfumery. Money will be just as hard to borrow at just as high rates; matches and medical preparations will cost just as much after the stamp-taxes are off as now. None but the manufacturers and bankers will be benefited by this reduction.

This section takes the tax off playing-cards, and the fifth section imposes a tax of 25 per cent. on Bibles and school books. Does a bill afford wholesome relief to the masses which makes gambling free and taxes Christianity and knowledge?

The first section takes twenty-two millions off of banks and the manufactures I have mentioned, while other sections leave onerous burdens on food, clothing, and necessaries of life.

But this bill to a most grievous extent burdens all agricultural interests. As I have heretofore asserted, there is no relief or protection for the farmer. It is well known you can not protect or enhance the value of farm products. Their price is fixed in Liverpool and the markets of the world, far beyond the limits of your power. Wheat, corn, and provisions are only worth in my district what they will bring in Liverpool, after deducting the cost of transportation, insurance, commissions, &c.

Every farmer in the West understands this. You can not humbug him into the belief that he is protected because you place a duty on wheat. He knows as well as you that but a trifling amount of wheat is imported into this country and that is confined to the Canada border. Our wheat is exported to the European and other markets of the world. Our farmers have no fear that England, France, or Germany will bring their wheat across the Atlantic and undersell them on our shores, because they know full well those countries do not produce enough for their own consumption and that they depend greatly on the American producer for grain supplies.

I am amazed at Republican members hailing from the West when I see them day by day casting their votes in favor of manufacturing which lives and thrives upon bounties extorted from their farming constituents by the legerdemain of this tariff system. Those who so cast their votes can not escape the charge of infidelity to their trust and will be held to a strict accountability for such action.

Now, sir, let us for a moment consider the effect of a protective tariff upon different communities or States, as shown by the census reports of 1880. We will, as an illustration, take the agricultural State of Kansas and compare it with the manufacturing States of Rhode Island and Connecticut—the aggregate population of the two latter being within a hundred thousand of the former.

The members from Kansas represent a State which has:

Population	996,096
Number of farms	138,561
Total value farming interest	$364,728,149
Number mechanics of all sorts	11,139
Manufacturing establishments which are really protected (iron and steel)	2
Number of workmen in these two establishments' employ	630
Capital invested	$450,000
Wages paid	$166,500
Product	$1,004,100

Now, compare Kansas with the States of Rhode Island and Connecticut and you will find the representatives of the two latter States represent—

Population	899,231
Number of farms	36,814
Total value farming interest	$72,457 063
Number manufacturing establishments	6,693
Capital invested	$196,056 178
Number of laborers	175,683
Wages paid	$64,857 137

These figures need no explanation. They plainly show how very small the protected interest of Kansas is in comparison to that of farming, which is not protected; and on the other hand how enormous is the protected interest of Rhode Island and Connecticut in comparison to their agricultural interest and to that of Kansas. It is easy to understand from the foregoing figures why the members from Rhode Island and Connecticut can vote for a bill like this, which builds up and enriches the owners and parties interested in the great manufacturing establishments of those States at the expense of the Western farmers. But I find it difficult to discover the loyalty to his trust of the representative whom the farmers of the West send here when I find that representative giving his vote to those who plunder his constituents.

Rhode Island and Connecticut are royally protected and enriched by this bill, but Kansas enjoys but a very insignificant amount of protection, being mainly confined to that of two establishments, and indeed her distance from all foreign markets, cost of transportation, &c., furnish sufficient protection for all her domestic manufactures. Yet in the face of these figures you find Republican members from the West zealously advocating a protective tariff on this floor who represent constituencies that are daily plundered by that system.

I shall not pause to criticise their motives but leave their constituents to judge whether they desire to continue the employment of Representatives who enact laws which, quoting the suggestion of Webster, increase the price of "everything the farmer buys and diminish the price of everything he has to sell." Sir, this is a system of laws which does not distribute the burdens of Government with an impartial hand but makes it an instrument of oppression to the many for the benefit of the few, a system which by artificial sophistry gulls the masses while they are plundered of their substance in order to fatten and pamper a privileged class.

Mr. Speaker, the faithful representatives of the people who sit on the

Democratic side of this House have courageously resisted such legislation with all the power left them under the rules, not in a factious spirit and not by obstructive or dilatory action, but by fair argument exposing the injustice and iniquity of this system, and by their votes; yet they have been censured and calumniated by the advocates of monopolies who are actuated by no motive of public welfare, but who clamor for measures under plausible pretexts which conduce to their selfish interest.

We have been venomously pursued with misrepresentation and vituperation by their agents and advocates. But, sir, we are conscious that this is a part of the penalty paid by those whose regard for the general welfare raise them above the plane of selfish personal interest, and who possess the courage to denounce injustice in high places. We feel, however, as Sir Robert Peel expressed himself, that we shall not go unrewarded when cherishing the reflection that we will "be remembered with the expressions of good-will in the abodes of those whose lot it is to labor and to earn their daily bread by the sweat of their brow when they shall recruit their exhausted strength with abundant and untaxed food; the sweeter because it is no longer leavened by a sense of injustice."

This bill could not pass if it were opened to debate. It would signally fail if sufficient time could be had to expose the iniquities contained in it. Those who concocted it and who have inspired its adoption by the conference committee knew full well they dared not permit the representatives of the people to discuss this bill beyond the two hours which have been allowed us for debate, and therefore they have resorted to the desperate expedient of gagging the members of this House and by the use of party lash, tyrannically force a majority of this House to vote for a bill which they must know is an edict of the lobby and an outrage upon the rights and freedom of the people, and which I now predict will be followed by such a train of evils as will make it not only odious to the people, but to most of those it is designed to benefit, and which will in the next national election contribute largely to the downfall of the party which has enacted it.

Tariff—Wool Interest of Ohio—Necessity of Protection.

SPEECH

OF

HON. ADDISON S. McCLURE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 27, 1883,

On the bill (H. R. 7313) to impose duties on foreign imports, and for other purposes.

Mr. McCLURE said:

Mr. CHAIRMAN: The long and exhaustive discussion of the tariff, both this session and last, would lead one to suppose that the two great interests of the country, the agricultural and manufacturing interests, had locked horns in this Hall and were engaged in a deadly war of extermination; that the legislation that would be beneficial to the one would necessarily be destructive of the other; that they are essentially repugnant and irreconcilable, and that the one was attempting to overreach the other by foul and unlawful methods. Nothing can be further from the truth.

These two great interests, the one producing over $7,000,000,000 of agricultural products and the other over $5,000,000,000 of manufactured articles in 1880, are not only not hostile, but friendly, cordial, and interdependent. A blow struck at the one hurts the other. Disorganize and unroof the manufacturing interest of the country—an interest which in 1880 employed 2,700,000 hands, paid $947,953,000 in wages, used $3,396,000,000 in materials, and produced $5,369,595,000 in manufactured articles—by destructive tariff legislation, and you will inflict a blow on agriculture that will be felt in every corner of the Union.

Let the agricultural interests, on the other hand, suffer through the operations of nature, by heat or cold, drought or flood, by the ravages of innumerable insects that feed on the vegetable kingdom, or from any other cause, and the manufacturing interests will feel it at once. The grain grows more golden in the light of the furnace and the corn lifts up a prouder head in the music of the grim industries. The prosperity of these two great interests is inseparable, and their calamities can not be disunited. He who seeks to array them in hostility to each other, to sow seeds of discord, distraction, and alienation between them, to reprobate the one by eulogizing the other, is the true friend of neither, but the dangerous enemy of both.

Within the last twenty years this nation, in spite of the enormous waste of the war, has bounded almost at a single leap to be the first agricultural and manufacturing nation in the world. This double marvel is unquestionably the result of the protective policy so happily inaugurated in 1861. I believe in the sound, economic philosophy of protection. I believe in the protection of home labor against the competition of foreign labor, and that protection should be proximate rather than incidental, direct rather than oblique. I believe in the protection of our agricultural interests where they come into competition with foreign production, and I am therefore inflexibly opposed to any reduction whatever in the existing tariff on wool and woolen goods.

This country has already had a most disastrous experience from the inadequate protection of its wool interest. The civil war stimulated this interest in a most unexampled manner. The national Army, numbering over a million of soldiers, was clothed in wool—woolen blankets, woolen great-coats, woolen dress-coats, woolen blouses, woolen pants, woolen shirts, woolen drawers, and woolen socks. Martial patriotism was clad in wool. When the war ended this stimulation to production was withdrawn. The Government ceased to be a buyer. The blockade of the Southern ports was removed and the cotton of the South was restored to the commerce and consumption of the world. This conjunction of events caused the wool interest of the country to experience a most damaging stagnation.

The matter was discussed in Congress in 1865, 1866, and the legislation of 1867 was the fruit of this discussion.

That legislation was most opportune in its provisions and beneficial in its effects. It rescued the wool-growers from impending calamity, and visibly reinvigorated a noble industry. Under its beneficent operations our flocks, from less than 25,000,000 in 1867, multiplied to over 35,000,000 in 1880. For the first time in the history of our country, the 400,000 American flock-owners received adequate tariff protection; and in 1880, of the 300,000,000 pounds of wool consumed by American looms, 155,000,000 pounds were furnished by domestic production. A wholesome competition was established between foreign and domestic wools, and to-day you can buy for $25 a home-made woolen suit fit to appear on Pennsylvania avenue, Broadway, or the boulevards of Paris.

Ohio is the leading wool-producing State in the Union. Her farmers, with a native aptitude for progress, grow thoroughbred sheep. The sweetest mutton and the finest wool in the United States are produced in the valleys of the Killbuck and Muskingum. Ohio produces nearly one-sixth of the aggregate wool clip of the country. There are more sheep in Ohio than in Maine, Vermont, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida combined, with over a half million to spare. Thus, in the single State of Ohio, our flocks outnumber the flocks in all the States, exclusive of Pennsylvania, east of the Alleghanies, south of the Saint John's River, and north of the Gulf of Mexico.

We are ready to compete with the flocks that feed on the vast prairies of Texas and New Mexico. We are willing to cross swords with Colorado with its golden climate; a State ably represented on this floor by my genial, impetuous, bimetallic friend [Mr. BELFORD]. We challenge the rivalry of California, where the sun shines, the birds sing, and the grass grows through all the revolutions of the seasons.

Ohio, hugging Lake Erie on the north, swept by polar storms for five months in the year, with the snow lying deep on her frozen hillsides, with no music of birds in her leafless trees, fears no rival in the United States in sheep husbandry.

But we do most emphatically object to competition with Australia. That great continental island, situated between the tenth and fortieth degrees of south latitude, divided in the center by the Tropic of Capricorn, is the Eldorado of the sheep-grower. There its flocks need no roof in the winter but the sky, and no food but its luxuriant pastures. They multiply with abundant vigor, and are subsisted at a cost insignificant in comparison with the cost of subsistence in Ohio.

The flocks of Australia in 1880 numbered 73,000,000; of the United State 35,000,000. In the next decade Australia will astonish the world with its pastoral resources, and I would not be surprised that the census of her sheep attained the enormous figure of 150,000,000 head. Competition, therefore, with Australia is unequal. Tariff legislation alone can correct that inequality. The bill of the Senate, now on the Speaker's table, would strike a million of dollars from the profits of the Ohio wool-growers each year, and cause the wool-growers of Queen's Land, New South Wales, and South Australia to rejoice with exceeding great joy. I, for one, object.

I have listened, Mr. Chairman, for days to the heated declamation of the professed champions of the farmers on the other side of this Chamber. Here is a case fit to wake up some agricultural Demosthenes on the other side and cause him to make this Hall ring with the silvery notes of pastoral eloquence. I notice, however, that when the real interests of the farmers are at stake, involving the practical application of the economic principle of protection, that the loudest champions of that interest do not embrace the opportunity with the alacrity and relish that should distinguish them. While Ohio is the first State in the Union in the magnitude of wool interest, it ranks second in the magnitude of its iron and steel interests. The Senate bill, in my judgment, would so seriously cripple the iron, steel, and wool interests of Ohio and of the whole country as to invite commercial disaster and ruin. If our great agricultural and manufacturing interests are to be disorganized and stricken down by injudicious tariff legislation, I insist that the Democratic party shall bear the sole responsibility.

Civil Service.

SPEECH

OF

HON. WILLIAM H. CALKINS,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, January 4, 1883.

The House having under consideration the bill (S. 133) to regulate and improve the civil service of the United States, Mr. KASSON yielded three minutes to Mr. CALKINS.

Mr. CALKINS said:

Mr. SPEAKER: In three minutes' time one will not be expected to discuss the merits of a bill such as this is, or such as this is designed to be. There must be a turning-point some time in the history of this country in its civil service. I hope the passage of this bill will be the milestone that marks the turning point for the reformation of the entire civil service of the country.

If our Democratic friends can afford to vote for a civil-service bill, we on this side can. They have been out of power for twenty-five years; their followers are clamorous for a chance to be appointed, and a distinguished member of their party at the other end of the Capitol recently said if this bill passes it will bind the Democrats hand and foot.

Mr. ATHERTON. Is that not the reason why you are in favor of this bill?

Mr. CALKINS. Oh, no; not by any means. Of course the Democrats will vote for the bill. Mr. PENDLETON is its author and it must be supported by them.

But seriously, Mr. Speaker, I should have been very glad to have had a bill thoroughly considered by the committee of the House and put in such a shape as would have accomplished the purposes of its authors. I do not believe they will. I shall vote for it as a step in the right direction.

The SPEAKER. The time of the gentleman from Indiana has expired.

Mr. ATHERTON (addressing Mr. CALKINS). You have fixed my vote on this matter by your speech.

The Tariff.

SPEECH

OF

HON. JAMES F. BRIGGS,

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 16, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. BRIGGS said:

Mr. CHAIRMAN: On yesterday I struggled for some time to get the eye of the Chair and the ear of the House, but failed. To-day, having been more successful, I will trespass briefly upon your time and patience while I submit a few suggestions upon the subject under consideration.

If there is any one sentiment that pervades the public mind, any one opinion upon which all are agreed, any one great and universal demand coming up to us from the people of every section, it is for a material reduction of the revenues and substantial relief from the burdens of taxation.

The revenues from all sources for the fiscal year ended June 30, 1882, were $403,525,250.28. The ordinary expenditures for the same period were $257,981,439.57, leaving a surplus of revenue $145,543,810.71, which, with an amount drawn from the cash balance in the Treasury of $20,737,694.84, made a total surplus for that year of $166,281,505.55, which sum was applied to the redemption of the bonds, currency, and other obligations of the Government. The estimated revenues for the fiscal year ending June 30, 1884, based upon existing laws, will be:

From customs	$235,000,000
From internal revenue	145,000,000
From sales of public lands	5,500,000
From tax on circulation and deposits of national banks	9,000,000
From repayment of interest and sinking fund, Pacific Railway Companies	1,750,000
From customs fees, fines, penalties, &c	1,400,000
From fees—consular, letters patent, and lands	2,650,000
From proceeds of sales of Government property	1,000,000
From profits on coinage, &c	4,200,000
From deposits for surveying public lands	2,400,000
From revenues of the District of Columbia	1,730,000
From miscellaneous sources	5,370,000
Total estimated ordinary receipts	415,000,000

The estimated expenditures for the same period will be as follows:

Legislative		$3,274,049 30
Executive		18,668,595 78
Judicial		408,300 00
Foreign intercourse		1,390,905 00
Military establishment		28,901,445 94
Naval establishment		23,481,078 54
Indian affairs		6,725,731 54
Pensions		101,575,000 00
Public works:		
Legislative	$6,500 00	
Treasury Department	5,317,500 00	
War Department	4,753,602 64	
Navy Department	3,855,513 00	
Interior Department	417,100 00	
Department of Agriculture	10,500 00	
Department of Justice	1,000 00	
		14,361,715 64
Miscellaneous		20,925,003 14
District of Columbia		3,550,299 08
Permanent annual appropriations:		
Interest on the public debt	55,877,410 72	
Sinking fund	45,072,222 54	
Refunding—customs, internal revenue, lands, &c.	7,417,100 00	
Collecting revenue from customs	5,500,000 00	
Miscellaneous	3,151,305 00	
		117,018,038 26
Total estimated expenditures, including sinking fund		340,280,162 22
Or an estimated surplus of		74,719,837 78

In view of our prosperous condition as thus shown, justice requires us to listen to this demand of the people, and the wisdom of Congress should be evoked to secure the necessary legislation to accomplish the end in view.

An examination of the sources from which the bulk of these large revenues are derived will suggest at once to the careful and prudent legislator upon what articles the necessary reductions should be made to relieve the people of the country. During the last fiscal year there was collected from impost duties upon sugar, melada, and molasses, $47,198,312; upon wool and its manufactures, $29,253,016; upon iron and steel and the manufactures thereof, $24,175,547; upon the manufactures of silk, $22,633,137; upon the manufactures of cotton, $12,227,103; and upon spirits, $6,771,483; making a grand total from these six sources alone of $144,258,899, being nearly two-thirds of all the revenue collected from impost duties. For the same year the collections under the internal-revenue system were as follows: From spirits, $69,873,408.18; from tobacco, $47,391,988.91; from fermented liquors, $16,153,920.42; from banks and bankers, $5,253,458.47; from adhesive stamps, &c., $7,569,108.70; from penalties, $199,830.04; and from all collections not otherwise provided for, $81,559; making a total of $146,523,273.72.

From a mere glance at these figures I believe you will concur with me in the conviction that there is no place where reduction can be made so well for every interest and for the good of all the people as in the reduction of the revenues derived from sugar. The average duty imposed by the present law, under which $50,000,000 have been collected during the past year, is equal to 2½ cents per pound, or almost 53 per cent. ad valorem.

Sugar, as has been frequently stated upon this floor, is an article of prime necessity. It enters every household and is consumed by all people; it yields to the Government a larger revenue than is derived from any other source, either under our impost duties or under our internal-revenue system, except that from distilled spirits.

Why is it sought to continue the high rate of duty upon this article? For myself, I would be willing to see it placed upon the free-list. We have placed tea and coffee there, and I would place sugar beside them, and thus give every man a "free breakfast-table."

What, sir, is the objection to the removal of the duties upon sugar? The answer is made that it is making war upon the doctrine of protection. We are told that this sugar industry must be protected in the Southern States! But, Mr. Chairman, we were assured yesterday by the gentleman from Louisiana [Mr. ELLIS] that—

> "This industry has been fostered from the time that the very first hut was erected at New Orleans; from the time that adventurous Frenchmen and Germans went up the coast to what is still called the German settlement and began the production of sugar. The French government, at a time when Louisiana was the child and nursling of France, was the first to advance bounties for the development of this industry. Louisiana became a Territory, and then by your mandate stepped into the Union with all the rights and dignity of a sovereign State. From that time to this, under every administration—Federal, Democratic, Whig, Republican—this industry has been steadily encouraged."

And by other gentlemen, that from that State alone the entire wants of the country can be supplied.

I wish the bright pictures painted by gentlemen who favor a continuation of these high duties, of the ability of the Southern country to produce all the sugar needed by the nation, were warranted by the facts in this case and were verified by the history of the growth and development of this industry. We have been informed by the gentleman from Louisiana [Mr. GIBSON] that in 1861 more than 50 per cent. of all the sugar consumed in this country was produced in the State of Louisiana. The product of 1861, to which the gentleman alluded, was the largest yield in any one year in the history of this industry, and conceding, for the sake of argument, that in that year Louisiana did produce over 50 per cent. of the entire consumption of the country,

yet the increase in the production has not kept pace with the increased consumption. During the past year the entire production of the country was 200,000,000 pounds, while the entire consumption was 2,200,000,000 pounds.

If the product of 1861 was 50 per cent. of the amount consumed, and the product of the whole country was only 10 per cent. of the consumption for the past year, at this ratio of increase will the advocates of high protection tell us in about how many years we shall be able to produce all the sugar consumed in the country?

For the purpose of comparison, I will here insert a table of statistics of the product of the sugar industry in Louisiana from 1849–'50 to 1881–'82, covering a period of thirty-three years:

Quantities of sugar and molasses produced in the State of Louisiana during the years from 1850 *to* 1881, *inclusive.*

Year.	Sugar.		Molasses.
	Hogsheads.	*Pounds.*	*Gallons.*
1849–'50	247,923	269,769,000	12,000,000
1850–'51	211,203	231,194,000	10,500,000
1851–'52	236,547	257,138,000	18,300,000
1852–'53	321,934	368,129,000	25,700,000
1853–'54	449,324	495,156,000	31,000,000
1854–'55	346,635	385,227,000	23,113,620
1855–'56	231,427	254,569,000	15,274,140
1856–'57	73,976	81,373,000	4,882,380
1857–'58	279,697	307,666,700	19,578,790
1858–'59	362,296	414,796,000	24,887,760
1859–'60	221,840	255,115,750	17,858,100
1860–'61	228,753	265,063,000	18,414,550
1861–'62	459,410	528,321,500	a.....
1862–'63	a.....	a.....	a.....
1863–'64	76,801	84,500,000	a.....
1864–'65	10,387	10,800,000	a.....
1865–'66	18,070	19,900,000	a.....
1866–'67	41,000	42,900,000	a.....
1867–'68	37,364	41,400,000	a.....
1868–'69	84,256	95,051,225	5,636,920
1869–'70	87,090	99,452,940	5,724,256
1870–'71	144,881	168,878,592	10,281,419
1871–'72	128,461	146,906,125	10,019,958
1872–'73	108,520	125,346,493	8,898,640
1873–'74	89,498	103,241,119	8,203,944
1874–'75	116,867	134,504,691	11,516,828
1875–'76	144,146	163,418,070	10,870,546
1876–'77	169,331	190,672,570	12,024,108
1877–'78	127,753	147,101,941	14,237,280
1878–'79	213,221	239,478,753	13,218,404
1879–'80	169,972	198,962,278	12,189,190
1880–'81	218,314	272,982,899	15,255,029
1881–'82	122,982	159,874,950	9,691,104

a No data.

NOTE.—The production of sugar and molasses in Louisiana is stated upon the authority of M. Champoiner for the period prior to 1861, and for the later years upon the authority of M. Louis Bouchereau and A. Bouchereau.

These statistics form a far safer basis for legislation than the beautiful pictures and the extravagant rhetoric of the gentlemen who urge the continuation of high duties upon this article. They are not only interesting but instructive. They show conclusively that this industry is fluctuating and uncertain, the product of one year being no indication of what the next will be. The largest product was in 1861–'62, when it reached 459,410 hogsheads of sugar. The next largest product was in 1853–'54, when it reached 449,324 hogsheads and 31,000,000 gallons of molasses. In 1856–'57, within the two periods above named, the product was only 73,976 hogsheads of sugar and 4,882,380 gallons of molasses. The product in 1849–'50 was 247,923 hogsheads of sugar and 12,000,000 gallons of molasses; while in 1881–'82, with all the protection we have afforded, the product was only 122,982 hogsheads of sugar and 9,691,104 gallons of molasses, showing an actual decrease of 124,941 hogsheads of sugar and 2,308,896 gallons of molasses. The product of 1849–'50 has not been equaled in any one year within the last twenty years.

I have not time, Mr. Chairman, to dwell longer upon this table, and it is not necessary that I should; it speaks for itself, and illustrates how uncertain and unreliable the sugar product of Louisiana is, and how feeble this industry remains, notwithstanding the protection, encouragement, and fostering care it has received from the hands of the General Government.

No person, unless he has made this matter a study or given to it particular attention, can have any conception of the vast sums which the people have paid out in duties upon the articles of sugar and molasses. The amount is truly startling. The duties paid upon these articles within the last twenty years have amounted to nearly one-half of the present bonded debt of the Republic. It is stated in the report of the Commissioner of Internal Revenue for the current year to be over $51,000,000, or a dollar a head for every man, woman, and child in the Republic.

From the tables furnished me by Joseph Nimmo, jr., Chief of the Bureau of Statistics of the Treasury Department, which I append to my remarks, it will be seen that the estimated duty collected on sugar alone from 1863 to 1882, inclusive, amounts to the enormous sum of $636,610,201.42; that the average annual rate of specific duty for that term was 2.53 cents per pound, ranging from 1.98 to 3.08 cents per pound; that the equivalent ad valorem rate has run from 37.53 to 76.29 per cent., or an average rate for the twenty years of 56.75 per cent.; that the gross revenue for that period from importation of sugar was $636,610,201.42; from molasses, melada, and sirup of sugar-cane, $52,715,204.33, discriminating duties on the same, $15,256.30; molasses, concentrated, tank-bottoms, sirup of sugar-cane, and melada, $14,204,149.88, discriminating duties on the same, $1,756.86; making a grand total paid by the people of this nation to protect this uncertain and precarious industry of $703,546,568.79.

It appears from the census of 1880 that the valuation of property for the purposes of taxation in Louisiana was as follows: Real estate, $122,362,297; personal estate, $37,800,142; a total of $160,162,249; being less than one-fourth of the amount of duties paid upon sugar and molasses during the last twenty years.

Now, I disclaim any hostility to the sugar-producing sections of this country. My desire is to relieve an overflowing Treasury and an overtaxed people, and I find no source from which our revenues are derived that can be so easily and justly dispensed with as this; and I ask the careful attention of the House and the country to the cold, naked, and stubborn facts which I have presented, and leave the correctness of my conclusions to the considerate judgment of the American people.

Statement showing the quantity and value of sugar imported and entered for consumption in the United States, with the estimated amount of duty collected thereon during each year from 1863 *to* 1882, *inclusive.*

Year ended June 30—	Quantity.	Value.	Average specific rate of duty.	Equivalent ad valorem rate of duty.	Estimated duty collected.
	Pounds.	*Dollars.*	*Cents.*	*Per ct.*	*Dollars.*
1863	439,090,948	15,932,856	2.53+	69.78	11,118,544 38
1864	563,850,963	26,364,347	2.54–	54.24	14,301,234 65
1865	577,736,741	24,087,995	3.05+	73.24	17,642,958 88
1866	889,454,992	35,799,471	3.08–	76.29	27,312,967 65
1867	939,686,008	38,477,523	3.04+	74.25	28,570,492 23
1868	1,000,841,147	43,421,398	3.04+	70.12	30,447,970 89
1869	1,018,772,624	48,249,358	3.04–	64.09	30,923,907 06
1870	1,216,396,963	60,253,015	3.03–	61.11	36,819,041 26
1871	1,231,836,550	60,837,635	2.50–	50.55	30,751,497 34
1872	1,412,854,421	76,011,538	2.04+	37.98	28,865,447 02
1873	1,485,583,521	79,497,837	2.01–	37.53	29,832,579 43
1874	1,644,709,767	81,478,083	1.98–	38.88	32,491,318 70
1875	1,649,039,083	71,781,907	2.10+	48.27	34,650,084 66
1876	1,658,632,459	67,011,896	2.38–	58.89	39,438,417 55
1877	1,505,038,208	73,772,517	2.34+	47.81	35,268,294 48
1878	1,589,566,488	80,369,553	2.33+	46.13	37,075,426 96
1879	1,639,614,343	67,153,667	2.32+	56.68	38,065,803 76
1880	1,625,971,302	68,052,640	2.44+	58.39	39,739,306 49
1881	1,889,708,744	83,436,445	2.45+	55.51	46,318,073 49
1882	1,927,531,890	84,823,100	2.44–	55.38	46,976,834 54

Statement showing imported molasses and melada and sirup of sugar-cane entered for consumption during the years ended June 30, 1863–1882, *both inclusive; also showing rates of duty and amounts of accruing duties.*

MOLASSES.

Years ended June 30—	Quantity.	Value.	Rate of duty.	Amount of duty received.	Additional and discriminating duty.
	Gallons.	*Dollars.*		*Dollars.*	*Dollars.*
1863	29,993,913	4,499,086 00	6c. per gal.	1,799,634 78	.....
1864	29,703,892.50	Not given	.....do.....	1,782,233 97	.....
1865	34,532,671	.....do.....	8c. per gal.	2,762,613 68	.....
1866	43,583,568	.....do.....	.....do.....	3,486,685 45	.....
1867	50,116,517.25	8,916,311 49	.....do.....	4,009,321 38	.....
1868	55,006,060	11,884,702 31	.....do.....	4,400,484 80	2,139 30
1869	52,111,252	11,847,827 06	.....do.....	4,168,900 16	2,136 17
1870	47,768,267.25	11,345,630 61	.....do.....	3,821,461 38	2,501 68
1871	15,448,713	3,550,887 97	.....do.....	1,235,897 04	411 01
	31,811,308	7,402,141 05	5c. per gal.	1,590,565 41	1,502 24
1872	42,057,924	10,108,888 63	.....do.....	2,102,896 25	2,588 20
1873	44,112,413	10,424,652 14	.....do.....	2,205,620 66	388 10
1874	47,205,641	11,122,174 39	.....do.....	2,360,282 05	3,244 10
1875	16,488,395.50	3,984,358 25	.....do.....	824,419 78	131 60
	26,732,301.50	6,424,897 15	5c. per gal.*	1,670,768 87	.....
1876	256,378	55,847 50	5c. per gal.	12,818 90	.....
	38,957,426.50	8,656,268 36	5c. per gal.*	2,434,839 17	.....
1877	29,000,396.75	7,335,194 13	.....do.....	1,812,524 80	.....
1878	26,855,763.85	6,860,317 33	.....do.....	1,678,485 25	.....
1879	35,353,585.50	6,915,583 58	.....do.....	2,209,599 15	.....
1880	39,433,744.75	8,978,008 50	.....do.....	2,464,609 00	.....
1881	26,545,025.83	6,366,177 15	.....do.....	1,659,064 14	.....
1882	35,543,653	9,689,686 79	.....do.....	2,221,478 31	213 80

* And 25 per cent.

Statement showing imported molasses and melada, &c.—Continued.

MOLASSES, CONCENTRATED, TANK-BOTTOMS, SIRUP OF SUGAR-CANE JUICE, AND MELADA.

Years ended June 30—	Quantity.	Value.	Rate of duty.	Amount of duty received.	Additional and discriminating duty.
	Pounds.				
1863	2,727,192	409,078 00	2c. per lb	54,543 84	
1864	5,633,115		do	112,662 30	
1865	6,749,889		2½c. per lb	168,747 24	
1866	7,424,865		do	185,621 62	
1867	2,899,768	87,193 50	do	72,494 20	
1868	3,542,817	113,629 50	do	88,570 42	
1869	11,146,867	387,662 20	do	278,671 67	14 33
1870	33,307,758	1,231,427 23	do	832,694 01	
1871	7,934,180	270,920 00	do	198,354 48	
	57,508,084	2,183,776 40	1½c. per lb	862,621 27	1,384 10
1872	65,911,871	2,693,239 50	do	988,678 07	163 68
1873	107,084,690	4,504,763 53	do	1,606,270 37	
1874	133,252,852	5,398,380 12	do	1,998,792 80	
1875	27,207,982	964,242 07	1½c. per lb	408,119 82	
	43,937,157	1,525,655 57	1½c. per lb.*	861,321 72	
	198,611	7,448 00	1½c. per lb	2,979 17	68 04
1876	96 553,303	3,143,735 53	1½c. per lb.*	1,810,374 51	
1877	49,650,354	1,923,427 33	do	930,944 20	126 71
1878	36,691,376	1,383,482 00	do	687,963 36	
1879	41,152,357	1,234,736 00	do	771,606 75	
1880	33,709,344	1,036,808 00	do	632,050 24	
1881	20,534,846	715,358 00	do	385,028 40	
1882	14,135,435	467,554 00	do	265,039 42	

* And 25 per cent.

Support of Common Schools.

SPEECH

OF

HON. NEWTON C. BLANCHARD,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 26, 1883,

On the bill (H. R. 6158) to aid in the support of common schools.

Mr. BLANCHARD said:

Mr. SPEAKER: This subject is a growing one in the popular mind. For some time it has attracted the favorable attention of many of the best and most cultured of our people, including ministers of the Gospel, statesmen, philanthropists, and educators. The committee which reported the bill embody in their report the memorial of the National Educational Association, and many eminent educators appeared before the committee and submitted their views, all favorable to the enactment of a measure similar to the one under consideration. As early as 1871 the National Teachers' Association, at a meeting in Saint Louis, passed the following resolution:

That this association will look with favor upon any plan giving pecuniary aid to the struggling educational system of the South that the General Government may deem judicious.

In his last report, that of 1879, the late Dr. Barnard Sears, agent of the Peabody fund, stated there were about two million children in the Southern States without instruction; and the committee of the trustees of the Peabody fund, to which was referred the subject of the special needs of education in the South, presented a report at the annual meeting, February 13, 1880, and offered the following resolution:

Resolved, That it is expedient that this board should present a memorial to Congress, praying that it may grant such aid as may be required to secure to the colored population of the Southern States the education which is necessary to fit them for the discharge of their duties as citizens of the United States.

Other evidences of the agitation of this subject by eminent men might be cited, but the foregoing will suffice. Mr. Speaker, I hold as a proposition that ignorence is not a local but a national question. It may be confined to localities, or rather may prevail only in localities, but its effect is far-reaching, and permeates every part of the body-politic.

As another proposition, I maintain that all history, and all experience prove that the individual is not able to educate his children. He has never done it in the history of the world. The State must come in and aid him in the work. A glance, sir, at the condition of the Southern States, as respects illiteracy, is alone sufficient to determine every representative from that section on this floor to support this bill, provided he sees no constitutional objection to it.

Now, what is that condition?

By the census of 1880 there are in Louisiana 216,787 voters. Of these, 102,932 cannot write, and the number of those who *can* write is only 10,923 greater than those who *cannot* write.

Of the 102,932 voters in Louisiana who cannot write 86,555 are colored and 16,377 are white.

It thus appears that nearly fifty per cent. of the voting population of Louisiana cannot *write*.

The number who cannot *read* is not so great. Still, it is great enough to be alarming, the census of 1880 showing that there are 297,312 persons in the State ten years of age and over, out of a total population of 939,946, who cannot read.

South Carolina makes even a worse showing. With 205,789 voters, it appears that 106,934, or 4.040, *more than half*, cannot write. Of these 106,934 voters who cannot write, 93,010 are colored and 13,924 are white. More than 50 per cent., therefore, of the adult population of that State cannot write.

Mississippi and Alabama come next, with nearly 47 per cent. of their adult male population unable to write, three-fourths of which are colored.

Then Georgia, with more than 45 per cent. of her adult male population, or more than one-third unable to write. North Carolina with more than 42 per cent. Tennesssee and Virginia with more than 39 per cent. Florida with nearly 39 per cent. Arkansas with more than 30 per cent. And so on down the list of the Southern States, Missouri making the best showing with 11 per cent. of her adult population unable to write.

The committee show in their report that more than 32 per cent. of the adult males of the Southern States are illiterate, and that nearly half a million of the white, and almost a million of the colored voters in the South cannot read the ballots which they cast.

Mr. Speaker, upon this million of illiterate voters citizenship has been bestowed by national enactment. Now, add to citizenship the gift of instruction.

Having given the ballot, let us now follow it up with the blazing of the way to an intelligent use of the ballot, and the only true sign-boards to mark the path in that direction are school-houses. And school-houses cannot be erected and filled with scholars and provided with competent teachers without means—money—and that the South, where all this illiteracy is, cannot supply equal to the necessities of the case.

The voting of this appropriation would be an act of tardy justice to the lately enfranchised people of the South. Who here will claim that it would be just to them to stop short at the bestowal of the ballot? Who here will deny that a full measure of justice to them includes the providing of means for the acquisition of the intelligence requisite to the proper use of the ballot? The intention of this bill is not to supplant or supersede the efforts of the States and local communities in the cause of education, but to supplement those efforts, to encourage and aid the States and local communities, to strengthen their hands, to re-enforce them.

In the South the States are battling in the cause of education against a vast army of ignorance, and are hard pressed and unequal to the task. The General Government is a friendly force, an ally, near at hand watching the conflict from the vantage-ground it occupies, ready upon the first signs of wavering to go to the support of its friends. A weakening of the line is perceptible, and this bill is the trumpet sounding to the rescue.

The support which the measure offers is only temporary. It is only to last during five years, at the end of which time it is believed such headway will have been made that all the States will find themselves able to cope single handed, and without further aid from the Government, with the ignorance and illiteracy within their borders.

By this bill the Federal Government undertakes in the States no system of public-school education. It makes no pretense of interfering with the States in the matter of education. The money is to be paid to the proper officer of each State, and is to be expended by State officials under State laws, and in accordance with the system of public instruction peculiar to each State respectively, the only exactions being (and wise ones they are) that the money shall be used in the education of children without distinction of color; that it must be divided proportionally between white and colored schools and pupils; and that none of it shall be used to build or repair school-houses, or to purchase sites, or to pay the salary of any officials except teachers.

The measure contains in it no element of offense to any class of citizens, for a clause in the bill considerately provides that separate schools for white and colored children shall not be considered a distinction of color.

Of the $10,000,000 appropriated annually for five years, it is estimated that $7,556,773 will yearly go to the late slave States, and constitute a very important addition to the public school funds of those States.

This large preponderance to the South, for the education of the illiterate, is for negro illiteracy; less than one-fourth because of white illiteracy. Were there no other illiteracy in the South except what the census shows to be *white*, I for one would not ask this, for the white people of the South, constituting, as they do, 90 per cent. of the property-holding classes, could easily take care of their own illiterates. But when to these be added the millions of illiterates among the colored people, the task is too great for the communities

of the South, impoverished by the war and not yet recovered from it, to undertake. The States of the South are doing all in their power for public education, but it is impossible for them, in their impoverished condition, to furnish adequate means for the education of the masses of the children.

Hon. J. H. Smart, superintendent of schools in Indiana, bears willing testimony of the sentiment in the South on this question of the education of the colored people. He states he had made several visits to the South, had inquired into the matter of schools there, and expresses the opinion that the Southern people are willing to do all they can to cure this great evil, (illiteracy,) and that so far as he had observed, the work that has been done, under existing circumstances, has been a marvelous work. Continuing, he says:

> The Southern people have made a heroic effort, certainly in three or four States that I have visited, to do the best that could be done for these colored people. I want to say that throughout the length and breadth of the Southern States, without one exception, the colored people are given the same advantages that the white people are given. No distinction whatever is made; and, so far as I was able to find out, there is an almost unanimous, certainly an overwhelming, sentiment in favor of educating the colored children equally with the white children.

Rev. A. D. Mayo, D. D., told the committee that he was pretty well acquainted with the condition of education in our country and in other countries, and that he had no hesitation in saying that, "never within ten years in the history of the world, has an effort so great, so persistent, so absolutely heroic been made by a people for the education of the children as by the leading class of the people in our Southern States." "There is no minority of people working so hard to overcome this terrible calamity of illiteracy anywhere in the world to-day as in the South. I give this as the deliberate result of two years of observation in twelve States."

But, Mr. Speaker, while we of the South have the will to educate the colored people in our midst, we have not the means commensurate with it. There is no trouble on the score of the purpose to do so, but the ability to execute is lacking. And unless the Federal Government comes to our aid in the manner provided in this bill, or in some other way, I fear this generation will have passed away without any perceptible impression having been made on the ignorance in that section—an ignorance which is a power in the land, in that it wields the ballot, a blind power, which, as long as it continues in its present condition, must needs remain a standing menace to our institutions.

Take care it may not in its blindness grapple, Samson-like, the pillars of our political edifice, and shake the whole to its very foundation.

It has been a long time since William Penn uttered the words which I shall quote, but the observation is as true to-day as it was then. Said he:

> That which makes a good constitution must keep it, namely, men of wisdom and virtue; qualities which, because they descend not with worldly inheritance, must be carefully propagated by a virtuous education of youth, *for which spare no cost, for by such parsimony all that is saved is lost.*

Hearken, legislators, to that!

Hear, also, what was said by an eminent divine, Bishop Doane, to the people of New Jersey in 1838—words as true now as when uttered, and as forcibly apposite to this occasion as to that. Said he:

> We say that *knowledge is the universal right of man;* and we need bring no clearer demonstration than that intellectual nature capable of it, thirsting for it, expanding and aspiring with it, which is God's own argument in every living soul. We say that the assertion for himself of this inherent right, to the full measure of his abilities and opportunities, is *the universal duty of man;* and that whoever fails of it thwarts the design of his Creator, and, in proportion as he neglects the gift of God, dwarfs and enslaves and brutifies the high capacity for truth and liberty which he inherits. And all experience and every page of history confirm the assertion, in the close kindred which has everwhere been proved of ignorance and vice with wretchedness and slavery. And we say further that the security of this inherent right to every individual, and its extension in the fullest measure to the greatest number, is *the universal interest of man;* so that they who deny or abridge it to their fellows, or who encourage, or from want of proper influence permit them to neglect it, are *undermining the foundations of government, weakening the hold of society, and preparing the way for that unsettling and dissolving of all human institutions which must result in anarchy and ruin,* and in which they who have the greatest stake must be the greatest sufferers.

Mr. Speaker, a well-authenticated account comes down to us of the opinions held on this subject by the illustrious hero of the Peedee, General Francis Marion, a patriot leader in the American Revolution:

> In an interview, after the war, with General Horry, the great warrior expressed his fears "lest the fruits of independence might be lost through the continued ignorance of the masses of the people."

In that conversation General Marion said:

> We fought for self-government, and God hath pleased to give us a government better calculated, perhaps, to protect our rights, to foster our virtues, to call forth our energies, and to advance our condition nearer to perfection and happiness than any government that was ever framed under the sun.
>
> But what signifies even this government, divine as it is, if it be not known and prized as it deserves? General Horry asked him how he thought this was best to be done. "Why, certainly," said he, "by *free schools.*" General Horry shook his head, and remarked that he was afraid the Legislature (if it were to-day he would say Congress) would look to their popularity and dread the expense. General Marion exclaimed: "God preserve our Legislature from such 'penny wise and pound foolishness!' What, sir, keep a nation in ignorance rather than vote money for education? * * * God created men to be happy; to be happy they must have virtue; virtue is not to be attained without knowledge, nor knowledge without instruction, nor public instruction without free schools, nor free schools without legislative order. In short, my dear sir, men will always fight for their Government, according to their sense of its value. To value it aright they must understand it. This they cannot do without education. And as a large portion of the citizens are poor and can never attain that inestimable blessing without the aid of Government, *it is plainly the first duty of Government to bestow it freely upon them.*"

What salutary truths were those uttered by the old patriot hero in 1779. And how they have descended to us through the flight of more than one hundred years, as pregnant with wise significance, with wholesome suggestion, and as pertinent to-day as at that historic time. Let us, his countrymen of three and four generations later, heed the lesson he taught, the rehearsal of which is as applicable and necessary to-day as when expounded by him.

Mr. Speaker, we appropriate millions upon millions for the support of our military and naval establishments. We do this as a matter of course, and it is generally accepted as all right. I utter no complaint against it, but recall the memorable words of Lord Brougham:

> Let the soldier be abroad if he will; he can do nothing in this age.

And he added:

> There is another personage abroad, a person less imposing; in the eyes of some insignificant. The schoolmaster is abroad, and I trust him, *armed with his primer, against the soldier in full uniform arrayed.*

Mr. Speaker, the schoolmaster was abroad in England, and he is abroad in numbers in certain favored sections of our common country; but he is abroad in a very limited sense, and in small and totally inadequate force to the southward, and where he is most needed, too. The purpose of this bill is to send him broadcast throughout that section. Will you not do it? I ask this of the friends of education, of progress, of enlightenment on this floor. I ask it of the Representatives of the great American people. The necessity for doing it exists. On this all are agreed. The ignorance and illiteracy to dispel are there. The ability to do it, in the sense of an abundance of means, exists. Why not do it, then? If you hesitate it must be because of some constitutional objection. Let us see as to that. Are there doubts of the constitutional power of Congress to make this appropriation? If made, would it, in any sense, be an invasion of the reserved rights of the States, or an intermeddling with the States or local communities? Is it that you are afraid of?

Mr. Speaker, I believe as strongly as any man living in that good old Democratic doctrine that nothing should be done by the General Government which the States are competent to do, and nothing by any governmental power which individuals can do for themselves; and if the bill under consideration violated that (to me) cardinal principle of polity, I would have nothing to do with it, and should be among the first to condemn it.

But this bill does not violate that principle. It has already been shown that it merely proposes to appropriate money *to the States*, to be expended by the States, through State officials, under State laws, and to advance the efficiency of the system of public-school education adopted by the States respectively. There can therefore be no intermeddling with the States in educational concerns if the bill be passed. It is, purely and simply, a donation to the States in aid of a great cause. Let us now glance briefly at the constitutional phase of the subject.

It is well known, Mr. Speaker, that the chief source of the permanent public-school funds in many States has been the Federal Government.

The United States has largely contributed already to the general enlightenment as a liberal patron of literature, science, and culture; the great school fund of most of the States; the endowments of State universities and agricultural colleges have come from the beneficence of the national hand.

From the days of the American Confederation, antedating the present form of government, until now, the use of the national domain in support of popular education, at the will of Congress, has been unquestioned. Mr. Clay aided in the passage of a bill for the use of the receipts from land sales to a certain extent for the special benefit of certain specified States. Stephen A. Douglas, in the act for the organization of the Territory of Oregon, August 14, 1848, inserted an additional grant for school purposes of the thirty-sixth section in each township, with indemnity for all public-land States thereafter to be admitted, making the reservation for school purposes the sixteenth and thirty-sixth sections, or 1,280 acres in each township of six miles square, reserved in the public-land States and Territories, and confirmed by grant in terms in the act of admission of such State or Territory into the Union.

And JUSTIN S. MORRILL, of Vermont, championed in the Senate the act of July 2, 1862, whereby Congress enlarged the national educational endowment system by the donation to each State of 30,000 acres of public land for each Senator and Representative under the apportionment of 1860, for the support of colleges for the cultivation of agricultural and mechanical science and art.

Thus have a great Whig leader, a great Democratic leader, and a great Republican leader, respectively, committed themselves and their party by the passage of those acts to this question of national aid to the cause of public instruction.

The lands granted in the States and reserved in the Territories for educational purposes by acts of Congress from 1785 to June 30, 1880, were: For public or common schools, 67,893,919 acres (estimated). For seminaries or universities, 1,165,520 acres (estimated). For agricultural and mechanical colleges: land in place, 1,770,000 acres; land

scrip, 7,830,000 acres; total, 9,600,000 acres. In all, 78,659,439 acres for educational purposes under the heads above set out to June 30, 1880.

The above figures are taken from chapter XIII of Mr. Thomas Donaldson's valuable monograph on The Public Domain.

Considering these precedents, it is rather late to now raise a constitutional objection against the extension of aid to the States by the General Government in the cause of education. Sir, the fourteenth amendment to the Constitution of the United States confers citizenship upon the colored people of the South, and the fifteenth amendment is, in effect, a perpetual grant of the ballot to them; and from the terms of these amendments I deduce the authority as well as the obligation of Congress to make appropriations, when and where needed, to the States to enable them to fit for a proper use of the ballot the newly-enfranchised people within their jurisdictions. I regret I have not the time now to elaborate this point.

River and Harbor Bill.

SPEECH

OF

HON. HENRY L. MOREY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. MOREY said:

Mr. SPEAKER: Improvement of the great water-ways of the country, and of the harbors on our great lake and sea-shores, is the settled policy of our Government. For more than eighty years Congress has made appropriations for this purpose, without regard to the political party in power. On April 17, 1882, President Arthur, by special message, urged upon Congress the pressing importance of improving the great water-ways of the West, upon which the wealth of the great States which border upon them are destined to float to the sea, and thence to the markets of the world. The constitutionality of such legislation, in the interest of commerce and cheap transportation for works of national character, is not questioned. Ohio is a part of the great and fertile valley, which is watered by the great rivers of the Northwest, and its shores on the north are washed by the waters of the great inland seas.

The improvement of these great highways is of vital importance to the farmers and all engaged in the great industries in Ohio and in the other States of the Northwest, and, indeed, to the whole country.

The vast surplus of these States is sufficient to supply the wants of the great cities of our own country and to send abroad millions of bushels of grain and millions in value of other products of her soil to supply the deficiencies of the nations beyond the seas.

Cheap transportation for this great surplus, which must be carried long distances to reach its market, is an achievement worthy of statesmanship.

The rivers and lakes are nature's highways, and they are free to all the people. They are the only competing lines to the great railroad corporations of the country. Destroy that competition, and the farmers and shippers of the country, and especially of the West, would lay prostrate in the grasp of the railroad monopolists.

Mr. Speaker, every legitimate appropriation for works of a national and general character, promoting the convenience of the people and cheapening the transportation of their products, would have the sanction of my vote. Or, if great works of like character, already commenced by the Government, and partly finished, needed appropriations for their preservation and continuation until further provision could be made therefor by a succeeding Congress, I would feel it to be my duty to my constituents, who are a producing people, to give them my support. But, Mr. Speaker, I apprehend that an appropriation is not needed at this time to carry out this policy, or to protect and continue the great works already commenced by the Government.

A report made to this House by the Secretary of War, January 4, 1883, shows that of the appropriation made for this purpose, August 2, 1882, there will remain unexpended on June 30, 1883, the end of the fiscal year, the sum of $4,949,612.06, and that the same will not be expended, on an average, until about December, 1883. At this time Congress will again be in session, and can make necessary appropriations for the continuance of necessary works of national importance. Mr. Speaker, I have examined the provisions of the bill, with a view to ascertain the condition of various works therein provided for, and the funds now available for their preservation and continuation. I find, sir, that in few cases, if any, will said works suffer for want of further appropriations between now and the next convening of Congress.

For improving the harbor at Portland, Maine, the sum of $15,000 is asked for. The Secretary of War reports that on June 30, 1883, $10,000 of unexpended appropriation will remain to the credit of this improvement, and that it is sufficient to continue the work until November 1, 1883.

For improving Nantucket Harbor, Massachusetts, $5,000 is asked for. The Secretary of War reports that on June 30, 1883, $15,000 will remain to the credit of that improvement, and that it is sufficient to continue the work to December, 31, 1883.

The following table contains such instances of this character as I have been able to discover in the bill, and to my mind justifies the opinion that the appropriation is not demanded at this session of Congress either to project new works or to protect and continue old ones:

Improvements.	Asked for in this bill.	Amount unexpended June 30, 1883.	Probable date at which it will be expended.
Portland, Maine	$15,000	$10,000	Nov. 1, 1883
Nantucket, Massachusetts	5,000	15,000	Dec. 31, 1883
Newburyport, Massachusetts	20,000	35,000	Nov. 30, 1884
New Haven, Connecticut	50,000	20,000	Oct. 31, 1883
Buffalo, New York	50,000	80,000	Oct. 31, 1883
Ogdensburgh, New York	12,000	5,000	Oct. 31, 1883
Oswego, New York	30,000	40,000	Oct. 31, 1883
Delaware Breakwater, Delaware	65,000	10,000	Aug. 15, 1883
Charleston, South Carolina	100,000	60,000	Aug. 31, 1883
Savannah, Georgia	50,000	25,000	Aug. 31, 1883
Brazos Santiago, Texas	30,000	60,000	Jan. 1, 1884
Galveston, Texas	200,000	96,500	Jan. 1, 1884
Sabine Pass, Texas	75,000	4,000	.....
Ashtabula, Ohio	10,000	3,000	.....
Black River, Ohio	6,000	3,000	Aug. 31, 1883
Cleveland, Ohio	75,000	150,000	Dec. 31, 1883
Fairport, Ohio	7,500	5,000	Aug. 31, 1883
Huron, Ohio	4,000	500	Aug. 1, 1883
Port Clinton, Ohio	5,000	1,000	Aug. 31, 1883
Toledo, Ohio	25,000	36,000	Nov. 15, 1883
Michigan City, Indiana	50,000	5,000	.....
Chicago, Illinois	75,000	15,000	Aug. 15, 1883
Lake Huron, Michigan	25,000	20,000	Dec. 1, 1883
Manistee, Michigan	10,000	11,500	Dec. 1, 1883
Marquette, Michigan	3,000	7,000	.....
Ontonagon, Michigan	15,000	10,000	Aug. 31, 1883
Green Bay, Wisconsin	10,000	9,000	Oct. 1, 1883
Kewaunee, Wisconsin	8,000	4,000	Aug. 1, 1883
Manitowoc, Wisconsin	9,000	1,000	Aug. 1, 1883
Menomonee, Wisconsin	6,000	10,000	Aug. 1, 1883
Milwaukee Harbor, Wisconsin	50,000	15,000	.....
Oconto, Wisconsin	12,500	12,000	Nov. 1, 1883
Racine, Wisconsin	3,000	4,000	Sept. 1, 1883
Sheboygan, Wisconsin	20,000	6,000	Aug. 1, 1883
Sturgeon Bay Canal, Wisconsin	10,000	5,000	Sept. 1, 1883
Two Rivers, Wisconsin	3,000	2,000	Aug. 1, 1883
Duluth, Minnesota	30,000	20,000	.....
Grand Marais, Minnesota	5,000	10,000	.....
Oakland, California	80,000	140,000	.....
Yaquina Bay, California	30,000	15,000	July 25, 1883
Providence River and Narragansett Bay	50,000	45,000	Dec. 1, 1883
Hudson River, New York	10,000	4,000	July 31, 1883
Passaic River, New Jersey	15,000	17,000	Oct. 15, 1883
Raritan River, New Jersey	10,000	15,000	Sept. 1, 1883
Delaware River, Delaware	30,000	20,000	Aug. 15, 1883
Pier in Delaware Bay	2,000	2,000	Oct. 1, 1883
Schooner Ledge, Delaware River	15,000	16,000	Dec. 1, 1883
Corsica Creek, Maryland	5,000	5,000	.....
James River, Virginia	50,000	25,000	Sept. 30, 1883
Rappahannock River, Virginia	12,000	5,000	Aug. 1, 1883
York River, Virginia	15,000	500	Aug. 1, 1883
Cape Fear River	50,000	150,000	Dec. 31, 1883
Pamlico and Tar Rivers	4,000	2,000	Oct. 1883
Pearl River, Mississippi	8,000	8,000	Jan. 1, 1884
Buffalo Bayou, Texas	30,000	20,000	Nov. 1, 1883
Arkansas River, Arkansas	15,000	15,000	Sept. 30, 1883
Black River, Arkansas	5,000	5,000	Sept. 30, 1883
Saline, Arkansas	3,000	1,500	July 30, 1883
White River, Arkansas	16,000	8,500	Aug. 30, 1883
Ohio River	250,000	84,500	Dec. 1, 1883
Hazy Lake Channel, Sault Saint Marie River.	150,000	150,000	Dec. —, 1883
Saginaw River, Michigan	45,000	75,000	Dec. —, 1883
Fox and Wisconsin Rivers	150,000	75,000	.....
Upper Mississippi River	25,000	5,000	.....
Saint Anthony's Falls	15,000	7,000	.....
Upper Mississippi River	225,000	40,000	.....
Mississippi River	2,150,000	1,085,000	.....
Missouri River, from Sioux City, &c	75,000	19,000	Sept. 1, 1883
Sacramento River	60,000	20,000	Sept. 30, 1883
Willamette and Columbia Rivers	40,000	25,000	.....

I have the honor to represent a district in this Congress, and to be elected to represent a district in the Forty-eighth Congress, whose aggregate counties contain a population and resources which are a high type of all that is great in the progress, prosperity, and civilization of our country. I shall never hesitate to give my voice and my vote for any and all lawful and needful measures which will enhance their prosperity, and contribute to the prosperity of the whole country and to the happiness of all our people.

Long-delayed Justice—Mexican Soldiers.

SPEECH

OF

HON. ROBERT KLOTZ,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 2, 1883,

On the bill (H. R. 7135) granting pensions to the survivors of the Mexican and Indian wars.

Mr. KLOTZ said:

Mr. SPEAKER: I do not propose to occupy the limited time allowed for my remarks by repeating the oft-told tale of the hardships and exposure endured by our countrymen who volunteered under the call of the President to chastise a foreign foe in accordance with an act of Congress passed thirty-seven years ago. I have no desire to recapitulate the immense advantages resulting from the war with Mexico to the material prosperity of the nation by the acquisition of the richest territory on the face of the earth, nor to advert to the valor of our troops and the military renown of their leaders who shed undying luster upon the name and fame of American soldiers.

All these things have passed into history, and recent discussions on this proposition to pension the aged survivors have familiarized the present generation with the facts. Every sensible man will concede, even if he denies the justice of that war with our sister republic, that the interests of civilization demanded at the time the absorption of the vast territory stretching to the Pacific Ocean by a nation capable of controlling its savage inhabitants, and utilizing its vast mineral and agricultural resources for the benefit of the Christian world. The Government of Mexico was impotent for such an undertaking, and the hand of the Great Controller of human affairs is visible in every act from the inception of the war to its close. England would have done it and reaped the reward if the United States had not.

Nearly ten years ago a convention of representative men of the survivors assembled here at the Capitol and petitioned for the same recognition of their services that had been granted to other soldiers of previous foreign wars—the heroes of the Revolution and the survivors of 1812. The proposition would have doubtless been at once acceded to, had not the Pension Commissioner come to the rescue of the opposition with an absurdly extravagant estimate of the probable number of beneficiaries, stated at over 50,000. The calculation was based on a supposition that one-half of all the men employed in the war were then still living, because he alleged the estimate of the survivors of 1812, prepared by the clerks in his office, showed that three-eighths was the ratio adopted in that case, when his office was called upon for an estimate, and that subsequent applications for pensions under the law of February 14, 1871, proved, as he alleged, this ratio approximately correct, there being 42,000 applicants, while the estimate predicted 40,100.

The Commissioner argued from these false premises that four-eighths would be a reasonable allowance considering the difference in time that intervened before the soldiers of 1812 were pensioned. But when the report of the Commissioner was subsequently analyzed by the friends of the petitioners, it was discovered that his alleged ratio of three-eighths was grossly erroneous in the 1812 case; that this ratio would have produced far in excess of 200,000 survivors of that war, instead of 40,100. There were over half a million of men employed in the war of 1812. The blunder having been exposed, the Pension Office receded from that method of calculation, and has been ever since trying to cover up its mistake by other methods of interpellation.

The latest document, No. 137, of last May, in reply to an inquiry of the probable number of survivors of the Mexican war who have attained to the age of sixty-five years exhibits an equally absurd total of 49,085 at that advanced age, when according to the data contained in the same document there were only about 66,000 living when the war closed. The best and the briefest answer to this estimate may be found in a series of tables prepared by Captain George W. Davis, United States Army, compiled from the records of the War Department, showing the mortality among the officers of the Army for the period between 1828 and 1878. These tables were printed in connection with a speech of my friend from Indiana [Mr. STEELE] and published in the CONGRESSIONAL RECORD of the 5th of April, 1882, pages 12 to 20. From table No. 2 the following facts are culled:

Of forty-two officers entering the service at 19, all but four had died before attaining the age of 62. Of one hundred and ninety-nine entering at 22 years, but nine survived at 62. Of one hundred and twenty entering at 25 years, but four survived at 62. Of forty-two entering at 29 years none reached 62 years. Of twenty-four entering at 32 years none reached 62 years. Of thirteen entering at 36 years, none reached 62 years. Of 1,393 officers (all whose ages were of record) who entered the service at various ages from 17 to 61, but eighty-four attained the age of 62 years, or almost exactly six in one hundred.

The men who served in Mexico were of various ages, ranging from 17 to 60 years, and a reasonable ratio for estimating the survivors would be six in one hundred. The Commissioner of Pensions, however, estimates the average age of the soldiers who served in that war at 25 years at time of service, which would make the average age at this time (thirty-seven years from the commencement of the war) 62 years, or thereabout.

DEAR SIR: The following table showing relative forces enlisted from the free and slave States during the Mexican war is compiled from tables published in Executive Document No. 24, House of Representatives, Thirty-first Congress, first session, and Executive Document No. 38, Thirtieth Congress, second session, the latter tables relating especially to the regular Army, and the first to the volunteer and regulars. The first states the aggregate of regular and volunteer forces (exclusive of the naval force) at 100,454 officers and men. The naval forces have been stated by the Pension Office at 5,000 officers and men, and were probably nearly all enlisted in the free States.

States.	Volunteers.	Regulars.	
California	571		
Connecticut		231	
Illinois	6,123	1,133	
Indiana	4,585	1,478	
Iowa	838	293	
Maine		672	
Massachusetts	1,057	1,499	
Michigan	1,103	821	
New Jersey	425	440	
New Hampshire		299	
New York	2,396	8,650	
Ohio	5,536	2,321	
Pennsylvania	2,503	4,369	
Rhode Island		183	
Vermont		391	
Wisconsin	146	517	
Remustered	844		
Naval forces			5,000
	26,127		28,297
			26,127
Total from free States			54,424

REMARKS.

Taking the aggregate (including Navy) at 105,454, and deducting enlistments as above, 54,424, leaves for enlistments in the South 51,030; showing a preponderance of 3,394, in favor of the free States, notwithstanding the close proximity of the Southern States to the seat of war. In the lists of the survivors ascertained by the national association for the past ten years, fully two-thirds are residing in the Northern and Western States—the Southern States from various causes being decimated in point of numbers.

It is proper to deduct from the aggregate of men mustered into service to obtain a basis for estimating probable survivors 9,749 persons discharged for disability (since dead or pensioned), 12,896 deaths from all causes during the war, 3,393 wounded in battle (who probably, if alive, are pensioners), 2,778 discharged without proceeding to Mexico, 6,725 desertions not eligible to pension, 13,221 volunteers, &c., who re-enlisted and whose names are duplicated; making a total of 48,762, which, deducted from 105,454, leaves 56,692 as a basis of estimate.

But my individual opinion is that the aggregate forces who served in Mexico for fourteen days (the length of service required for a land-warrant) do not exceed 88,251, including Army and Navy, as those figures from an official source show the whole number of land-warrants since issued. And from this aggregate those should be deducted, if a correct basis is desired on which to build an estimate of beneficiaries, the figures representing the persons discharged for disability, deaths, from all causes, wounded pensioners, and the vast majority of those who served two enlistments and drew two land-warrants under the old rules, to say nothing about the wagon-masters and teamsters, who, it appears, are not included in the present bill.

Yours, very respectfully,

A. M. KENADAY,
Secretary National Association of V. M. W.

Hon. ROBERT KLOTZ, M. C.

The gentleman from Indiana [Mr. BROWNE] stated in his remarks, when the resolution of the committee fixing to-day for the consideration of this bill was under discussion, that 106,000 men were in the Mexican war alone (the Commissioner states it 105,000), and that the bill would place 50,000 men on the pension-roll. Now, the best evidence of an official character as to the number of individuals who participated in that war may be found in a report of the Commissioner of Pensions, furnished to the gentleman from Ohio [Mr. YOUNG], showing the number of bounty land-warrants issued for the Mexican war prior to May 1, 1882, in which it is stated that 80,668 warrants for one hundred and sixty acres and 7,583 warrants for forty acres were issued, a total of 88,251, including every officer, soldier, sailor, wagon-master, and teamster, living and dead, very many of the warrants being duplicated to men who served more than one term, the issue having been made before the rule was adopted forbidding more than one warrant to an individual.

This reduces the aggregate stated by the gentleman from Indiana [Mr. BROWNE] 18,000 men in round numbers. Further reduction may be found in a report of the Commissioner in 1877, to the Senate Committee on Pensions, of 6,458 pensioners on the rolls prior to 1861, and the War Department reported the number of deaths in Mexico from all causes, 12,896; and 6,725 desertions. This reduces the survivors at the close of the war, in 1848, thirty-five years ago, to 62,072, and 6 per cent. of that number would be a rational estimate of the number still living, according to the tables compiled by Captain Davis, to which I have referred. But leaving out Captain Davis' estimate, and adopting as the ratio information that I have from five or six companies that went from Pennsylvania, who report an average of one-seventh of the members yet living, the whole number still alive would not exceed 15,000 in round numbers.

But this may be deemed an extremely high estimate, because Pennsylvania is known to be one of the healthiest regions of country on the continent, and her sons are among the hardiest of the population of the United States. From these should be deducted a number who served in the late war and are now on the pension-rolls for disabilities incurred in the war for the Union.

The gentleman from Indiana [Mr. BROWNE] refers to the Revolutionary heroes not being pensioned until fifty years after their term of service expired. The fact is they received a service pension in 1818, about thirty-five years after the close of the war. There was a total of 289,715 soldiers employed in the Revolution—largely more than three times as many as were engaged in the Mexican war, taking the issue of land-warrants as a basis. The number of survivors found under that law amounted to 57,623, with none of the causes which operated to decimate the ranks of the survivors of Mexico, like the malarial diseases which the latter brought home with them and which carried them off by hundreds, and the great rebellion which attracted most of the survivors again into active service.

The gentleman from Indiana also spoke of this bill as requiring $100,000,000 before the last would be heard of this legislation. I would beg to refer him to the report of the Commissioner of Pensions, which shows that $46,177,845 only were required to pay the entire Revolutionary pensions (57,623) during a period of fifty-one years after the passage of their relief, and much less than one-third of that sum would suffice for the Mexican soldiers, even should one veteran survive fifty-one years after the passage of this bill; or in other words, if the same proportion of longevity prevailed with the survivors of Mexico and the last man received his pension fifty-one years from the passage of this bill it would only take about $12,000,000 to pay the 15,000 pensioners.

A bill similar to this passed the House without opposition from any source in 1877, and a much more liberal bill passed the Senate in 1879, extending the provisions of the act of March 9, 1878, to the soldiers and widows of the Mexican war (which is ascertained were about five to a company at the close of the war—those maimed since the close of the war are not included in this bill), though it was subsequently rescinded on the specious pretext that it would be of some benefit to Jefferson Davis. The refusal to do justice to these old soldiers, in view of all the money that has been lavished on others no better entitled to the nation's gratitude, will be regarded as an act of injustice on the part of this House. The Legislatures of twenty-eight States have formally requested their representatives in Congress to favor its passage, and public opinion everywhere regards it as a just proposition.

Education.

A state without king or nobles; a church without a bishop; a people governed by grave magistrates whom it had selected and by equal laws which it had framed.—*Rufus Choate.*

SPEECH

OF

HON. JAMES M. TYLER,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 22, 1883,

The House having under consideration the bill (H. R. 6158) to aid in the support of common schools—

Mr. TYLER said:

Mr. SPEAKER: This bill proposes to apportion $10,000,000 annually for five years to the several States and Territories, according to their respective population, 10 years of age and over, who are illiterate as shown by the last census. The distribution is to be made on condition that the States and Territories provide at least three months' schooling at their own expense for all their children of school age without distinction of color; and further, that no State or Territory shall receive a greater sum in any year from the Government than it expended in the year next preceding from its own means, exclusive of the amount expended on school-houses and grounds. Also, if any State or Territory shall misappropriate any money received under this act it shall thereby forfeit its right to all subsequent appropriations.

I had prepared an amendment to the bill to restrict the appropriation to the sixteen Southern States and reduce the entire amount to $7,000,000, which is substantially what they would receive under the bill as their share of $10,000,000.

The bill was drawn to meet an urgent demand of the people, and is of the gravest consideration. Of higher importance than internal improvements, than finance or the tariff, is the question what the people shall be, what degree of intelligence they shall possess. A distinguished writer said: "The true test of civilization is not the census, nor the size of cities, nor the crops, but the kind of men the country turns out." The extent of illiteracy in this country is sufficient to give apprehension to all lovers of free government. The subject is receiving wide and earnest attention, and is being pressed upon the consideration of Congress with great force and in a spirit of the broadest philanthropy. The demand to-day is for the better and more universal education of the people, upon which subject there is no diversity of opinion except as to the means by which the work shall be accomplished.

THE COLORED RACE.

No nation ever guarded its liberties more jealously than the South guarded her slaves from every ray of the light of education. It would be idle for any one to deny that a condition of enforced ignorance existed in the South previous to the war, for it has often been frankly admitted by representative men of that section in both Houses of Congress while pleading for governmental aid in the cause of public education. An eminent Southern statesman said on the subject:

We had the large slave population, amounting in round numbers to four millions at the time they were emancipated. Under our system as long as we kept and used them as slaves it was regarded unsafe to educate them.

I mention this fact only to make it clear that when the emancipation proclamation found this race of men and gave them liberty they were, with but few exceptions, in a state of the most abject ignorance.

It would be of very little service now to discuss the question whether it was an act of justice to the white men of this country, whether it was due to the colored people themselves, or whether it was wise as a matter of policy on the part of the Government to invest the emancipated people at once with all the rights of citizenship. That matter is forever settled by the fourteenth amendment to the Constitution, which declares 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 State wherein they reside," and forbids any State to abridge the privileges and immunities of such citizens; and by the fifteenth amendment, which 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."

The ignorance of the enfranchised race was equaled only by their poverty. Into the new world of freedom they brought nothing but health and an ability to labor. And when we remember their condition at the time of their emancipation and the fact that they began their new life without the co-operation or good will of the white race among whom they were cast, we can but wonder that they have accomplished so much as they have done in the accumulation of property, the acquisition of knowledge, and the improvement of their condition. There are no reliable statistics to be obtained showing the valuation of the property now owned by the blacks in the Southern States. It has been estimated, however, that in Georgia their property valuation is about six million dollars, and in all the Southern States from thirty to thirty-five millions.

The following table shows the number and kinds of schools in the country for the colored people, and the number of scholars enrolled in each:

Class of institutions.	Schools.	Enrollment.
Public schools	16,669	784,709
Normal schools	44	7,408
Institutions for secondary instruction	36	5,237
Universities and colleges	15	1,717
Schools of theology	22	800
Schools of law	3	33
Schools of medicine	2	87
Schools for the deaf, dumb, and blind	2	109
Total	16,793	800,100

THE WHITE RACE.

But illiteracy was by no means confined to the blacks. It was an inheritance from slavery and fell alike to both races. One of the most harmful results of the institution was to create a land-holding aristocracy, to place the lands, either by inheritance or purchase, in the possession of a few who represented the wealth and the intelligence of the country, while the poor whites were made more hopelessly poor, and consequently ignorant, by the system that degraded them and caused them to despise labor. Besides, general education and intelligence among the whites were deemed dangerous to the permanence of the institution. There was no common-school system in any of the Southern States previous to the war, and education was practically beyond the reach of the poor classes, even had public sentiment favored their efforts in that direction.

I have thus referred to the condition of the South at the time the right of suffrage was given to the freedmen, to show that the interests of slavery were directly opposed to the education of the blacks, and that, if the same interests were not equally opposed to the instruction of the whites, the inevitable result was to keep the masses in ignorance, and that none of the blessings that flow from universal education were enjoyed or known in that fair section of our land.

The following table will show the relative population of the two races in certain States under the recent census. In three of the States the blacks considerably outnumber the whites, and in several others the former nearly equal the latter in population. The colored people have become so large an element in the country and are increasing with such

rapidity that they must be recognized as a powerful factor for good or evil.

States.	White population.	Colored population.
Alabama	662,185	600,103
Arkansas	591,531	210,666
Delaware	120,160	26,442
Florida	142,605	126,690
Georgia	816,906	725,133
Kentucky	1,377,179	271,451
Louisiana	454,954	483,655
Maryland	724,693	210,230
Mississippi	479,398	650,291
Missouri	2,022,826	145,350
North Carolina	867,242	531,277
South Carolina	391,105	604,332
Tennessee	1,138,831	403,151
Texas	1,197,237	393,384
Virginia	880,858	631,616
West Virginia	592,537	25,886
District of Columbia	118,006	59,596
Total	12,578,253	6,099,253

Table showing the illiteracy in the white and black population, over 10 years of age, in the sixteen Southern States and the District of Columbia.

States.	White persons of 10 years of age and upward.			Colored persons of 10 years of age and upward.		
	Enumerated.	Returned as unable to write.		Enumerated.	Returned as unable to write.	
		Number.	*Per ct.*		*Number.*	*Per ct.*
Alabama	452,722	111,767	24.7	399,058	321,680	80.6
Arkansas	393,905	98,542	25.0	137,971	103,473	75.0
Delaware	91,611	8,346	9.1	19,245	11,068	57.5
Dist. of Columbia	91,872	3,988	4.3	45,035	21,790	48.4
Florida	99,137	19,763	19.9	85,513	60,420	70.7
Georgia	563,977	128,934	22.9	479,863	391,482	81.6
Kentucky	973,275	214,497	22.0	190,223	133,895	70.4
Louisiana	320,917	58,951	18.4	328,153	259,429	79.1
Maryland	544,086	44,316	8.1	151,278	90,172	59.6
Mississippi	328,290	53,448	16.3	425,397	319,753	75.2
Missouri	1,453,238	152,510	10.5	104,393	56,244	53.9
North Carolina	608,806	192,032	31.5	351,145	271,943	77.4
South Carolina	272,706	59,777	21.9	394,750	310,071	78.5
Tennessee	790,744	216,227	27.3	271,386	194,495	71.7
Texas	808,931	123,912	15.3	255,265	192,520	75.4
Virginia	630,584	114,692	18.2	428,450	315,660	73.7
West Virginia	410,141	75,237	18.3	18,446	10,139	55.0

Table showing the illiteracy in the white and black population, over 10 years of age, in the twenty-two Northern States and the eight Territories.

States and Territories.	White persons of 10 years of age and upward.			Colored persons of 10 years of age and upward.		
	Enumerated.	Returned as unable to write.		Enumerated.	Returned as unable to write.	
		Number.	*Pr. ct.*		*Number.*	*Pr. ct.*
Arizona	28,634	4,824	16.8	4,288	1,018	23.7
California	589,235	26,090	4.4	91,827	27,340	29.8
Colorado	155,456	9,900	6.4	2,764	508	20.5
Connecticut	487,780	26,763	5.5	9,523	1,661	17.4
Dakota	98,348	4,157	4.2	1,501	664	44.2
Idaho	21,481	784	3.0	3,524	994	28.2
Illinois	2,234,478	132,426	5.9	34,837	12,971	37.2
Indiana	1,438,955	100,398	7.0	29,140	10,363	35.6
Iowa	1,174,063	44,337	3.8	7,578	2,272	30.0
Kansas	673,121	24,888	3.7	31,176	14,588	46.8
Maine	518,011	21,758	4.2	1,658	412	24.8
Massachusetts	1,416,767	90,658	6.4	15,416	2,322	15.1
Michigan	1,219,906	58,932	4.8	16,780	4,791	28.5
Minnesota	557,183	33,506	6.0	2,794	1,040	37.2
Montana	28,986	631	2.2	3,003	1,076	35.8
Nebraska	316,312	10,926	3.5	1,959	602	30.7
Nevada	42,595	1,915	4.5	8,071	2,154	26.7
New Hampshire	285,594	14,208	5.0	594	94	15.8
New Jersey	835,385	44,049	5.3	30,206	9,200	30.5
New Mexico	79,767	49,597	62.2	8,199	7,559	92.2
New York	3,927,603	208,175	5.3	53,825	11,425	21.2
Ohio	2,339,528	115,491	4.9	59,839	16,356	27.3
Oregon	119,482	4,343	3.6	11,083	3,080	27.8
Pennsylvania	3,136,561	209,981	6.7	66,654	18,053	27.1
Rhode Island	215,158	23,544	10.9	5,303	1,249	23.6
Utah	95,876	8,137	8.5	1,318	689	52.3
Vermont	263,245	15,681	6.0	807	156	19.3
Washington	49,269	1,429	2.9	6,451	2,460	38.1
Wisconsin	961,433	54,233	5.6	4,279	1,325	31.0
Wyoming	15,240	374	2.5	1,239	182	14.7

The saying that a republican government depends upon the intelligence of the people has become a political maxim, and yet the census discloses the startling fact that of the entire 50,155,783 population of the United States and Territories, including the District of Columbia, there are 6,239,958 illiterate persons over ten years of age, as follows:

Whites in the twenty-two Northern States	1,272,208
Whites in the eight Territories	69,933
Blacks in the twenty-two Northern States and eight Territories	156,644
Whites in the sixteen Southern States and District of Columbia	1,676,939
Blacks in the sixteen Southern States and District of Columbia	3,064,234
Illiterate voters in the thirty-eight States	1,871,217

The illiterate white population in the States and Territories nearly equals the population of the whole country at the time of the adoption of the Federal Constitution. Even in New England, the seat of learning, the home of the arts and sciences, there are 204,000 persons over ten years of age unable to write.

Of course the great mass of illiterates in the North are of foreign birth, and therefore all the more dangerous because they come here with no knowledge of our traditions and are animated by none of the spirit of our institutions, and under our laws it is easy for them to be naturalized and admitted to the right of suffrage. In this connection I invite special attention to a table, furnished by the Census Office, showing the per cent. of both native white and foreign-born white persons over ten years of age in the several States and Territories who can not write:

States and Territories.	Native white persons of 10 years of age and upward.			Foreign-born white persons of 10 years of age and upward.		
	Enumerated.	Returned as unable to write.		Enumerated.	Returned as unable to write.	
		Number.	*Per ct.*		*Number.*	*Per ct.*
Alabama	443,327	111,040	25.0	9,395	727	7.7
Arizona	15,200	1,225	8.1	13,434	3,599	26.8
Arkansas	384,060	97,990	25.5	9,845	552	5.6
California	374,772	7,660	2.0	214,463	18,430	8.6
Colorado	117,132	8,373	7.1	38,324	1,533	4.0
Connecticut	361,733	3,728	1.0	126,047	23,035	18.3
Dakota	51,229	933	1.8	47,119	3,224	6.8
Delaware	82,318	6,630	8.1	9,293	1,716	18.5
District of Columbia	75,025	1,950	2.6	16,847	2,038	12.1
Florida	91,749	19,024	20.7	7,388	739	10.0
Georgia	553,769	128,362	23.2	10,208	572	5.6
Idaho	15,011	443	3.0	6,470	341	5.3
Illinois	1,666,214	88,519	5.3	568,204	43,907	7.7
Indiana	1,297,159	87,786	6.8	41,796	12,612	8.9
Iowa	918,723	23,660	2.6	255,340	20,677	8.1
Kansas	568,380	17,825	3.1	104,741	7,063	6.7
Kentucky	914,311	208,796	22.8	58,964	5,701	9.7
Louisiana	268,600	53,261	19.8	52,317	5,690	10.9
Maine	463,158	8,775	1.9	54,853	12,983	23.7
Maryland	462,697	36,027	7.8	81,389	8,289	10.2
Massachusetts	990,160	6,933	0.7	426,607	83,725	19.6
Michigan	854,925	19,981	2.3	364,981	38,951	10.7
Minnesota	300,747	5,671	1.9	256,436	27,835	10.9
Mississippi	319,385	52,910	16.6	8,911	538	6.0
Missouri	1,244,738	137,949	11.1	208,500	14,561	7.0
Montana	19,628	272	1.4	9,358	359	3.8
Nebraska	224,899	5,102	2.3	91,413	5,824	6.4
Nevada	22,660	240	1.1	19,935	1,675	8.4
New Hampshire	242,811	2,710	1.1	42,783	11,498	26.9
New Jersey	618,941	20,093	3.2	216,444	23,956	11.1
New Mexico	72,219	46,329	64.2	7,548	3,268	43.3
New York	2,742,847	59,510	2.2	1,184,756	148,659	12.5
North Carolina	605,244	191,913	31.7	3,502	119	3.3
Ohio	1,952,858	83,183	4.3	386,670	32,308	8.4
Oregon	99,028	3,433	3.5	20,454	910	4.4
Pennsylvania	2,862,458	123,206	4.8	574,103	86,775	15.1
Rhode Island	144,596	4,261	2.9	70,562	19,283	27.3
South Carolina	265,356	59,415	22.4	7,350	362	4.9
Tennessee	774,411	216,994	27.8	16,333	1,233	7.5
Texas	701,969	97,498	13.9	106,962	26,414	24.7
Utah	53,944	3,183	5.9	41,932	4,954	11.8
Vermont	224,361	5,354	2.4	38,884	10,327	26.6
Virginia	616,314	113,915	18.5	14,270	777	5.4
Washington	37,278	895	2.4	11,991	534	4.5
West Virginia	392,242	72,820	18.6	17,899	2,411	13.5
Wisconsin	566,745	11,494	2.0	394,688	42,739	10.8
Wyoming	10,458	177	1.7	4,782	197	4.1

The total colored population of the sixteen Southern States and this District over 10 years of age is 4,085,571, of whom only 1,021,337 can read and write; the remainder, 3,064,234, are illiterate.

The tables from the Census Office show that the whole number of persons unable to read is some 1,300,000 less than the number unable to write, but the former are not divided, as are the latter, between whites and blacks.

I next call the attention of the House to the illiteracy of voters, first, in the sixteen late slave-holding States, and then in the twenty-two Northern States:

States.	Total number of males of 21 years of age and upward.	Number of males 21 years of age and upward who can not write.		
		White.	Colored.	Total.
LATE SLAVE-HOLDING STATES.				
Alabama	259,884	24,450	96,408	120,858
Arkansas	182,977	21,349	34,300	55,649
Delaware	38,298	2,955	3,787	6,742
Florida	61,699	4,706	19,110	23,816
Georgia	321,438	28,571	116,516	145,087
Kentucky	376,221	54,956	43,177	98,133
Louisiana	216,787	16,377	86,555	102,932
Maryland	232,106	15,152	30,873	46,025
Mississippi	238,532	12,473	99,068	111,541
Missouri	541,207	40,655	19,028	59,683
North Carolina	294,740	44,420	80,282	124,702
South Carolina	205,789	12,924	93,010	106,934

States.	Total number of males of 21 years of age and upward.	Number of males 21 years of age and upward who can not write.		
		White.	Colored.	Total.
LATE SLAVE-HOLDING STATES—Cont'd.				
Tennessee	330,305	46,948	58,601	105,549
Texas	380,476	33,085	59,669	92,754
Virginia	334,505	31,474	100,210	131,684
West Virginia	139,161	19,055	3,830	22,885
Total	4,154,125	410,550	944,424	1,354,974
NORTHERN STATES.				
California	329,392	12,615	16,857	29,472
Colorado	93,608	3,627	289	3,916
Connecticut	177,291	9,501	696	10,197
Illinois	796,847	44,536	5,271	49,807
Indiana	498,437	33,757	4,345	38,102
Iowa	416,658	16,202	1,009	17,211
Kansas	265,714	7,998	5,623	13,621
Maine	187,323	8,420	144	8,564
Massachusetts	502,648	30,951	941	31,892
Michigan	467,687	26,330	1,852	28,182
Minnesota	213,485	12,372	364	12,736
Nebraska	129,042	3,836	256	4,092
Nevada	31,255	1,173	1,194	2,367
New Hampshire	105,138	5,264	42	5,306
New Jersey	300,635	15,902	3,560	19,462
New York	1,408,751	76,745	4,521	81,266
Ohio	826,577	40,373	7,041	47,414
Oregon	59,629	1,669	2,005	3,674
Pennsylvania	1,094,284	65,985	6,845	72,830
Rhode Island	76,898	7,157	467	7,624
Vermont	95,621	6,731	82	6,813
Wisconsin	340,482	21,221	474	21,695
Total	8,417,402	452,365	63,878	516,243

INTELLIGENCE THE SAFEGUARD OF LIBERTY.

We boast of the strength and trust in the perpetuity of republican institutions, and we sometimes seem to think that their strength and perpetuity consist in the largest liberty of the people to be and do whatever they please, while we are in danger of neglecting the essential conditions upon which the permanence of those institutions depends. The fact that the Government has recently endured so severe a trial has inspired us with such confidence in its stability that we may forget that the security of its foundations rests in the intelligence of its people.

The nations of the Old World have their sovereigns, who succeed to and hold their royal titles by inheritance independently of the vote or wishes of the people. But here the people are sovereigns; from them emanates all power, and their public officers, from the humblest to the Chief Magistrate of the nation, are their servants, by them created for the purpose of making and executing the laws and aiding in the performance of the vast and varied functions of the Government.

As the Republic depends on the people for its existence and its operative power, so it depends upon their intelligence and an enlightened public sentiment for the character and quality of its institutions.

The Puritans had the sagacity to foresee that if they bequeathed to their children intelligence and virtue they left them a good inheritance, and from a rugged soil they wrested the means of establishing and maintaining a system of public schools from which have flowed many of the blessings we now enjoy.

The early statesmen were fully conscious of the importance of the education of the young. President Washington in his earliest message said, "Knowledge is in every country the surest basis of public happiness;" and, in his farewell message he used these words that should never be forgotten:

> Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion it is essential that public opinion should be enlightened.

President Madison said:

> The best service that can be rendered to a country next to that of giving it liberty is in diffusing the mental improvement essential to the preservation and enjoyment of the blessing.

Again he said:

> Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power that knowledge gives.

Equally direct and emphatic is the language of President Monroe:

> Let us by all wise and constitutional measures promote intelligence among the people as the best means of preserving our liberties.

I might also quote from the messages of Jefferson and the Adamses, and from many other statesmen who have endeavored to enforce upon the country the self-evident truth that the intelligence of a free people is the best safeguard of their liberty. I will add the following impressive words from President Garfield's inaugural address:

> But the danger which arises from ignorance in the voter can not be denied. It covers a field far wider than that of negro suffrage and the present condition of the race. It is a danger that lurks and hides in the sources and fountains of power in every State. We have no standard by which to measure the disaster that may be brought upon us by ignorance and vice in the citizen when joined to corruption and fraud in the suffrage.
>
> The voters of the Union, who make and unmake constitutions, and upon whose will hangs the destinies of our governments, can transmit their supreme authority to no successors save the coming generation of voters, who are the sole heirs of sovereign power. If that generation comes to its inheritance blinded by ignorance and corrupted by vice, the fall of the Republic will be certain and remediless.

In his message to Congress on the 6th of December, 1881, President Arthur said:

> There is now a special reason why, by setting apart the proceeds of the sale of public lands, or by some other course, the Government should aid the work of education. * * * All that can be done by local legislation and generosity should be supplemented by such aid as can be constitutionally afforded by the National Government.

This Government is constructed with wheels within wheels, republics within republics, school districts within towns, towns within counties, counties within districts, districts within States, and States composing the grand Federal Union. Good citizenship requires that the people should not only understand the rudimental branches taught in the public schools, but also the Constitution of the Government and the relation of the various departments thereof to each other. They should have a knowledge of the political history of the country and of the general scope and tendency of public measures as affecting the public welfare. It is their duty to understand something of the science and system and policy of the Government, and to take an active hand in its administration. It is of great importance to them who are the officers of the Government, from lowest to highest; and it is their duty to participate in their elections and to acquaint themselves with the requirements of each office. Citizenship, then, implies intelligence; it implies patriotism; it implies a broad philanthropy that can comprehend the wants of all and prompt us to lift up the manhood of the poor.

Conceding, then, the fact that an illiterate man may possess good common sense, have a quick appreciation of the qualities of other men, and gather some knowledge of public affairs, yet masses of ignorant men are always easily deceived, liable to be blown about by every wind of political doctrine, and are a dangerous element in a republic. The danger is too great to be long incurred. An able author wrote a quarter of a century ago:

> Popular education renders a people morally incapable of adopting any other than republican institutions. The qualities which belong to high culture and which may be dangerous when confined to a few, are of unspeakable advantage when dispersed among the many. Demagogues are disarmed when constituencies are enlightened.

It is needless for me to occupy time in showing by history, by statistics and by argument, that ignorance is in every country the propagator of vice and that the surest way to save men from crime is to cultivate their minds and awaken their nobler aspirations. Much has been written on this subject and much more might be said to prove that, aside from the higher considerations, on mere economic grounds, every nation should insure the education of its people. A sagacious statesman said, "Parsimony in education is prodigality in crime."

I firmly believe, that had the common white people of the South been better educated, the civil war, with all its direful consequences, would have been impossible.

> Were half the power that fills the world with terror,
> Were half the wealth bestowed on camps and courts,
> Given to redeem the human mind from error,
> There were no need of arsenals and forts.

THE POVERTY OF THE SOUTH.

The Southern States, unaided, are powerless to cope with this monster of ignorance. The people are comparatively poor. They lost two billions of property by the emancipation of their slaves and two billions more in the support of their armies. They are burdened with debts and are heavily taxed to maintain their local and State governments, and they also have to contribute to the Federal Treasury. Those States were the theater of the great war, and when that conflict was ended their furrowed and devastated fields, with such buildings as had escaped destruction, were all that were left to them. But during the last few years the people have manifested commendable enterprise in restoring the industries of their country and in developing its resources. Among other things they have established a system of public schools in nearly all of the States. Each year marks an increase in the number of school-houses and teachers, in the attendance of scholars, and in the amount of money raised for school purposes. But with only about two-fifths as large a white population and with more than three times the illiteracy of the North, the South has not a tithe of the means of the North with which to overcome the evil. While Massachusetts can easily raise $15 per capita to educate her children, and other Northern States from $6 to $12, it is difficult for Arkansas to raise 90 cents, Alabama 96 cents, North Carolina 98 cents, and Georgia $1.08 for the same purpose. If the South had only her white children to educate she might be equal to the task; but add to these the colored children, whose parents can contribute very little to their education, and she finds her means inadequate.

The following valuable table was compiled by the Commissioner of Education:

States.	White.			Colored.			Total expenditure for both races.
	School population.	Enrollment.	Percentage enrolled.	School population.	Enrollment.	Percentage enrolled.	
Alabama	217,590	107,483	49	170,413	72,007	42	$375,465
Arkansas	181,799	53,229	29	54,332	17,743	33	238,056
Delaware	31,505	25,053	80	3,954	2,770	70	207,281
Florida	46,410	18,871	41	42,099	20,444	49	114,895
Georgia	236,319	150,134	64	197,125	86,399	45	471,029
Kentucky	478,597	241,679	50	66,564	23,902	36	803,490
Louisiana	139,661	44,052	32	134,184	34,476	26	480,320
Maryland	213,669	134,210	63	63,591	28,221	44	1,544,367
Mississippi	175,251	112,994	64	251,438	123,710	49	830,704
Missouri	681,995	454,218	67	41,489	22,158	53	3,152,178
North Carolina	291,770	136,481	47	167,554	89,125	53	352,882
South Carolina	83,813	61,219	73	144,315	72,853	50	324,629
Tennessee	403,353	229,290	57	141,509	60,851	43	724,862
Texas	171,426	138,912	81	62,015	47,874	77	753,346
Virginia	314,827	152,136	48	240,980	68,600	28	946,109
West Virginia	202,364	138,779	68	7,749	4,071	53	716,864
Dist. of Columbia	29,612	16,934	57	13,946	9,505	68	438,567
Totals	3,899,961	2,215,674	.....	1,803,257	784,709	.....	12,475,044

In several States named above the school age extends to twenty-one years, and it is presumable that a considerable portion of the school population, not enrolled, has been in the schools and passed therefrom; also that many of the white children, not enrolled, are in private schools.

The following table, taken from the last report of the Commissioner of Education, shows the amount expended by the several States for school purposes in 1880, which, including some ten millions expended for lands and buildings, aggregates nearly $80,000,000. The table also shows the share of $10,000,000 which each State and Territory would receive on the basis of illiteracy.

States and Territories.	Expenditure in 1880.	Share of each in $10,000,000.
Alabama	$375,465	$694,631 40
Arkansas	238,056	323,744 14
California	2,864,571	85,625 56
Colorado	395,527	16,785 37
Connecticut	1,408,375	45,551 59
Delaware	207,281	31,112 39
Florida	114,895	128,499 27
Georgia	471,029	834,005 54
Illinois	7,531,942	233,009 57
Indiana	4,491,850	177,502 76
Iowa	4,921,248	74,694 42
Kansas	1,818,387	63,263 23
Kentucky	803,490	558,324 28
Louisiana	480,320	510,227 73
Maine	1,047,681	35,529 08
Maryland	1,544,367	215,527 09
Massachusetts	5,156,731	149,007 40
Michigan	3,109,915	102,120 87
Minnesota	1,706,114	55,362 55
Mississippi	830,704	598,082 58
Missouri	3,152,178	334,543 89
Nebraska	1,137,995	18,474 49
Nevada	144,245	6,520 88
New Hampshire	565,339	22,920 03
New Jersey	1,928,374	85,335 50
New York	10,412,378	351,925 45
North Carolina	352,882	743,554 70
Ohio	7,166,963	211,294 71
Oregon	314,017	11,895 91
Pennsylvania	7,449,013	365,409 53
Rhode Island	544,200	39,732 64
South Carolina	324,629	592,709 00
Tennessee	724,862	658,212 81
Texas	753,346	507,105 99
Vermont	454,285	25,379 98
Virginia	946,109	689,671 41
West Virginia	716,864	136,821 42
Wisconsin	2,230,772	89,035 85
Arizona	61,172	9,362 42
Dakota	124,483	7,726 01
District of Columbia	438,567	41,311 17
Idaho	38,812	2,849 38
Montana	59,463	2,735 59
New Mexico	18,890	91,596 77
Utah	132,104	14,144 32
Washington	114,379	6,232 41
Wyoming	22,120	891 03

The immediate wants of the South are more schools and longer terms for those already established. Nine of those States have schools of from eleven to sixteen weeks' duration, others from twenty to twenty-four weeks, when every school should have terms of at least thirty-six weeks annually. The small villages and country districts are in the greatest need of assistance, where teachers' wages are from twenty-five to fifty dollars a month.

The assistance should be granted immediately, for hundreds of thousands of children are annually passing beyond the reach of public instruction. The assistance should be temporary. Eventually the States and their towns and school districts must support their own schools. Aid is only required to lift the people out of the slough into which they have fallen, and place them on the highway of progress. On this subject I quote from a memorial to Congress by some very earnest and able gentlemen who are engaged in the cause of education in the South:

We respectfully suggest:

1. The help should be so given that it will stimulate rather than supersede the necessity of State effort.

2. It should be help for the common schools; temporary aid in the training of teachers, perhaps, but chiefly in giving them opportunity to teach.

"The safety of the Republic is the supreme law of the land." This is the maxim which not only justifies but demands action on the part of the General Government; and it should also suggest the limitations under which the action should be taken.

3. The help should be immediate and not remote. The fortunes of war, and the necessities of legislative action, have made citizens of a large mass of ignorant men whose votes are to shape for weal or woe the character of our laws. Education alone can convert this mass of ignorance and element of danger into one of enlightened strength and safety.

Largely more than one-half of a fund for the education of the illiterate would go to the South for negro illiteracy; less than one-fourth because of white illiteracy. If Congress should create a fund which would give $3 per annum per capita for the education of this class alone, it will require an aggregate annual sum of $18,719,958. Of this, Mississippi, *e. g.*, would receive $1,119,603, but of this $959,529 would be for colored illiterates, and $160,344 for white illiterates.

Representing an educational work in the South chiefly for the negro race, in which have been expended about $10,000,000, and speaking with a wide knowledge of facts, we emphatically assert the impossibility of accomplishing this great work unless the General Government shall come to the assistance of those States in which this illiteracy is chiefly found.

Every dollar we have expended expresses the conscientious and earnest desire of the donor that this work shall be done, and is an emphatic vote for the action for which we ask.

In the name of the millions of Christian citizens whom we represent, we earnestly urge Congress to help qualify the ignorant voters who are intrusted largely by Congressional action with the ballot for the duties with which they are charged, believing the power to do this is co-ordinate with the power that enfranchised them.

REV. M. E. STRIEBY, D. D.,
American Missionary Association; Congregational.
REV. J. C. HARTZEL, D. D.,
Secretary Freedmen's Aid Society; Methodist.
REV. H. L. MOREHOUSE, D. D.,
Home Missionary Society; Baptist.
REV. SHELDON JACKSON, D. D.,
Home Missionary Society; Presbyterian.
REV. J. L. M. CURRY, D. D.,
Agent of the Peabody Fund.
PROF. C. C. PAINTER,
Fisk University, Nashville, Tennessee.
S. C. ARMSTRONG,
Hampton Institute, Virginia.

WASHINGTON, D. C., *March*, 1882.

The above-named gentlemen and other leading educators, including Northern men who have spent years in the South, express the confident belief that the money will be faithfully applied to the purpose for which it is appropriated and that no discrimination will be made against the colored children. The bill is as well guarded in this respect as it can be without the employment of Government agents in the several States to manage the distribution of the fund, the expense and machinery of which should, if possible, be avoided. It is in the power of Congress, however, to protect this fund by ample safeguards.

In illustration of the amount of good that can be accomplished by comparatively small means, fifteen years ago Rev. Dr. Porter, of Charleston, South Carolina, being oppressed by the fact that the sons of the best families of the country around him were growing up in ignorance for want of means to obtain an education, opened a school for them in that city and invoked aid from the North and from friends in England in its support. Now, in review of his work he finds that he has educated 2,150 boys and equipped them for the business of life. He expresses the belief that without his school at least 1,800 of them would have been in no school at all.

The income from the Peabody fund from 1868 to 1879, inclusive, was from $100,000 to $150,000 annually. As a means of awakening an educational spirit and setting good influences in operation its benefits are immeasurable.

The colored people are readily taught and are anxious for education. If this were otherwise the duty of the Government to qualify them for the intelligent exercise of the right of suffrage and other rights of citizenship would only be the more imperative. In the North they hold respectable rank in the various professions and pursuits, and we note with pride the fact that in the South many men born in slavery have overcome the most adverse circumstances and reached positions of responsibility and distinction, and are examples before the country of the capabilities of their race. The masses should emulate such examples, and understand that what they now require are habits of industry and economy, lands and homes, mental and moral elevation, which secured, social and political recognition will be theirs.

THE BILL CONSTITUTIONAL.

If the proposition were that the Government should establish a sys-

tem of schools, or interfere with State systems already existing, it would of course encounter constitutional objection. I shall not enter upon any argument to prove that the Government has a right to aid in the work of education and that this is not left exclusively to the States. It would seem idle to address such an argument to a House that at its last session wisely and humanely voted hundreds of thousands of dollars for the relief of the sufferers from the overflow of the Mississippi River. Each year there is paid from the Federal Treasury from six to ten million dollars for the improvement of rivers and harbors (this year nearly $20,000,000), and as much more for the erection of public buildings in various parts of the country. Congress has made grants of lands more extensive than the whole area of France in aid of the construction of railroads and canals. Whence comes the right to make these and like appropriations of money from the public Treasury and grants of lands from the public domain? It comes from the power given to Congress by the Constitution and the duty therein implied to provide for the general welfare of the United States, which power is exercised upon the ground that such appropriations are for the public benefit and not for the exclusive benefit of the people of any particular State or section.

In the year 1880 the trustees of the Peabody educational fund referred the subject of invoking national aid for the education of the colored population of the South to a committee consisting of Hon. Alexander H. H. Stewart, Chief-Justice Waite, and Hon. William M. Evarts. In their report to the trustees those learned and distinguished gentlemen fully considered this question. I have not time or space to quote their entire opinion on this point, but the following extract there from will suffice:

> The next point which your committee have felt it to be their duty to consider is, does Congress possess the constitutional power, not to control, but to contribute to the education of citizens of the States?
>
> If doubts were entertained as to the existence of such a power in an unqualified form, it might well be contended that the case of the colored population is surrounded by such peculiar circumstances as to take it out of the influence of any general rule. But fortunately this question, even in its general aspect, is not a new one, presented now for the first time to be decided. It may be regarded as *res adjudicata*. The laws of the United States present innumerable precedents in which Congress has exercised the power to contribute toward the general education of citizens of the new States, and in no instance has its constitutional right to do so been questioned.

If any authority is required to establish so plain a proposition I can content myself with the high authority just cited.

Then, to summarize the arguments for this bill, the extent of illiteracy in certain sections of this country has been shown by facts and figures to be enormous. It is alarming in view of the theory that this is a government by the people and that its stability depends on their intelligence.

It has been shown with equal clearness that the Southern States have not the means to provide a common-school education for their children; that they are hardly able to educate the white children, much less the blacks in addition who have been cast upon them.

It has been shown beyond all question that Congress has the constitutional power to aid the States in this work of vital importance to the nation and that no greater duty rests upon it than to grant such aid.

If the appropriation proposed is too large or too long continued the bill can easily be amended to conform to the judgment of the House. The committee are less strenuous as to the sum appropriated than they are that Congress shall give this subject its attention, trusting as they do that it will appropriate a sum adequate to the wants of the country.

The revenues to the Government during the last fiscal year from spirits, fermented liquors, and tobacco were $123,000,000, and as these articles are mainly used as luxuries the taxes that produced this vast sum oppressed no one. And yet there are men on this side of the House who believe that all these taxes should be removed and that the internal-revenue system should be abolished. Though I believe that both the internal-revenue and the customs duties should be reduced, they should be maintained at a rate that will enable the Government to appropriate money for popular education.

I am not one of that number who fear they will incur the dipleasure of the country by advocating the expenditure of a large sum of money for this purpose. Though the people of this country desire and demand economy, they do not desire parsimony in the public expenditure nor the withholding of it from any purpose that is necessary and that will inure to the public welfare.

We expend $80,000,000 annually in pensions to those men now disabled who once composed the Army of the Republic and defended and maintained it by their valor on the field of battle; let us now expend something to qualify for intelligent citizenship the army of children to whom must soon be committed the destinies of the nation.

Is it objected that this bill will distribute money to New England, New York, Pennsylvania, and the States of the fertile West that do not require it? If this is a valid objection, let the bill be amended, as I would propose, so that aid will be granted only to those States that absolutely require it. The opinion prevailed in the committee that if the Government bestowed its bounty upon any States it should bestow it upon all and upon the basis named in the bill. As the Northern States contribute more largely to the revenues of the Government than do the Southern, it seemed to a majority of the committee equitable that the former should have the small share of the fund that would fall to them under this apportionment. I can see no good ground for an apportionment of money to the rich and prosperous States of the North that neither ask nor require it. The demand for aid is in the South, and mainly by the colored people who are temporarily the wards of the nation and unable to educate themselves. The whites certainly would not ask aid in their own behalf alone.

What, then, is the objection to granting this aid? Is it because there exists in some minds the feeling that men in ignorance are more likely to follow the behests of party than if intelligent? I will impute such motives to no man for his action. I will cast on no man such suspicion as that.

The press, the pulpit, the educators, all the best public sentiment of the country demand an appropriation of money for this purpose. The people in great numbers have petitioned for it. The Legislatures of several States have by resolution invoked this aid from Congress. More than this, the condition of two millions of children in the South demands the interposition of Congress in their behalf. The platforms of both political parties have declared in favor of some measure of this kind. Presidents in their messages have recommended it, and yet the representatives of the people, who alone have power to grant this aid, withhold it.

Near the close of last session a leading journal in Massachusetts forcibly stated the case as follows:

> Among the important measures which Congress apparently purposes to leave until cooler weather and a more convenient season is the matter of providing for national aid to education. This subject lies somewhat outside the domain of what is known in the current phrase as "practical politics;" it is in the region of broad and far-sighted statesmanship, and involves one of the most momentous questions we have been called upon to face. When there are 5,000,000 of our population of 10 years of age and upward unable to read or write, when four-fifths of this tremendous mass of illiteracy is contained in a single section of the country, comprising the States lately in rebellion; when there are States in which only one child in five of school age is enrolled in any school, and other States in which the expenditures for education average less than a dollar for each pupil, it is pretty clear not only that this great load of ignorance is a perilous thing, but that the evil is growing a good deal faster than the means devised to cope with it. To shut our eyes to the existence and magnitude of this evil, and to refuse to do anything to abate it, is to expose our institutions to a strain hardly less serious than that which came to them from slavery and the civil war. It will be an ominous day for the Republic when men who can not read the ballots which they cast come to hold the balance of power.

This measure is by no means a mere local one. It concerns New England, it concerns the North as well as the South, because it involves the highest interests of the Republic. Let no man oppose it because the money appropriated will be distributed largely to a particular section of the country. If the North will be less directly benefited by it than the South she should be thankful that the spirit of freedom, "which has a thousand charms to show," has always dwelt within her borders, has prospered her industries, and rendered it both possible and easy for her to educate her children and placed her above the need of governmental aid; and grateful for the high privileges she has enjoyed, she should now from her abundance extend assistance to the South, which has so recently emerged from the barbarism of slavery and been scourged by the demon of war.

I am aware that there are gentlemen here who, remembering the wrongs that the Southern whites have perpetrated on the blacks since the war, are inclined, if not determined, to vote against this bill, claiming that the South should educate her own people. For those wrongs I have no words of defense, excuse, or palliation. To my mind they constitute one of the darkest chapters in American history. And yet it is easy to understand that a race proud of their ancestral blood and lands, to whom a white skin was a patent of nobility, should revolt at another race, who had recently been their slaves, being suddenly made their political equals. It was a wonderful change which Southern men were called upon to witness and endure when the freedmen carried State elections and controlled State affairs; and the change was not the more endurable on account of the ignorance and unfitness of the blacks for the political duties which they assumed. For all this the white people should have remembered the causes which led to the inversion of their social system, submitted to the enfranchisement of the blacks, and, as a matter of wise policy as well as of right, accorded to them the enjoyment of their political privileges.

And certainly we of the North, who have always lived with freedom's soil beneath our feet and freedom's banner streaming o'er us, must not now neglect the colored race to whom until twenty years ago freedom was only a vision. It is enough for us to know that there are millions of colored children in the South without education and without the means to obtain it.

Neither should we forget the white people of that section, who seem to be earnestly struggling to rise above the cloud of ignorance that darkens their land. We must take the condition of society as it is, and as legislators, having in view the highest interests of the people, forget the things that are behind, comprehend and meet this great want for the elevation of the people in order that the Republic may move onward to the high position it is entitled to occupy among the nations of the earth.

Prussia learned that national greatness lay in the intellect of her people; hence she watched her children, discovered their aptitudes, and educated them in the direction of their fitness, whether for war, for literature, the arts or sciences, or the other pursuits of peace; and Prussia, from being an insignificant nation, has become a dreaded power in Europe. France places schools within the reach of all her children

and compels their education. Denmark, with a population of 2,000,000, has 200,000 school children, all of whom are in attendance except such as are mentally or physically incapacitated. Japan is studying the best school systems of other countries, and striving to keep abreast with the best sentiment of the age on this great subject. America gives freedom and citizenship to 4,000,000 of people, and leaves them in ignorance and poverty, with no provision for their education.

We are intense in our devotion to material interests. We build 10,000 miles of railroad in a year and develop an immense internal commerce by means of the network of water ways that are spread over the country. We explore the heart of the earth for its treasures of coal and iron, and the mountains pour out for us their wealth of silver and gold. The hum of our factories fills the land; the products of our soil feed the nations of the world. After payment of all annual expenses there is a surplus revenue in the Federal Treasury of nearly a hundred and fifty million dollars to apply to the reduction of the national debt. And yet with all this material prosperity and progress we suffer millions of human minds, with all their latent faculties, with all their possibilities for development and for good, to lie waste and barren, waiting—let them not wait in vain—for the transforming power that can quicken them to life.

One remark further and I close. The Republican party has always been the avowed friend of the colored race. It is now neither kind nor wise for that party to lock up the doors of an overflowing Treasury, turn with indifference to the colored men who are struggling to acquire something they can call their own upon the earth and to improve their mental condition, and say to them that each State must provide for the education of its people and that the General Government can not interfere in this matter, when we know that they have not the means and can not obtain them from their respective States to educate themselves and their children.

NOTE.—As the committee of which I am a member has been unable to get the bill before the House for final consideration, by the courtesy of the House I have printed the above remarks in the hope that the facts recited may be of some public service.

The Tariff.

REMARKS
OF
HON. COLUMBUS UPSON,
OF TEXAS,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 24, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. UPSON said:

Mr. CHAIRMAN: I confess that I have not reached or discovered that exalted height of unselfish statesmanship which would justify me in forgetting, disregarding, or in being indifferent to important interests which particularly concern the people I have the honor to represent. Regarding this to be a representative Government, I believe the people of this country through their respective representatives have a right to speak and be heard as to legislation which concerns their particular interests. I do not, however, regard the obligations of a representative to his constituents as requiring the advocacy or support of any local measure contrary to sound public policy or detrimental to the general good. Nor do I subscribe to the doctrine that the property of the many can be properly taxed to enrich the few, or that private enterprises can be built up and made monopolies by the Government, legitimately, at the expense and injury of the people at large. Class legislation also, as well as favoritism in legislation, can not be too strongly deprecated.

PRESENT TARIFF SHOULD BE RETAINED.

I advocate a retention of the present tariff duty on wool because I believe it to be upon a revenue basis and within that limit will tend to preserve and encourage an important American industry and promote the general welfare, and because it is demanded by a large number of my constituents.

It is my desire to have the tariff reduced to a revenue standard in such manner as will not seriously injure or destroy any American industry, but, as far as may be practicable, fairly and wisely preserve the same. With that object in view, my votes on this bill, which have been cast in almost every instance for a reduction below the rates reported by the Ways and Means Committee, have been governed.

I desire to say here that I most emphatically dissent from the policy advocted in the interest of manufacturers that all raw material should be admitted free of duty. I insist that the American producers of raw materials should receive a fair proportion of the benefits to be given or arising from the incidental protection resulting from a revenue tariff as well as the manufacturers. These benefits should be distributed among all classes of our people as justly and wisely as may be, and not bestowed upon a favored few.

As long as the system of protection to American manufactures by or under impost duties is maintained, I can not subscribe to the doctrine of free raw materials contended for as correct in principle or sound in policy. The adoption of that policy by law I would regard as special legislation in the interest of one class of our citizens to the injury of another class, equally deserving of the fostering care of the Government, and as of the most odious and objectionable character of the protective system. The object of the high protectionist, as I understand it, is to give to American manufacturers, to the extent at least of their manufactured products, a monopoly and control of the American market.

To effectually accomplish this object, the manufacturers must have the raw materials, out of which their fabrics are made, free of duty and high prohibitory duties imposed on the imported article to prevent foreign competition. While the American manufacturer would shut out the foreign competitor, he would have the home market under his exclusive control, with his chance at the outside markets of the world left free and open; but would leave the American producer of the raw material practically confined to the home market in an unequal competition with foreign cheap labor and subject to the manufacturer's will. Under such circumstances the American woolen manufacturer would be secure behind his wall of protection with the accumulating advantages which experience, new inventions, and improvements might give him, while the American wool-grower, unaided and unprotected, with no possible advantages of machinery, human inventions, or superior intelligence over the barbarian in the method of producing wool, which must grow in the same old natural way on the sheep's skin, must contend with the wool-growers of the world.

AMERICAN SHEEP HUSBANDRY.

Sheep husbandry has become a very important interest in this country, and is rapidly increasing.

Domestic wool productions in the United States during three decades, from 1850 *to* 1880.

	Pounds.
1850	52,516,959
1860	60,264,913
1870	163,000,000
1880	264,001,000

Increase in wool productions by decades.

Decades.	Pounds.	Rate per cent.
1850 to 1860	7,747,954	12.8
1860 to 1870	102,735,087	170
1870 to 1880	101,000,000	61

Increase of wool products under the tariff of 1867.

	Pounds.
1866	137,000,000
1881	290,000,000

An increase of 111.7 per cent.

Of this amount Iowa, Missouri, Minnesota, and States east of the Mississippi produced, in 1866, 120,000,000 pounds; in 1881, 164,000,000 pounds. California, Oregon, Colorado, New Mexico, and other Western States and Territories produced, in 1866, 9,000,000 pounds; in 1881, 87,200,000 pounds. Georgia and Lake and Southern States produced, in 1866, 2,000,000 pounds; in 1881, 12,200,000 pounds.

Texas produced in 1866, 6,000,000 pounds; in 1881, 26,000,000 pounds; in 1882, estimated, 28,000,000 pounds—an increase of 466⅔ per cent.

It will be seen that Texas now produces about one-tenth of the wool product of the United States; fully one-half this amount is grown in the district I now represent. The wool interest in Texas, including the value of lands used in the wool-growing industry, is estimated to exceed in value $50,000,000. This interest in Texas has increased in the last fifteen years over 450 per cent. With the natural advantages in climate, soil, grasses, and herbage which Texas possesses for wool-growing, her people look forward to the day in the near future when Texas will lead every other State or section of the Union in this great industry, and perchance bid defiance to all foreign competition.

Sheep husbandry, however, is not confined to any particular State, section, or locality in this country. It is carried on to some extent in every State and Territory of the Union, although more advantageously and profitably in some sections than in others, consequent upon cheaper lands, more favorable climate, and less expense in feeding and in caring for sheep in some sections than in others.

It is an industry in which the farmers of the country are directly and to a great extent interested.

It is estimated that there are from 400,000 to 800,000 persons who own flocks of sheep in this country, and that about $300,000,000 are invested in the production of wool in the United States.

The popular cry "the favored few"—"rich corporations" can not be raised against the hundreds of thousands of industrious and hard-working American wool-growers scattered over the whole country from Maine to California and Texas, nor can the odious stigma of "monopoly" be attached to this extended and individualized industry. The flocks of the greater part of the sheep-owners of this country are numbered by

the tens and twenties and by the hundreds, and but few by the many thousands. Their habitations are not of palatial grandeur or regal splendor so much decried against, but humble farm cottages, rude cabins and huts, and rough jackals. Their paths do not run amid beds of flowers, but wind their dreary way over the wild prairies and through the mountain gorges. The bleating of the timid lamb, the howling of the hungry wolf, and the whoop of the savage Indian often greet our shepherds' ears in quick succession.

According to the statements before the Tariff Commission there are in one county, Washington, in Pennsylvania about 600,000 sheep, with an investment in sheep husbandry in that county alone of about $3,000,000.

Number of sheep in the United States.

1850	21,731,880
1860	22,471,275
1870	28,477,957
1880	42,381,389
1892, estimated	50,000,000

Increase by decades, 1850 to 1860, 739,395=3½ per cent.; 1860 to 1870, 6,006,682=28 per cent.; 1870 to 1880, 13,903,432=48 per cent.

Number of sheep in Texas estimated at from 5,000,000 to 7,000,000.

We have foreign competitors in this great enterprise, who up to this time have kept far in the lead in the amount and quality of wool products, and may continue to do so unless we duly guard and promote this growing and important home industry. But of foreign wool-growing I will speak hereafter.

From the data already given it will be seen that the wool industry of the United States is of vast and rapidly-growing importance; not yet equal, however, to our demands for home consumption by an average of 60,000,000 pounds imported into the United States annually, not taking into account the many millions of pounds necessary to manufacture the large amount of woolen goods imported into this country annually, in value many millions of dollars.

QUESTIONS TO CONSIDER.

Without entering at this time into the disputation as to the opposing and conflicting theories on the tariff, I propose to discuss very briefly two questions, namely:

First. Is the present tariff on wool a revenue tariff, or a tariff for revenue?

Second. Should this tariff be retained, reduced, or abolished?

The examination of these questions may disclose apparently some anomalies and seeming inconsistencies. If so, it may show to some extent the intricacies, and, I may say, strange and incomprehensible workings of our tariff system.

The prices given of wool in the United States and in Europe are so varying and conflicting that I have found it quite impossible to obtain accurate or entirely reliable information in regard to the same. Hence it is very difficult, and, I may say, impossible, from the data within the reach of the public to determine with accuracy the effect of the tariff upon the price of wools. I will, notwithstanding, submit some statements which are entitled to credit, from which we may approximate the actual prices of wool.

It is proper to state, also, that the great varieties in the kinds, qualities, and conditions of foreign wools also add to the difficulty of ascertaining accurate prices, as well as the fraudulent undervaluations, which are believed to be carried on to a great extent, in consequence of which our wool-growers believe they suffer no little damage.

TARIFF ON WOOLS.

The first tariff on wool in this country was laid, I believe, in 1824.

Duty on wool.

1824—Not exceeding 10 cents per pound, 15 per cent.; exceeding 10 cents per pound, 20, 25, and 30 per cent. ad valorem.

1828—4 cents per pound and 40 per cent. ad valorem to June 30, 1829; after that time 5 per cent. additional annually until the whole ad valorem duty shall amount to 50 per cent.

1832—Under 8 cents in value, free; exceeding 8 cents in value, 4 cents per pound and 40 per cent. ad valorem.

1836—Under 8 cents, free; exceeding 8 cents, 4 cents per pound, and 38 per cent. ad valorem.

1841—Under 8 cents, free; exceeding 8 cents, 4 cents per pound, and 32 per cent. ad valorem.

1842—Under 8 cents, free; exceeding 8 cents, 4 cents per pound, and 26 per cent. ad valorem.

1842—Under 7 cents in value, 5 per cent.; exceeding 7 cents, 3 cents per pound, and 30 per cent. ad valorem.

1846—30 per cent. ad valorem.

1857—Not exceeding 20 cents per pound in value, free; exceeding 20 cents per pound, 24 per cent. ad valorem.

1861, 1862, and 1863—Value less than 18 cents, 5 per cent.; value 18 to 24 cents, 8 cents; exceeding 24 cents, 9 cents per pound.

1864, 1865, and 1866—Not exceeding 12 cents, 3 cents; 12 to 24 cents value, 6 cents per pound; 24 to 32 cents value, 10 cents per pound and 10 per cent.; exceeding 32 cents value, 12 cents and 10 per cent. ad valorem.

1867—First class, 10 cents per pound and 11 per cent. ad valorem; second class, 12 cents per pound and 10 per cent. ad valorem; third class, 12 cents or less per pound in value, 3 cents per pound; exceeding 12 cents in value, 6 cents per pound.

On the principal kinds of wool imported the rates of the present duty are on coarse wools 25.4 to 31.3, and on clothing and combing wools 47 and 55.7 per cent. ad valorem; average on coarse wools about 28½ per cent.; on first and second classes about 51½ per cent. ad valorem.

PRICES OF WOOL.

The prices of wool given below in New York are compiled from the reports of the Secretary of the Treasury, the reports of the New York Chamber of Commerce, and the New York Shipping List and Price Current, by Anisworth R. Spofford, Librarian of Congress. The average prices given embrace each period covered by the different tariffs from the first laid on wool in 1824 down to 1881, excluding the period of the late war and the time directly affected by it, from 1861 to 1865 inclusive.

Under tariff 1824–1828.

	Price per pound. Lowest.	Highest.	General average.	
	Cents.	Cents.	Cents.	
1825	30	38	.....	15, 20, 25, and 30 per cent. ad valorem up to June 30, 1829; after that, 5 per cent. additional annually until reaching 50 per cent. ad valorem.
1826	28	38	.....	
1827	20	30	.....	
1828	20	30	.....	
1829	18	27	.....	
1830	16	30	.....	
1831	20	35	.....	
1832	20	35	.....	
Average	21 9/10	32 1/4	27 7/12	

Tariff 1832.

1833	27	35	.....	Less than 8 cents per pound in value, free; exceeding 8 cents, 4 cents per pound and 40 per cent. ad valorem.
1834	25	35	.....	
1835	25	40	.....	
1836	35	50	.....	
Average	28	40	34	

Tariff 1836.

1837	28	50	.....	Less than 8 cents per pound in value, free; exceeding 8 cents, 4 cents per pound and 38 per cent. ad valorem.
1838	28	40	.....	
1839	37	40	.....	
1840	20	35	.....	
1841	20	30	.....	
Average	21 3/5	39	30 9/10	

Tariff 1841.

1842	18	22	20	4 cents per pound and 32 per cent.

Tariff 1842.

1843	18	24	.....	Under 7 cents, 5 per cent.; exceeding 7 cents, 3 cents per pound and 30 per cent. ad valorem.
1844	25	37	.....	
1845	24	30	.....	
1846	18	28	.....	
Average	21¼	29¾	25⅛	

Tariff 1846.

1847	22	30	.....	30 per cent. ad valorem.
1848	20	30	.....	
1849	25	32	.....	
1850	30	35	.....	
1851	30	41	.....	
1852	26	42	.....	
1853	38	44	.....	
1854	25	40	.....	
1855	24	34	.....	
1856	30	38	.....	
1857	30	44	.....	
Average	27 3/11	37 3/11	32 8/11	

Tariff 1857.

1858	27	32	.....	20 cents per pound or less in value, free; exceeding 20 cents, 24 per cent. ad valorem.
1859	34	45	.....	
1860	34	40	.....	
Average	31⅓	39	35½	

Tariff 1867.

1866	25	27	.....	First class, 10 cents per pound and 11 per cent. ad valorem. Second class, 12 cents per pound and 10 per cent. ad valorem.
1867	25	37	.....	
1868	34	37	.....	
1869	32	35	.....	
1870	34	45	.....	
1871	32	63	.....	
1872	45	67	.....	
1873	35	57	.....	
1874	36	48	.....	
1875	38	48	.....	
1876	25	43	.....	
1877	32	43	.....	
1878	20	33	.....	
1879	27	50	.....	
1880	25	45	.....	
Average	31	45 7/12	38⅛	

Recapitulation.

Years, inclusive.	Average prices per pound.	General average.
	Cents.	*Cents.*
1825 to 1832	21 9/10 to 32 3/8	27 3/8
1833 to 1836	28 to 40	34
1837 to 1841	21 3/8 to 39	30 3/10
1842	18 to 22	20
1843 to 1846	21 1/2 to 29 1/4	25 1/4
1847 to 1857	27 3/11 to 37 3/11	32 8/11
1858 to 1860	23 1/4 to 39	35 1/8
1866 to 1880	31 to 45	38 1/2

Clothing and combing wools, first and second classes, imported into the United States in 1879, 1880, and 1881.

	Class.	Quality.	Value at place of shipment.	Duty collected.	Cost per pound, duty added.	Average.
		Pounds.			*Cents.*	*Cents.*
1879	1	5,229,987.20	$1,114,301 01	$648,120 16	33 7/10	35 3/10
1879	2	1,709,691.25	413,760 71	218,785 29	37	
1880	1	26,785,171.58	6,412,273 13	3,514,240 98	33 1/4	37 8/10
1880	2	13,366,856.42	3,801,730 00	1,783,361 46	42	
1881	1	20,009,707.30	4,751,453 79	2,599,841 96	36 7/10	39 3/10
1881	2	4,421,490.50	1,271,332 39	585,499 93	42	

I submit a tabulated statement of the average prices of American washed clothing fleece wools from 1824 to 1881, inclusive, as given by General SPRINGER in his speech on the tariff delivered in the House, May 3, 1882, from which it will be seen that the medium prices given by Mr. SPRINGER considerably exceed the highest prices given by Mr. Spofford during the same periods.

Statement showing the average price of medium American washed clothing fleece wool from 1824 to 1881, inclusive.

[United States Economist and Dry Goods Reporter, January 31, 1880, data furnished by Mauger & Avery, 49 West Broadway, New York city.]

Year.	Average price.	Year.	Average price.
	Cents.		*Cents.*
1824	44 1/2	1853	53 1/2
1825	42	1854	43
1826	39	1855	37 1/2
1827	32 1/2	1856	45
1828	36	1857	46 1/2
1829	36 1/2	1858	36 1/2
1830	45 1/2	1859	47
1831	61 1/2	1860	47 1/2
1832	47 1/2	1861	38 1/2
1833	50 1/2	1862	50 1/2
1834	54	1863	75 1/2
1835	56 1/2	1864	87 1/2
1836	60 1/2	1865	82
1837	50 1/2	1866	63
1838	42	1867	50 1/2
1839	49 1/2	1868	46
1840	41 1/2	1869	49
1841	44 1/2	1870	46 1/2
1842	37 1/2	1871	55
1843	30	1872	70 1/2
1844	35 1/2	1873	55 1/2
1845	37 1/2	1874	54 1/2
1846	32 1/2	1875	51 1/2
1847	40	1876	44
1848	34 1/2	1877	42 1/2
1849	34 1/2	1878	40 1/2
1850	38 1/2	1879	37 1/2
1851	41 1/2	1880	46
1852	38 1/2	1881	40

JOSEPH NIMMO, JR.,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
February 3, 1882.

Average prices for the same periods as given by Mr. Springer and Mr. Spofford.

Years.	Springer prices.	Spofford's highest price.	Difference.
	Cents.	*Cents.*	*Cents.*
1825 to 1832, inclusive	42 1/2	32 3/8	9 5/8
1833 to 1836, inclusive	55 9/10	40	15 9/10
1837 to 1841, inclusive	45 9/10	39	6 1/2
1842	37 1/2	37 1/2	
1843 to 1846, inclusive	33 9/10	29 3/4	4 1/10
1847 to 1857, inclusive	41 3/11	37 3/11	4
1858 to 1860, inclusive	43 1/2	39	4 1/2
1866 to 1880, inclusive	50 1/2	45	5 1/2
General average	43 7/10	37 1/2	6 1/5

As to the fair market prices in London of the qualities and kinds of the first and second classes of wool which are imported into the United States, I have been unable to obtain satisfactory information. According to the table submitted to the Tariff Commission by Mr. William Whitman, of Philadelphia, representing the National Association of Wool Manufacturers, the average prices of these wools in London were as follows: 1868 to 1882, inclusive, average 26.8 to 38.8 cents; general average, 32.8 cents. According to the statement given by Mr. Spofford the prices of American wools in New York were as follows: 1868 to 1880, inclusive, average, 31 to 45 cents; general average, 38.2 cents; making a difference in favor of American wool of 5.4 cents. The manager of some large mills at Stroud, England, for the manufacture of woolen cloths, states in a private letter dated August 28, 1882, which I have in my possession:

Wools used by us vary much in price. We pay as low as 8*d.* (16 cents) per pound for some heavy wasting wools, which lose in scouring some 60 to 70 per cent. Australian wools range from 1*s.* 3*d.* (30 cents) to 2*s.* 4*d.* (56 cents) per pound; fine German wool from 2*s.* (48 cents) to 3*s.* 6*d.* (84 cents) per pound. These fine wools seldom weigh more than 16 ounces, to, say, 1¼ pounds to the fleece; the finest only 12 ounces to the fleece.

From these wools we manufacture a variety of cloth, and on the other side I give you the wholesale prices of the leading makes. Our finer and best goods are dyed in the wool.

Wool black cloth, 63 inches wide, 11*s.* to 26*s.*, equal to $2.62 to $6.24.

Wool blue cloth, 12*s.* to 26*s.*, equal to $2.88 to $6.24.

Doeskin, 28 inches wide, 5*s.* 9*d.* to 8*s.*, equal to $1.38 to $1.92.

Browns, black, blue, middling, &c., 59 inches wide, 12*s.* 6*d.* to 15*s.*, equal to $3 to $3.60.

Worsted coatings, 59 inches wide, 10*s.* 6*d.* to 14*s.* 6*d.*, equal to $2.52 to $3.68.

Piece-dyed goods, cloth 60 inches wide, 9*s.* to 12*s.*, equal to $2.16 to $2.88.

Doeskins, 28 inches wide, 3*s.* 9*d.* to 5*s.*, equal to 90 cents to $1.20.

Beavers, 59 inches wide, 9*s.* 6*d.* to 10*s.* 6*d.*, equal to $2.28 to $2.52.

Worsted coatings, 58 inches wide, 8*s.* 6*d.* to 10*s.* 6*d.*, equal to $2.04 to $2.52.

The wages we pay are given below. We have a foreman in each room or department, whose wages average from 25*s.* to 30*s.* per week, equal to $6 to $7.20.

Our hours of work are from 7 a. m. to 6 p. m., one-half hour breakfast and one-half hour dinner, making thus a working day of ten hours. On Saturday we close the factory at 2 o'clock for cleaning up and repairs.

Wool-sorters, 30*s.* per week, equal to $7.20.

Carding-room: Foreman, 30*s.* per week, equal to $7.20; under helps, 12*s.* to 15*s.* per week, equal to $2.88 to $3.60; feeders, 7*s.* to 8*s.* per week, equal to $1.68 to $1.92.

Spinning-room: Foreman, 25*s.* to 30*s.* per week, equal to $6 to $7.20; men spinners, 15*s.* to 18*s.* per week, equal to $3.60 to $4.32; women spinners, 10*s.* to 12*s.* per week, equal to $2.40 to $2.88.

Weaving: Foremen or timers, 30*s.* per week, equal to $7.20; men weavers, 15*s.* to 18*s.* per week, equal to $3.60 to $4.32; women weavers, 10*s.* to 12*s.* per week, equal to $2.40 to $2.88.

Washers: First man, 20*s.* per week, equal to $4.80; second man, and so on to 12*s.* per week, equal to $3.36 to $2.88.

Tulling mill: Foreman, 30*s.* per week, equal to $7.20; assistants, 10*s.* to 15*s.* per week, equal to $3.40 to $3.60.

Gigging-house: Foreman, 24*s.* to 30*s.* per week, equal to $5.76 to $7.20; men, 15*s.* per week, equal to $3.60; boys, 8*s.* per week, equal to $1.92.

Culler-shop: Foreman, 25*s.* to 30*s.* per week, equal to $6 to $7.20: men, 15*s.* per week, equal to $3.60; boys, 8*s.* to 10*s.* per week, equal to $1.92 to $2.40.

Inking and burling: Women and girls, 7*s.* to 8*s.* per week, equal to $1.68 to $1.92; skilled menders and pickers, 8*s.* to 14*s.* per week, equal to $1.92 to $3.36.

Dye-house: Foreman, 30*s.* to 40*s.* per week, equal to $7.20 to $9.60; men, 15*s.* per week, equal to $3.60.

Pressing: First man, 25*s.* per week, equal to $6.; assistants, 14*s.* to 18*s.*, equal to $3.36 to $4.32.

These are rough but correct statements of wages paid to-day, and are the average wages in the west of England.

The difference between the manufacturer's price and the price to consumer is considerably more than you imagine. We supply merchants and woolen drapers and these must be large wholesale men.

They keep travelers, or what you call drummers, who call on every tailor and small draper in the kingdom. This brings the price of cloth by the time it reaches the consumer to an additional 20 to 25 per cent. and oftentimes more. In finest goods it is more. These middlemen keep large and extensive business establishments and you will not be far wrong if as a rule you add 25 per cent. to the manufacturer's price to come out of the consumers.

The writer of the letter just quoted from I am advised is a gentleman of high standing and that his statements are entirely reliable. According to his statement Australian wools rate in the English market from 30 to 56 cents per pound, while American wools rate in the New York market from 31 to 45.

In Consular Report No. 18, page 518, the prices of wool in Bedford, England, January, 1882, are as follows:

Merinos: Washed, 32 to 48 cents and 32 to 60 cents; greasy, 18 to 24 cents and 20 to 32 cents; making an average of 53 cents and 23¼ per pound.

Cross breeds: Greasy, 11 to 14, and 36 to 44; greasy 16 to 19, and 24 to 34.

The average prices of wool in Texas do not exceed for six months' clips 22 cents per pound, and for 12 months from 28 to 30 cents per pound. Whatever the true difference in the prices of the same character of wool may be between the home and the foreign market, I am confident the price of American wool is not increased to the amount of the tariff levied on foreign wool. As to clothing and combing wools of like kind and quality the American price does not exceed the foreign more than from 5 to 6 cents per pound—about 8 cents per pound less than the amount of the duty. The average price of wool, it would appear, for the first three years under the high tariff of 1867 exceeded the price under the low tariff of 1857 only five-sixths of a cent per pound, and that for thirteen years, under the tariff of 1867, the average price of American wool exceeded the price under the tariff of 1857 by 4½ cents per pound, according to the Spofford table, and 3 cents by the Springer table.

Total amount of wool imported since 1867, 912,508,794 pounds; total duty collected on the same, $62,189,027.72. First and second classes of total import, estimated to be about one-third, 304,169,598

pounds; total duty on same, first and second classes, say from 12 to 14 cents per pound, estimated to be about $39,000,000.

Admitting that the effect of the tariff has been to increase the price of wool from 4 to 6 cents per pound, which is disputed, since 1867 there would be of the duties collected to be credited to the wool interest $24,000,000, and chargeable $15,000,000, showing a balance in favor of the wool industry of $9,000,000, and establishing wools imported of the first and second classes even, to be a revenue-paying article to the advantage of the Government and the country generally. The present tariff on these classes of wool pays into the Treasury at the rate of about 8 cents per pound, as appears over and above any increase of the cost of wool added by the tariff duty, while the low tariff of 1857 only paid about 6 or 6½ cents per pound.

It would seem that since 1824, excluding the period of the late war, for over fifty years there have been from time to time fluctuations in prices, but no great changes in the general average price of wools in this country, but a slight and gradual increase. May not this gradual increase in the price of wool be attributable more to the improved quality of our wools, to the increased cost of living and labor, and to the increased demand for manufacturing purposes and for consumption, than to the effect of our tariff laws?

I find no warrant for the assertion that the price of wool generally is materially decreasing either in this country or in Europe. The third class, or coarse wools, principally used in making carpets, are not grown in this country to any considerable extent. Ninety per cent. of our carpet wools are of foreign production, and therefore are almost wholly revenue-paying articles. They may also be classed among luxuries, and therefore should be subjected to a maximum duty for revenue. It is the rich and "well to do" who mainly use carpets, and I see no reason why they should be relieved of this burden, which to the amount of several millions annually goes toward the support of the Government and the payment of the public debt.

EFFECT OF THE TARIFF.

Aside from yielding the revenue derived from these coarse wools the duty is a safeguard to our wool-growers in preventing our markets from being flooded and overstocked with the coarse, dirty, and inferior wools of South America, Turkey, Asia, Africa, and other coarse-wool growing countries, which, if admitted free, would to a considerable extent in manufactures of an inferior and undesirable quality take the place of our finer, better, and stronger wools, to the great injury of our wool interest. About two-thirds of the wool now imported into this country is of the character just stated. From all the information I have been able to obtain, and from the thoughtful study I have given this question, in my candid judgment the benefits derived from a tariff on imported wools are not so much in increasing the price of our wools by preventing a healthy competition, if it does increase the price at all, which is seriously denied by many (besides the reason just stated as to coarse wools), as in giving our wool-growers a steady and reliable market and in preventing sudden influxes or extraordinary shipments of wools from foreign countries, which would greatly cripple if not injure this at present prosperous, important, and growing industry.

Whether or not the tariff of 1867 has contributed in any degree toward the prosperity of the great wool-growing industry of the United States, it is a significant fact that it gave confidence and cheer to our wool-growers and encouraged many to engage in the business, and that since that time sheep husbandry in the United States has continued to prosper. It is believed that any reduction in the tariff on wool may endanger the prosperity of, if not prove disastrous to, that industry, especially in the States where the sheep must be fed on hay and small grain and sheltered for from three to five months in the year. Notwithstanding the advantages of the present tariff, the wool-growers in the States last referred to, in consequence of the sharp competition forced upon them by the importers of foreign wools, are doubtful whether or not they will be able to continue this business much longer. They watch with great anxiety the action of Congress as to the tariff revision, believing that a material reduction of the present duty on wool will force them at a great sacrifice to abandon their enterprise of wool-growing. I grant that the sheep-raisers of Texas do not run an equal risk of losses by a reduction of the tariff on wool as those in the Eastern and Middle and in some of the Western States; but they are also greatly alarmed at the proposed reduction of the present tariff on wool, believing that it will greatly cripple their enterprise and may make it unprofitable.

It must be borne in mind that the United States afford our wool-growers their only market for the sale of wool, while for our beef and pork and farm products Europe besides the United States furnishes a ready market.

Without the safeguards and protection which a tariff for revenue gives to this industry, can it, under free trade, stand or survive the unequal foreign competition? The answer is at least problematical.

In all Europe, Asia, Africa, North and South America the number of sheep is estimated at about 600,000,000; in the United States (1880) about 42,500,000. Total wool production of the world, estimated, 2,000,000,000 pounds; of the United States, 300,000,000 pounds. Total amount shipped from Australia in 1881, 329,000,000 pounds; exceeding our whole wool product by 29,000,000 pounds. About one-fourth of the wool consumed in the United States is imported—in 1882, 67,861,744 pounds, averaging annually about 60,000,000 pounds.

England, with her seven Australasian colonies, far outrivals the United States in the great industry of sheep husbandry. In England proper, including Ireland and Scotland, the sheep in 1880 numbered about 35,000,000; in the Australasian colonies, about 75,000,000; in Canada, about 2,000,000; total, 112,000,000.

Australia, in the production of wool, both as to rapid increase and quality, is taking the lead of every other country. Some of the Australasian colonies have superior advantages as to soil, climate, grasses, and water combined over any other country in the raising of sheep and in the production of wool, particularly New Zealand. The climate is mild and even, the land rich, producing fine grasses, capable of maintaining, without culture or cutting, from five to seven large sheep on one acre a whole year, while in Texas, Colorado, and New Mexico it requires nearly as many acres—estimated from three to five acres—to furnish the necessary food in the native grasses and herbs for one sheep an entire year; and no covering or sheltering is required for the protection of the sheep in those English colonies. The country is well watered. Artesian pipes are driven into the ground from fifty to one hundred feet, and pure water gushes forth in the greatest abundance. Some owners have as many as 212,000 sheep on a single run, the runs averaging from 5,000 to 12,000 acres.

Hon. Robert Campbell sheared there in 1881, 363,000 sheep; Mr. Allen McLane sheared there in 1881, 516,000 sheep.

It is not only important to understand that at present the greater portion of the sheep of the United States must be hand-fed and housed or provided with shed covering for several months in the year, but that they are raised upon farms worth from $25 to $100 per acre. It must be evident that the sheep-raisers of this character can not compete in a free market with the fine-wool growers of Australia or Buenos Ayres, where lands and labor are cheap and the climate and grasses are well adapted to the extensive and successful growing of wool at low prices.

It is true that during the past fifteen years the sheep-growing sections of this country have been rapidly changing from the Eastern, Middle, and Western States to California, the Northwestern States and Territories, and to Texas, by reason of their superior advantages over the old States for wool-growing in cheap lands and mild climate. But in connection with this fact it should be noted that the lands of the States and Territories to which this industry is being transferred are rapidly increasing in value, that provisions and labor are becoming more expensive, and many of these new lands will soon have to be fenced. All these are important items to be considered in the determination of the tariff question.

We are told by some that the tariff does not increase the price of wool or in any manner benefit the wool-grower, that it only adds to the burdens of the consumer by increasing the price of his clothing. It is even insisted that past experience has demonstrated that wool in this country brings a higher price under a very low than under a high tariff.

It is also contended by some of our manufacturers, and was so represented by Mr. William Whitman before the Tariff Commission, that "no foreign wools compete with our medium combing and clothing wools which are grown largely in the United States." (See note, page 2437, Tariff Commission Report, volume 2.)

If that in fact, or logically, be true, let me ask how and wherein a tariff on wool adds to the burdens of the consumer or injures any one?

If it does not, or it is shown that wool under the present tariff is a proper revenue-paying article, I submit that the present tariff on wool should not be disturbed, and that that great industry, under the fostering care of incidental protection within a tariff for revenue, should be left unharmed to continue its increasing prosperity and adding wealth, comfort, and greatness to our glorious country.

SHEEP HUSBANDRY OF OLD.

Mr. J. B. Killebrew, of Tennessee, in his late work on Sheep Husbandry, reminds us in some beautiful and touching allusions that the sheep is the first animal spoken of in the Bible as kept by man; that Abel found favor in the sight of God by offering up the firstlings of his flocks; that Abraham, the father of the Jews, was a shepherd; that Rachel, the beautiful daughter of Laban and the mother of Joseph, attended her father's flocks; that Jacob was a wealthy shepherd; that Moses, the great lawgiver, attended the flocks of Jethro; that David, the sweet singer of Israel, the greatest king of the Jews, kept his father's sheep; that the coming of the Saviour, who is called the Lamb of God, was first made known to the shepherds; that kings and princes prided themselves in the number and vastness of their flocks; that the shepherds watching their flocks were made the theme of some of the sweetest pastoral songs; that the Asiatics raised sheep principally for food; that the ancients used sheep-skins as clothing for their bodies and as shoes for their feet, and, after the fig-leaves, were among the first things used by man to cover his nakedness and protect him from the cold of winter. Job, whom the Lord answered out of the whirlwind, the greatest of all the men of the East, who was perfect and upright, feared God and eschewed evil, had 7,000 sheep.

Dating back to the earliest history of man, and having been signally recognized by the Angels from Heaven as the first to whom they appeared and announced the "glad tidings of great joy," and selected of all men

as the chosen instruments to proclaim to a "fallen world" the glorious news of the birth of Christ the Redeemer, may we not regard the shepherds, the keepers of sheep, with peculiar favor, and their calling, if not sacred, at least as deserving of "incidental protection?"

Sheep were first introduced into the American Colonies in 1609, at Jamestown, Virginia. To prevent them from destruction by wolves and Indians required the greatest care. The growth of sheep in the Colonies was deemed of the greatest importance and made a subject of special encouragement and solicitude. On the 14th of May, 1645, the general court of Massachusetts declared its desire that, "having an eye to the good of posterity," "all towns in general and every one in particular will endeavor the preservation and increase of such sheep as they have already, as also to procure more with all convenient speed into the several towns by all such lawful ways and means as God shall put into their hands."

To protect sheep from being destroyed a premium of £4 was offered for every wolf's head. In 1657 the Assembly of Virginia prohibited the exportation of sheep, and in 1762 ordered that no wool should be exported under a penalty of fifty pounds of tobacco for every pound of wool exported. In 1774 the General Congress passed resolutions requesting the people to use their utmost endeavors to improve the breed and increase the number of sheep, killing as few as possible and not exporting any. In 1775 the Assembly of Pennsylvania recommended the people to abstain from eating and the butchers from the killing of sheep. In 1774 the Congress of Deputies which met at Annapolis resolved to encourage the breeding of sheep and to promote the manufacture of wool. Likewise did the Provincial Congress of Massachusetts in the same year, as well as the Convention of Virginia in the year following. At this early date we find the American Colonies encouraging and fostering the growing of wool and woolen manufactures.

I set up no plea of "infant industry" in behalf of this interest. It was born at the creation "when the morning stars sang together and all the sons of God shouted for joy," but rather as an industry venerable for its patriarchal and sacred antiquity—handed down from the "fathers of old" to the "fathers of the American Colonies," and by them transmitted to us, deserving of our filial fostering care, conveniently denominated the "American system" of "incidental protection."

Congressional Library.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 26, 1883,

On the motion to suspend the rules and pass the bill (H. R. 3843) authorizing the construction of a building for the accommodation of the Congressional Library.

Mr. WHEELER said:

Mr. SPEAKER: When the motion was made to suspend the rules so as to take up the Library bill for consideration I voted against it, for the reason, chiefly, that the site of the building was not designated, but left to a commission instructed to locate the building somewhere on Government property. I am not willing to this; and upon further examination of this subject I am the more convinced of the unadvisability of so leaving this most important question. It should not be left to the discretion of any commission; neither should it be restricted to Government grounds.

I am in favor of a separate library building, commensurate with the growing demands of this great people, to be projected and commenced at once upon a scale, as to dimensions and proportions, as large as the present and prospective conditions and necessities of the library may authorize and require.

From the best information I can get upon inquiry, I do not believe that there is a piece of ground now belonging to the Government within reasonable reach of this Capitol in this District, not otherwise appropriated or occupied, fit for the site of this new library building. For I maintain that the building should be conveniently contiguous to the Capitol, and not placed afar off out of the reach of the Senators and Representatives for ready examination, easy and quick references. Neither should it be put upon low grounds, nor in marshy or foggy bottoms, as it might be if left to a commission; and I am advised that most of the Government ground not otherwise occupied, employed, or devoted, or intended to be devoted, lies in low, marshy, and foggy bottoms, some of it subject to overflow and consequent mildew and dampness, elements the most mischievous and destructive to books, papers, and charts. Such a location should be the very last to be selected for library purposes.

This new building should be on high ground, contiguous to the Capitol, and such is the site recommended to us by the bill from the Senate, east of the Capitol, suited for many reasons, not the least of which is its requisite dimensions; for, as I propose to show, this library building, to be at all equal to the demands of the country, should not be confined to a small lot of ground nor jammed in a corner. But before I go into this question of locality I call attention to other very material considerations.

GLOOMY CONDITION OF THE PRESENT SITUATION OF THE LIBRARY INTERNALLY.

Mr. Speaker, this new library building is one of the absolute necessities of the nation. It is no time now to make an elaborate argument. This want is universally admitted, and its pressing necessity may be best illustrated and demonstrated by a visit to and an observation of the condition of the present library apartments. But before visiting the locality let us take a glimpse of the situation through Mr. Spofford's glasses. Mr. Spofford in his last report says:

The enumeration has been attended with greatly increased difficulties, owing to the rapidly growing embarrassments in counting books and other publications, which can not be accommodated upon shelves. Upward of 130,000 volumes are now necessarily stored in heaps in various rooms connected with the Library, or are placed in double rows. The daily increasing obstacles to the proper administration of the Library service have now reached a point which actually obstructs the prompt supply of books and information to both Houses of Congress, to the courts and Departments, to the many scientific bureaus of the Government, and to the public, who resort in increasing numbers to the Capitol to make use of the rich repository of authorities in the Library. To render these collections in the highest degree useful it is absolutely necessary that adequate room should be provided in a building planned and specially constructed for the purpose. To render them measurably useless no surer method could be devised than the attempt to crowd half a million of books into quarters plainly inadequate for the proper arrangement and classification of half that number.

These observations of the learned Librarian show to a great extent the present condition of the Library; but the demonstration would be more satisfactory by a visitation, for whoever attempts this visitation will find that it is extremely difficult to get through the intricate and labyrinthine aisles of the Library departments—so choked up they are with mountain piles of literary lumber. Few of us are at leisure just now to penetrate into its mysterious recesses. Therefore, in order to relieve the members of this House from the tedious labor necessary to make this visit of observation, I take the liberty to lay before the House an exact description of an ancient library, and beg the House to take this as a miniature picture of the present Congressional Library of the United States.

MAGLIABECHI'S LIBRARY.

Magliabechi was a distinguished collector of books. An authentic literary history gives us concerning him and his library the following items:

Heymen, a celebrated Dutch professor, visited this erudite librarian who was considered as an ornament to Florence. He found him among his books, of which the number was prodigious. Two or three rooms in the first story were crowded with them, not only along their sides but piled in heaps on the floor so that it was difficult to sit and more to walk. A narrow space was contrived indeed, so that by walking sideways you might extricate yourself from one room to another. This was not all. The passage below stairs was full of books, and the staircase from the top to the bottom was lined with books. When you reached the second story you saw with astonishment three rooms similar to those below equally full, so crowded that two good beds in these chambers were also crammed with books.

Such is the graphic description of Magliabechi's library. If any man here wishes to see the library above described on a somewhat grander scale he has only to call at Mr. Spofford's great lumber-house of literature.

Now, there is some excuse for Magliabechi. He had a perfect right to keep his library as he pleased. It was his private property. Every man, in private matters, is entitled to his taste. But besides this he must have been a poor man, his books perhaps his only or at least his chief possession. It is said of him that—

He ate on his books, slept on his books, and quitted them as rarely as possible. A little bread, a few eggs, and some water was his ordinary food. His dress equally denoted his disposition and his poverty. A black doublet which descended to his knees; large, long breeches, an old, patched black coat, a hat very much worn and ragged at the edges; a large neck-cloth of coarse stuff and smeared with snuff; a dirty shirt which he always wore as long as it lasted; and to finish this inventory, a pair of ruffles which did not belong to the shirt.

This picture of the keeper of this old library is by no means a reflex on our accomplished Librarian; and it is here given only to show that it was the poverty of the man that prevented him from preparing proper accommodations for his books. I will not say that Mr. Spofford "eats on his books;" but it would be no scandal to suppose that like this learned antiquarian "he sleeps on his books." Perhaps the fact that he sleeps on his books may account for his very intimate acquaintance with them.

Now, it is further said of Magliabechi—and this description fits Mr. Spofford admirably well:

This apparent confusion did not, however, hinder Magliabechi from immediately finding the books he wanted. He knew them all so well that even to the least of them it was sufficient to see its outside to say what it was.

It was Magliabechi's poverty that caused him to leave his books in the condition we have described. The Government of the United States can not set up that as an excuse. Magliabechi's books were his own private property, and he had a right to have them as he pleased. The

Government of the United States dare not say this. I assert that the books in the Congressional Library are the people's books. The Congress is their trusted custodian, and is in duty bound to take proper care of them and to provide for them adequate apartments, or else to be visited with censure for the violation of a most sacred trust.

With the amazing increase of books I propose to present some considerations as to the size and architecture of the projected building. On this subject I submit some observations.

The rapid accumulation of books since the discovery or invention of the art of printing is amazing. A curious bibliognoste in 1816 made a calculation and found that up to that time in Europe there were in print 3,641,960 works. Upon this he remarks:

Taking each work, on an average, to consist of three volumes, and reckoning each impression at 300 copies, which is too little, the actual amount from the presses in Europe will give [1816] 32,776,410 volumes, each of which being an inch thick, if placed in a line would cover 6,096 leagues!

Now, it is reasonable to conclude that if in 1816 there were 3,641,960 works in print, the number of works would be double that in twenty-five years, so that in 1841 there were 7,283,980; in 1866 there were 14,567,960; in 1883 there are 21,851,940 works. This is not by any means an overestimate, as will hereafter appear in these observations.

Now, Mr. Speaker, it is not easy to conceive how much shelf-room it would require to accommodate such a library as that.

THE RAPID GROWTH OF OUR NATIONAL LIBRARY.

From Mr. Spofford's last report I take the following table:

The aggregate of the collections in the Library now numbers 480,076 volumes, besides about 160,000 pamphlets. At the date of the last enumeration, one year ago, the number of books in the Library was 420,092, besides about 145,000 pamphlets. The law department of the Library now numbers 57,233 volumes, included in the above aggregate, being an increase of 4,642 volumes in the law library.

The entire additions to the collections during 1882 embrace 59,984 volumes of books and 27,310 pamphlets, which were acquired from the following sources:

	Books.	Pamphlets.
From purchases	11,160	1,242
From copyright	12,297	9,845
From deposit by the Smithsonian Institution	2,310	3,352
From donations	6,712	325
From exchanges	460	343
Toner collection (presented to the Government)	27,045	12,000
Total	59,984	27,310

From this table it appears that the increase for the last year in books and pamphlets is 87,294. With this proportion of annual increase this Library would more than double itself in eight years. Now, for the sake of even numbers and to give more force to the figures, I will assume that this library, at present 600,000, will in ten years have accumulated to 1,200,000; that would be cutting off 40,000 in the calculation as to volumes, and also shortening by two years of the period of duplication.

Taking, then, as a basis that the Library doubles itself every decade, in 1903 we have of volumes 2,400,000; in 1913, 4,800,000; in 1923, 9,600,000; in 1933, just fifty years, 19,200,000.

It would be absolutely frightful to continue this calculation up to 1983, one hundred years. So we will look forward only fifty years. If the present accommodations are totally unequal to the exigencies of 600,000 volumes, as is self-evident, where are we to find space for 19,000,000 of volumes?

ACCUMULATION OF COPYRIGHTED BOOKS ALONE.

From Mr. Spofford's last report I take the following table:

There has been a steady increase in the business of the copyright department during the year. The whole number of copyright entries in the office of the Librarian was 22,918, being an increase of 1,843 publications entered for copyright beyond those of the preceding year.

The following is a statement of the special classes of publications, with the number of each entered for copyright in 1882:

Number of articles entered in 1882.

Books	7,828
Periodicals	4,612
Dramatic compositions	458
Musical compositions	6,143
Photographs	684
Chromos and engravings	1,760
Maps and charts	847
Prints	27
Designs	502
Paintings	50
Drawings	7
Total	22,918

Now, judging from the past, our population duplicates itself every twenty-five years. If we have 50,000,000 now we must have 100,000,000 in 1908.

Book-making is a craft, and the book-makers increase in proportion as the population grows. Then if 50,000,000 of population furnish 22,000 books as copyrighted books, 100,000,000 must furnish 44,000. Taking this as a basis, in 1908 we have for that year alone 44,000; in 1933, 88,000; in 1968, 176,000; in 1983, 352,000.

In order to find the aggregate accumulation of copyrighted books for one hundred years embracing the annual accumulations, we will take the half of 352,000, that is, 176,000, and multiply it by 100, which gives us of copyrighted books alone in 1983, 17,600,000. In this annual growth of our Library it will appear from Mr. Spofford's reports that the copyrighted books are less, on an average, than one-third of the whole; so that adding the books purchased and otherwise acquired by the Library in its annual growth to 17,600,000 of copyrighted books, in 1983 you have of volumes 52,800,000.

Now, sir, it is difficult to conceive the existence of such a mass of books. It would be preposterous for this Congress now to attempt to plan, or even imagine the plan, of an edifice containing the space they would occupy. But if you cut down the figures to one-fourth you still have 13,200,000 volumes; and the British library, which now covers eight acres of ground—three times the inside space of this capitol—has not more within its space than nine or perhaps ten millions of volumes.

SIZE, ARCHITECTURE, AND DIMENSIONS OF THE BRITISH LIBRARY.

The buildings occupied by the British Museum library cover eight acres of ground [just the dimensions of the proposed eastern site]. This Capitol covers, I believe, three and a half acres. Then, it appears that this British library, in buildings, occupies more than twice the space of this Capitol; and yet some men talk of finding room for the library within this building!

I take it for granted that this British library, with all its space, is now crowded. It has always been crowded; its history is the very best illustration of how a great nation can crowd things at home, when at the same time they do not allow themselves to be crowded abroad.

Now, this British library, as I am advised, is scattered over and among houses not all built or put together originally for the purposes of a library, but selected and adapted from year to year and from century to century, as the growing exigencies of the library might demand. As a matter of course it has neither beauty of architecture nor convenience of arrangement. It is a huge conglomerate heap, made up of many small piles of brick and mortar, wood and plaster, stone and marble, as accident and circumstance may have occasioned, and as the buildings happening to be adjacent may have been rearranged and adapted—old storehouses, old warehouses, old hotels, inns and temples; old theaters, and some old church edifices reconstructed, perhaps, in certain ways. These, it would appear, constitute to a certain extent the buildings of the British Museum library, as it covers its eight acres of ground. It must be a most unsightly mass to one whose eye is finely educated in the beauties of architecture.

Now, Mr. Speaker, let us profit by the blundering experience of the British, for they blundered because they did not then know or dream of the pending growth of their library—facts that we do know. Let us, I say, profit by this, and so begin our contemplated structure on a scale of dimensions and proportions at least—if not of grandeur—commensurate with the magnitude of the uses to which it is to be applied.

THE GROUND THE CHIEF OBJECT OF INTEREST.

We are now grown wise in book-craft, and if we blunder we will be without excuse.

Let us begin this building, not to be carried to its completion in a year, nor in twenty years, nor even in fifty years, but let us build for all time. But before we begin to lay our foundations we must have adequate space. If your plan is perfect you may be centuries at the work without disturbing the architectural harmonies of the design. It required three hundred years to bring Saint Peter's at Rome to its present state of magnificent incompleteness, and yet in all that time the harmony of the grand original plan has never been disturbed.

As an apt illustration of the development of American genius, and to show how this great American man demands elbow-room, as he exerts his ever-active brain power in sweeping along his career in this (to him) apparently very short life, I refer you to your own Patent Office.

PROBABLE INADEQUACY OF THE PATENT OFFICE FOR ITS USES.

This is really a grand structure. It was built for all time, and the original building, the central part—only about one-fourth of it as it now stands—was thought a wonderful edifice. So it was. It was supposed then to be adequate to the wants of a century. What a mistake! It now covers two entire blocks of ground, and though it is not yet half a century old, it is even now crowded! If 50,000,000 of people have crowded the Patent Office, as they grew up in less than half a century, what will be the demands of 800,000,000?

POST-OFFICE DEPARTMENT AND ITS GREAT BRIDGE.

The Post-Office building is another grand edifice, covering one entire block of ground, erected on a magnificent scale as to dimensions, and is really a splendid piece of tasteful architecture. But the demands of that Department have so grown that it has become necessary to connect it with adjacent buildings, and it is worth a visit of observation to the curious traveler to go and note how cunningly these Post-Office people can expedite their business over a bridge! It is very possible that this idea of the bridge over a street is borrowed from the British library buildings.

THE CONGRESSIONAL BOOK FACTORY.

In speaking of the accumulation of American books in this our day and generation I have made no reference to Uncle Sam's great literary

emporium—the Congress of the United States. Not to mention this would be a mistake in me, especially as I am attempting to account for the marvelous growth of American libraries. The honest truth is that in addition to our other important labors it would seem that one element in our business here is the manufacture of books. By day and by night we are turning out books. We dream books, we speak books, and we preach books. If I were to put up a table of figures exhibiting the annual manufacture of books by Congress, mankind would be amazed; but not wishing to take the world by storm I will confine my estimates to one single book—certainly a most useful one—

THE CONGRESSIONAL RECORD,

and leave the rest to the imagination.

We print now over 10,000 copies of this work for each Congress—perhaps many more—but I shall confine myself to 10,000 copies as the basis of my calculations.

Now, if 50,000,000 of people in 1883 require 10,000 copies of the CONGRESSIONAL RECORD, what will 800,000,000 require in 1983?

The answer is—for one year only—160,000. Now to ascertain the aggregate accumulation of RECORDS for the century, up to 1983, we multiply 80,000 by 50 (inasmuch as we furnish the RECORD biennially) and we have of CONGRESSIONAL RECORDS accumulated for the century 4,000,000.

Each copy of a complete RECORD measures about two cubic feet, so that in building materials we have of the RECORD 8,000,000 cubic feet.

Now suppose we build an edifice out of these blocks of books, in the manner of laying bricks or stone, one upon the other. We can hardly conceive the immensity of the structure.

In the presence of such a pile, the old pyramid of Egypt would hide its diminished head. In height it would out-Babel Babel; and Mount Blanc, celebrated by the poet as being the

Monarch of mountains,

would have to strip off his purple robes of royal magnificence and submit to subside into mediocrity, while the song and the shout would be:

Mount Books is the monarch of mountains.

A HOUSE OF VAST DIMENSIONS.

I think I have said enough to prove that it will require a house of vast dimensions to accommodate this American National Library. Certainly the propriety of collecting a great library for this great nation is no longer an open question. Wisdom is wealth, and every good book is equivalent to a wise head—the head may die, but the book may live forever.

The man Homer, the man Demosthenes, the man Plato, the man Burke, the man Clay, and the man Webster may die, but their books will live forever.

PUBLIC EXPENDITURES.

The wise economist, when he invests his money, wishes first to be safe. There is no safer investment, for a private or a public man, than books. A good book, in the hands of a studious and ambitious boy, is better for him than money at interest in a bank.

We are throwing off millions of money daily. Many of these millions go down into the waters of oblivion. We have millions of money for rivers and harbors; let us make one safe investment for books. We can do this by laying the foundation of this contemplated structure so deep and solid that it will endure for all time and still subserve the holy purposes for which it was erected.

You give millions of money for a great ship of war; that is a public necessity. No patriot complains at the cost. Yet that ship is a thing of frailty, and goes upon the waters with its doom written in advance, "*in gurgite vasto.*" It may or it may not make a history and save a state; but history or no history, its end is inevitable—to be buried in the deep or to rot in a dock. The millions that built it are gone forever, and there is absolutely nothing left of it but its name and the history of its cruises.

Not so with a great temple whose foundation is upon a solid rock, and whose materials are of imperishable substance. Old Cheops lives in every slab that, inch by inch, rears the colossal pyramid. Nor winds, nor rains, nor storms, nor wars can move it from its base. There stands the original investment. Give us,—not such a temple as that, to be forever shrouded in impenetrable mystery,—but give a grand, solid, colossal structure, within whose marble arms we may safely hope to see, still preserved, in 1983, 17,000,000 of copyrighted American books.

I have counted our population for an hundred years in advance. That seems to be a long time, yet there are men living to-day who breathed the breath of life an hundred years ago. This is over the ordinary, allotted period of life, but it is no stretch of probability to say that in 1983 there may be men living whose fathers now form a part of this Congress. And as we now look forward at the figured prospects of that day and speculate as to what may then be, so they with equal curiosity may recall the statistics of 1883 with as much amazement at the retrospect as we feel in the prospect.

NATIONAL MAGNANIMITY OF THE PEOPLE.

The magnanimity of the American people is such that they applaud instead of condemning judicious expenditures of the public money. As they abhor reckless wastefulness, so they admire judicious investments, either for public good or the national grandeur. Let no man fear his constituents in voting for this Library building. The love of learning is deeply seated in the American heart; and the young and the old in all the quarters of the nation will heartily indorse this tribute to science and learning.

I hope this Congress will be impressed with the necessity of giving this important subject the consideration it should command, and that before the completion of its present duties it will make a proper provision for this long-neglected need of the country.

The Tariff.

REMARKS
OF
HON. RANDALL L. GIBSON,
OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883.

The House having under consideration in Committee of the Whole on the state of the Union the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes—

Mr. GIBSON said:

Mr. CHAIRMAN: The sugar industry in Louisiana was the offspring of the war of 1812. In order to meet the burdens put upon the country by that war a tariff rate of 5 cents per pound was imposed by the Government upon imported common sugar and 18 cents a pound upon refined sugar. From that time until 1846 the rate upon the lowest grade of sugar never fell below 2½ cents a pound, and upon the higher grade 5 cents a pound. In the year 1846 the Robert J. Walker tariff was adopted and 30 per cent. ad valorem was imposed upon all the protected industries of the United States. In 1857 24 per cent. ad valorem was imposed upon all the protected industries. Under the protective policy of the tariff of 1816 capital and labor entered into this industry, and, notwithstanding the Robert J. Walker tariff, until 1861 more than 50 per cent. of the sugar consumed in this country was produced in the State of Louisiana—a rapid and unprecedented development of an industry originating in and maintained by the fiscal policy of the Government.

We know the history of legislation since 1860. From 1862 to 1870, in order to meet the obligations of the Government, to maintain its credit, 3 cents a pound was levied on the very lowest grade of sugar and 4 cents on the higher grade. That was the war rate—3 cents a pound. Gentlemen talk about the present tariff on sugar being a war tariff. It is not true. I hope never to hear this incorrect and misleading statement made to this House. Three cents a pound was imposed upon the commonest sugar by the Federal Government during the civil war. But in 1870, five years after the close of the war, the rate was reduced to 1¾ cents upon the commonest article of sugar, and in March, 1875, the duty was advanced 25 per cent., and to-day the rate on the commonest article of sugar is 2.18 cents per pound.

I repeat, the rate under all the tariffs prior to the free-trade policy of Robert J. Walker was never below 2.50 cents; that during the late civil war it was 3 cents per pound; that in 1870 it was reduced to 1.75 cents per pound; and that in 1875 it was raised to 2.18 cents per pound upon the commonest article of sugar; that is, on sugar not above No. 7 Dutch standard.

The Tariff Commission proposed to reduce this to 1.50, and so it stood until their final session when the Ways and Means Committee of this House, ascertaining that they had not made sufficient reduction of the revenues, cut down the rate on sugar from 1.50 as proposed by the commission to 1.25. This was rendered necessary in order to keep up the rates upon glass, iron, wool, and cotton manufactures.

Why was no proportionate reduction made by the Ways and Means Committee upon these protected articles? More than half of the entire reduction of all the revenues of the Government it is proposed by the committee to be borne by the single article of sugar, and yet this is the only article that at the present time has already been reduced from the war rates which the committee insist shall still be maintained for the most part upon all manufactures of wool, iron, and cotton, and earthenware and other necessaries of life.

I wish the Committee of the Whole to observe a very important fact, namely, that the cost of the production of all common sugars, all sugars below No. 13 Dutch standard, is the same. It requires the same machinery, the same labor, the same land and climate, the same apparatus to make all sugars under No. 13, however much their market price may now differ. The differences in price are created by the discriminations of our tariff and the refiners who have changed their machinery to profit by the tariff.

Hence, from the foundation of the Government until 1870 but two grades were recognized in sugar, the common and refined, for these may

be said to be the natural distinctions, while the others are created artificially. So that from 1789 until 1870 the same rate of duty was laid upon all common sugar, and this rate was never lower than 2½ cents a pound until 1870, when it was reduced from 3 cents to 1.75, and it stands to-day at 2.18 cents per pound. I hope gentlemen will not overlook these facts when discussing the tariff.

But, sir, we have had this question before Congress at every session for many years. How have the revenue reformers dealt with it?

In the Wood tariff bill, reported to the Forty-fifth Congress, the duty on the lowest grade of sugar was laid at 2.30.

In the special bill, reported from the Ways and Means after the failure of the Wood bill, to regulate the duties on sugar, which I may call the "Robbins bill," for it was reported from the committee by Mr. Robbins, a distinguished revenue reformer, the rate was laid at 2.40. And again, in the Forty-sixth Congress, the whole subject was thoroughly discussed in the Ways and Means Committee, and a bill was agreed upon by Messrs. Garfield, FRYE, TUCKER, CARLISLE, and MORRISON and GIBSON, and it was reported through Mr. TUCKER to this House with a report which the late President Garfield declared was the most philosophical and satisfactory he had ever read. The rate levied on the commonest article of sugar was 2.18, just where it is in the existing tariff. The only changes made were in the higher grades fit for consumption. These were reduced with the hope that the consumer might be able to buy some sugars imported direct and not through the refiners.

The present tariff on sugar and the tariff proposed by the Committee on Ways and Means, while reducing the rates on the common article so low as to afford the labor and capital engaged in the production of sugar wholly inadequate protection against slave and cooly labor, takes care to afford the refiners the highest possible protection, in fact, to continue the prohibitory rates upon all sugars fit for consumption and to secure to the refiners an absolute monopoly of the American market.

Why is it that the revenue reformers are more friendly to the sugar interests of Louisiana than the protectionists for the sake of protection? I can not state their position better than to borrow the language of the distinguished gentleman from Illinois [Mr. MORRISON]. He said last session:

> The whole increase in cost to the consumer resulting from the tariff, which on sugar and molasses is largely a revenue tariff, was $48,820,418, which was so divided that the Treasury received $7.51 of revenue while the planter received $1 of bounty. The requirements of the Government neither demand nor justify the collection of such a tax on sugar, an article so generally used by all classes. The duty ought to be largely reduced; but it would be little less than a crime to reduce this duty which gives the Treasury $7 to $1 in bounty while we retain duties which give $7 in bounty and but $1 to the Treasury.

These are the sentiments of a statesman who grasps the principles of political economy and has the courage to insist upon their application in the true interest of the people.

We are willing to make a reduction; we are willing to have this tax reduced from 3 cents, the war rate, not to 2.18 only, the rate established ten years after the war, the present rate, but we are willing to accept 1.50 or even 1.40, an unprecedented reduction. But what are you willing to do, you gentlemen who represent wool and woolen goods, coats and blankets and socks and shoes, the absolute necessities of the poor; and you gentleman who represent iron and the manufactures thereof and cotton goods and glass and earthen ware? Do you yield to the demands of the consumers? No, you have in many instances raised the rates and piled up the burdens upon the shivering poor, raising the rates upon clothing and blankets and plates and saucers and even the window-panes of their humble dwellings. The ad valorem rates you now propose are over 60 per cent. upon some woolen goods, over 45 on some cotton goods, over 75 on glass goods, over 65 on earthen-ware, and as high as 75 on some iron goods, and over 50 on common spool thread.

Mr. Chairman, the revenue from sugar was not only the mainstay of the Federal Government in the second war of independence as well as during the civil war, but it is the mainstay of the revenues of every civilized government except one on the face of the earth; and the tariff on sugar to-day in the United States is lower than it is in France or Germany or the Netherlands. It is 5.73 a pound on the lowest grade in France, 3.33 in the Netherlands, 3.25 in Germany, 4.20 in Belgium, according to the official tables. But gentlemen insist that this industry to-day is insignificant. I admit, sir, that under the strokes of the civil war production fell from 250,000 tons to 5,000 tons. There is no part of this land which suffered so much as the sugar region in Louisiana during the civil strife. The garden spot of that State was made a scene of desolation, because, in addition to fire and sword, there came the floods, and the accumulations of many generations were swept away forever, almost in the twinkle of the eye.

The CHAIRMAN. The gentleman's time has expired.

Mr. KASSON. I will take the floor and yield my time to the gentleman from Louisiana [Mr. GIBSON].

Mr. GIBSON. I am obliged to the gentleman from Iowa.

Now, Mr. Chairman, instead of 3 cents a pound or 2½ cents a pound or the Robert J. Walker tariff of 30 per. cent. ad valorem, which gave us our machinery and all we consumed, our hats, our clothing, our boots, our shoes, and everything we consumed, at 30 per cent. ad valorem, we have had 1.75 cents only a pound from 1870 to 1875 on the lowest grade and only 2.18 since then.

I submit if it is reasonable to expect that a people who had been exhausted by civil contentions and whose whole social system was shattered and revolutionized should in a few years recover and keep step with the progressive developments of rich, prosperous, and homogeneous and triumphant communities? But already there is $100,000,000 invested in this industry and more than half a million people engaged in its pursuit. I beg gentlemen to remark how unequal the tariff system has been applied since 1870, and how largely this industry has been discriminated against, and how steadily the rates have been reduced upon it, and how largely the importations have increased and the consequent revenues; while the rates have been steadily maintained upon iron and wool and cotton and all the other protected and bountied manufactures. Reduce the rates upon them as you have and propose again to do upon sugar and see how the revenues will increase. But even under this unfriendly policy to the producers, inaugurated to afford a monopoly to the refiners, and really adverse to the consumers, instead of one-tenth, as stated by the gentleman from Indiana [Mr. BROWNE], fully one-sixth of the sugar consumed in this country during the past year was produced in Louisiana, although there was a loss of one-third or one-fourth of the crop by the floods last spring.

There are not less than a million and a half acres ready for the plow and adapted to the cultivation of cane in Louisiana. Not wild lands, but a million and a half acres that in a few years might be converted into broad fields of waving cane if you would give them protection, or even the Robert J. Walker tariff on everything, for our compensation under this system would be in an increase of consumption and in getting all we consume at a lower price. The purchasing power of our sugar would be greater.

Do you gentlemen from New England and from Pennsylvania and Ohio, who constitute almost the majority of the Committee on Ways and Means, who framed this bill, intend that all you produce shall be protected at the highest rates and all you consume shall be free? Is that your doctrine? Can you afford to stand on so narrow a platform and expect the people of this country to commit its destinies to your keeping? Will the sacrifice of Louisiana meet the demand for reduction of taxation? I warn my friend [Mr. CANDLER] from New England, who is seeking here to apply the ad valorem system to the other end of the continent—25 per cent. for the producer in Louisiana and 35 per cent. for the refiner in Boston——

Mr. CANDLER. I should like to ask the gentleman a question. I say the refiners have but 10 per cent., and you charge them 25 per cent. on the raw material. All we ask is 10 per cent. protection.

Mr. GIBSON. There is no raw material in this thing. I wish to say to the gentleman the pig-iron, the iron ore, here is the sugar-cane. We ask no protection on the raw material; but the lowest grades of sugar require immense capital to produce them, costly apparatus, and they are in no sense raw material. It is a question with the Cuban planter whether he boils his sugar to one grade or another. There is no raw material in it. The lower grades of sugar may be lifted in Boston as cheaply as in Cuba to the higher grades, and no differences of protection are needed and none have ever been given in the history of the country. The same ad valorem should apply to all.

After the emancipation of slavery in Jamaica and the other English possessions in 1834 $100,000,000 was voted the planters; and when the question was presented to the English Parliament whether there should be discrimination in favor of free sugar and against slave sugar, there was no hesitation in determining it. I wish gentlemen would read the debate—Hansard's Parliamentary Debates—I hold in my hand upon this subject. I should like to read the ringing words of Thomas Clarkson, the great leader of the Emancipation party in England. I should like to read from Gladstone, whose father was a sugar planter, when he insisted on discriminating in favor of the free sugars of Jamaica. I should like to read from Disraeli and from Lord Brougham and Hume and Peel and Bentinck, if my time permitted. They all united in the establishment of differential duties between foreign produce reared by manacled and fettered hands, and the produce of their colonies—the industry of freemen. They declared that if there was any conscience in emancipation they must discriminate; that the relation between Jamaica free and Cuba slave lifted the question out of the domain of political economy into the higher plane of morality. What did the great Irish orator Daniel O'Connell say?

The CHAIRMAN. The gentleman's time has expired.

Mr. CANDLER. I will take the floor and yield my time to my colleague.

Mr. GIBSON. I thank my colleague. What did the Irish orator O'Connell say?

Mr. BAYNE. I do not object to the gentleman going on, but I want to say that those who are opposed to putting a duty on sugar desire to be heard.

Mr. TUCKER. They will have full time to be heard.

Mr. BROWNE. I do not want to object; but I hope, when my friend from Louisiana has concluded, opportunity will be given to the gentleman from Virginia [Mr. TUCKER] and the gentleman from Kentucky [Mr. CARLISLE] to oppose this amendment. [Laughter.]

Mr. GIBSON. I hope, sir, that the gentleman from old Virginia and the gentleman from Kentucky will be heard. But if they are heard I

think they will be heard speaking in the language of Gladstone and Robert Peel, and in the language of all the great statesmen and leaders who have illustrated the annals of British history, and of the veteran gentleman from Pennsylvania [Mr. KELLEY].

Mr. CALKINS. Let me ask the gentleman a question.

Mr. GIBSON. I would like very much for the gentleman from Indiana to give me his attention while I read the remarks of O'Connell:

The question, he said, is cheap sugar with slavery or dearer sugar without it. It is nothing else than the repetition of the children's fable—the large loaf and the father's curse upon it. It is a farce to propose to let in the sugar of Cuba and of Brazil and at the same time to continue emancipation in Jamaica.

Sir, the gentleman from Indiana [Mr. CALKINS] said that he was in favor "of stopping the gap" between the free labor of the United States and the oppressed labor of England, Germany, and France. But where is the gentleman found when it is proposed now "to stop the gap" between slave labor abroad and his own countrymen, the poor, benighted freed people that are holding up their hands in appeal to this House not to sacrifice them to the degrading and cruel competition of the slave and the cooly in the tropics, not to deprive them by this raid upon their industry of their hard-earned competency and the opportunity to fit themselves to discharge intelligently and with fidelity the duties of American citizenship? What is the response?

Will not the gentleman from Indiana, always so fair, aid us to erect or rather to maintain a barrier against the product of slave labor, and that labor that is the most cruel form of oppression the ingenuity of man has ever devised—I mean cooly labor? We will keep the cooly out of California, but admit the productions of his labor from the Pacific Islands free, to oppress and overwhelm our own countrymen engaged in the sugar culture. We will keep peonage out of our own country, but by a treaty build up a vast industry in Mexico to compete with our own countrymen in sugar, an industry of peons and Chinese to be imported. We stood by California in her contest for free and educated and Christian labor. I know my candid and distinguished colleague [Mr. PAGE] will stand by Louisiana now.

I will say to the gentleman from Massachusetts, beware how you touch the system of equality as between the States in their burdens and privileges. I have seen at the wharf at the port of New Orleans freights offered under the British flag for one-half of what they were offered under the American flag to convey our produce to the Eastern seaports, but the navigation act, passed in the interest of New England, compelled us to ship every pound of sugar and molasses on New England bottoms. What a bounty to our friends in the East!

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. WASHBURN. If I can be recognized I will yield the floor to the gentleman from Louisiana.

Mr. BROWNE. Oh, well; let us have something like an equal chance.

The CHAIRMAN. Is there objection to the suggestion of the gentleman from Minnesota, that he yield his time to the gentleman from Louisiana?

Mr. BRIGGS. I object.

The CHAIRMAN. The gentleman from New Hampshire objects. [Cries of "Oh, no!"]

Mr. BRIGGS. I think we have had enough of this debate already.

Mr. CALKINS. Then I will take the floor for the purpose of asking a question for information in my own time, and I think the gentleman will not withhold the information now, inasmuch as I can not yield to him all of the time allotted to me under the objection which has been made. I want to know what the cost is, if he can give the information, of producing sugar in Cuba under the present system in comparison with the cost in this country?

Mr. GIBSON. I was about to come to that.

Mr. CALKINS. I will yield so much of my time as is necessary to enable the gentleman to answer that question.

Mr. GIBSON. I have a statement, and as this is the business attitude of the question I will dwell upon it somewhat in detail. I have here a statement made by the Committee on Ways and Means of the Forty-sixth Congress; and I think perhaps I will not violate any of the proprieties in saying it was made by a sub-committee of which General Garfield was a member. He said it was the most philosophical and satisfactory treatment of the sugar question that he had ever seen. I will say it was made by my friend from Virginia [Mr. TUCKER]. I will therefore state, because this discussion is all idle unless we know exactly what the unit of value is, this in response to the inquiry of the gentleman from Indiana——

Mr. CALKINS. That is exactly what I want to know, because if I can know what that is then I will be able to determine how we can regulate the duty upon it.

Mr. GIBSON. It costs to make melada in the producing countries, as shown by an investigation of the matter for eleven years, 3.3 cents; it costs to make No. 7 sugar, 3.9; it costs 4.5—but I will publish this table in my remarks and quote also from the report of the Committee on Ways and Means of the last Congress:

By evidence before the committee, as well as from the report of the late Professor Henry, the test of average saccharine strength of sugar naturally of No. 7 and under, by color, is 82°. One authority places it as high as 84°. But, comparing this with the test of the superior classes, the committee felt justified in providing that any sugar of No. 7 and under by Dutch standard testing over 85° of strength should be dutiable in the next highest class.

The committee thought that, as the refining sugars now were dutiable at specific rates nearly equivalent to about 50 per cent. ad valorem, and as the refined sugars are at a rate ranging up to 61, 64, and 68 per cent. ad valorem, the reduction of duties on the distributive or consumable sugars above 13 to a specific duty equivalent to 50 per cent. ad valorem would secure against fraud, give ample revenue, reduce prices of the consumable sugars to the people, and settle this much-vexed question on fair terms to all parties.

The committee will now compare the present and proposed rates of duty on the various classes:

Per 100 pounds.	Melada.	No. 7 and under.	No. 10 and under.	No. 13 and under.	No. 16 and under.	No. 20 and under.	Per cent.
Present	1.87½	2.18¾	2.50	2.81¼	3.43¾	4.06¼	5
Proposed	1.87½	2.18¾	2.50	2.50	2.81	3.17	3.67

There were alternative propositions to this bill, proposed as a substitute therefor, of an ad valorem duty of 50, 45, and 40 per cent., and also for a reduction of specific duty to an equivalent of these lower rates. These were rejected in committee.

Another proposition was made to put the same duty on all sugars of No. 43 Dutch standard and under. The objection to this, which had many advocates, was that thus the same duty was imposed on sugars ranging from 3 cents up to 6 cents per pound. This was a flagrant departure from the ad valorem principle.

The committee, therefore, report the accompanying bill to the House with a favorable recommendation.

Prices verified by Bureau of Statistics.

Date.	Melada.	No. 7 and under.	No. 10 and under.	No. 13 and under.	No. 16 and under.	No. 20 and under.	Over 20.
1871	.035	.045	.050	.053	.061	.066	.064
1872	.041	.048	.053	.057	.063	.065	.074
1873	.042	.048	.054	.058	.064	.068	.068
1874	.046	.046	.050	.053	.059	.064	.070
1875	.034	.040	.044	.048	.054	.063	.069
1876	.035	.038	.042	.043½	.052	.057	.080
1877	.039	.049	.049	.049	.049	.067	.079
1878	.038	.048	.054	.057	.050	.063	.078
1879	.030	.041	.041	.046	.053	.057	.078
Total 9 years	.334	.403	.437	.464½	.505	.570	.660
Average	.037⅛	.044⅞	.048⅝	.051⅝	.056⅛	.063⅓	.073⅓
Present rates of duty	1.87½	2.18¾	2.50	2.81¼	3.43¾	4.06¼	5.00
Equivalent ad valorem.	50½%	48.7%	51.4%	54.4%	61.2%	64.1%	68.1%
Average, 1871 to 1879	.037⅛	.044⅞	.048⅝	.051⅝	.056⅛	.063⅓	.073⅓
Average, 1880	.0307	.038	.043	.045½	.050	.071	.0829
Average, 1881 to 1882	.033	.037	.046	.047	.046	.062	.082
Average for 11 years	.033	.039⅔	.045⅔	.048	.050⅔	.065⅓	.079

Mr. BRUMM. Where is the gentleman referring to?

Mr. GIBSON. In Cuba. It costs between 5 and 5.5 cents to make it in Louisiana——

Mr. CALKINS. And about 3.5 in Cuba?

Mr. GIBSON. Yes; between 3 and 4 in Cuba.

Mr. CALKINS. Now I want to ask the gentleman from Louisiana another question: whether or not the sugar-planter in Louisiana or the laborer that works in the field wants a higher tariff than that which closes up the difference between the two?

Mr. GIBSON. The price of labor in Cuba and in the countries which produce the sugar that competes with ours is 25 cents a day. The price we pay for labor on the sugar plantations in Louisiana is about a dollar a day.

Mr. CALKINS. Now, what will be the difference so as to put the sugars of those other countries and the sugars of Louisiana in the market exactly on an equality?

Mr. GIBSON. I think we should have a protection of about 50 per cent. ad valorem or 2½ cents a pound upon all sugars below 13, and 3½ on all above.

Mr. CALKINS. That is on sugars below 13 Dutch standard?

Mr. GIBSON. On all sugars. This is the rate, you will observe from the report and bill presented in the last Congress, allowed by the Ways and Means Committee after a full hearing.

I think the refiners should have an equal protection, so that the rates should be uniform and just to all.

Some gentlemen have contended that sugar is a perishing product in Louisiana. They are in error. The sugar-plant has become acclimated and yields nearly twice as much to the acre in Louisiana as in Cuba.

Mr. CALKINS. I want this information if the gentleman can give it: I want to know if in his calculation he includes simply the price of labor, or whether he includes the price of lands, the difference in cli-

mate, the difference in the cost of machinery, and the like; whether his estimate of 45 per cent. ad valorem covers all this or only the price of labor.

Mr. GIBSON. I spoke of the difference in the price of labor. Seventy per cent. of every pound of every ton of sugar represents labor.

Gentlemen can readily ascertain the true and exact ad valorem rates on sugar, say, No. 7, worth, according to the above table, about 4 cents per pound, with the tariff at 1.25, or 1.40, or at 1.50. Instead of 50 per cent. ad valorem, it will be seen the rate is much lower. Some of the imprudent agents and attorneys of the refiners have sought to make it appear, in conflict with these carefully prepared tables, that the cost of production of these very No. 7 sugars, the lowest grade, is not over 2 or 2½ cents a pound, with the view to influence the action of Congress and to force down the tariff on common sugar, and at the same time to secure prohibitory rates upon the refined grades.

Mr. David A. Wells estimated the value of foreign sugars as follows:

Raw—Cost per pound in producing country.

	Cents.
Melada	3
No. 7	3.5
No. 10	4
No. 13	4.5

It will be observed that Mr. Wells puts the lowest grade of sugar, No. 7, at 3.50 per pound. It will not do now for the purposes of this legislation to throw aside values established by the Ways and Means Committee of the House and verified by the Departments, or to ignore the estimates of Mr. Wells in a paper prepared by him at the request of the refiners themselves and in their interest. We may safely assume that these estimates are correct.

The gentleman from Massachusetts [Mr. CANDLER], my colleague in committee and for whom I entertain the most cordial respect, would have us believe that labor is dearer in Cuba than in Louisiana, and that therefore the discrimination is not necessary, or at all events it should be slight. What is the condition of Cuba? The last census, that of 1880, shows the population to be—whites, 980,066; colored, 485,397; Asiatics, 43,228; total, 1,508,761. The statistics show that the Asiatics or Chinese are all males and that they are steadily increasing by importation—I will not say by immigration. And as under our policy the Sandwich Islands have swarmed with coolies, chained to the cupidity of the sugar-planters, so I predict that under the same policy about to be applied by the dominant party in this country in order to build up and foster great manufacturing monopolies at the expense of the consumers and the producers in our own country, you will see cooly labor, the severest form of slavery, thoroughly and widely established in Mexico and Cuba, in all the southern islands, as a substitute for African slavery.

Sir, civil war in Cuba began with the proclamation of Yara in 1868, and was ended by the treaty made by the captain-general, Martinez Campos, a statesman and soldier of equal humanity, firmness, and moderation, in 1878. One of the results of this rebellion, which was partly against slavery and partly against the oppressions and exactions of Spain, was the declaration for emancipation by the Spanish Cortes, which received the royal signature on February 13, 1880. For slavery was substituted a patronate, which is to continue nine years from May 8, 1880, when the legal tie of enforced labor is to be dissolved, unless longer provided for by law. Under this patronate, which may be bought and sold in the open market, and which is in fact but another name for slavery, the patron or master is obliged to pay to the laborers $3 per month wages, and to find food and clothing; but he may dock their wages for absence or neglect, and he may even inflict corporal punishment with the assent of the local magistrate.

Now, sir, this is the law and it will not do for gentlemen to institute a comparison between such a system and that which prevails in the Southern States of this Union. I sympathize with the people of Cuba and I applaud the growing liberality of the Spanish Government. But what is the present policy of that Government toward the people of this country? It is one of rigid exclusion. An immense burden, a debt of one hundred and fifty millions, rests upon Cuba, and a costly civil and military establishment weighs upon the energies of the ever-faithful isle. Hence the moment you reduce the tariff on sugar the export tax has been increased and you can not and you will not cheapen the price of sugar to the consumers in our country. The difference of reduction, whether it be eleven or twenty millions, instead of going into our own Treasury will go into the treasury of Spain and the price of sugar will remain the same, controlled by the law of supply and demand.

The export duty was only $3 a hogshead, but when you reduced the rate on sugar it was increased and it is now $6 a hogshead. The tax on cigars was 75 cents per thousand; is now $2.25. There is also a tax of 10 per cent. upon the net yield of each plantation. Notwithstanding the free-trade policy of England nineteen-twentieths of the crops are imported into the United States and consumed here and these enormous export taxes increase as you diminish the tariff on sugar and, *vice versa*, are really levied upon and paid by the consumers of this country into the coffers of the Spanish treasury. But while everything produced in the island and imported into this country is thus ladened with taxation, what is the policy with regard to the productions of this country that might go into Cuba for consumption by the people there? It is one of absolute prohibition. The Cuban sells all he raises to us, but is permitted to buy little or nothing from us. I quote from a distinguished American who recently visited the island. Mr. Dana says:

> But where he sells his crop, he naturally looks for his supplies; yet the Spanish colonial monopoly comes in to prevent his buying in this convenient and natural market, or to compel him, when he buys there, to do so under the oppression of enormous and almost intolerable duties. For instance—I give the figures from an official copy of the tariff of 1873; but the rates on many articles have since been made higher—while Spanish flour imported into Cuba in a Spanish vessel pays $2.25 a barrel import duty, American flour in an American vessel pays $5.50. Spanish lard pays 2 cents and three-quarters a kilogramme; American lard 14½ cents. Spanish cheese pays 3 cents and seven-twentieths per kilogramme; American cheese, 11 cents and four-fifths. From Spain, household furniture pays 9 cents per kilogramme; from the United States, 32 cents. Corned beef from Spain pays seven-tenths of a cent; from America, 8 cents and seven-twentieths. Salt fish from Spain pays seven-tenths of a cent; from America 2 cents and nine-twentieths. Window-glass from Spain pays 1 cent and three-tenths; from America, 4 cents and seven-twentieths. A carriage with four wheels and four seats from Spain pays $72 duty; from America, $256; and so on through a tariff as minute and almost as extensive as human ingenuity is able to devise.

The very latest report issued from the office of the State Department during the present year shows that the total imports from the Spanish West Indies is $66,864,000, and exports to the Spanish West Indies, $13,128,000. Are you prepared as American statesmen to adopt a policy that shall intensify and consolidate this odious colonial system, resting like a blight upon one of the fairest islands in all the seas? Will you join hands with Spain in the attempt to establish the baleful cooly system, or even a modified form of African slavery, encourage the productions of these forms of human contrivance, in the vain and futile attempt to reduce the price of sugar and discriminate against your own countrymen in Louisiana who are endeavoring to build up their disordered society, to establish free schools, to erect churches, to elevate and reward and dignify labor and the laborer?

According to the report of the Sugar Planters' Association the sugar and molasses produced the last year in Louisiana were worth in the open market $25,000,000, and had an interchangeable value of fifty millions. This industry offers a market for the machinery, farming utensils, all the manufactured goods from the North and the mules, horses, live stock, wheat and corn and meat, the food crop from the West, an interstate trade that promises to reach enormous proportions, to retain at home the eighty millions in gold, paid out of the country every year for imported sugar to people who buy little or nothing from us, to afford steady and profitable employment for millions of our countrymen, and to render this nation in peace and in war independent of British or Spanish colonial dependencies for its supply of an article of necessary food for our whole people. Such a trade Great Britain would go to war to gain or retain.

But I say to gentlemen as long as Spain fastens her rigid colonial policy upon Cuba you can not, if you would, discriminate against Louisiana in favor of Cuba. You can only discriminate against our own and in favor of the treasury of Spain. Louisiana will find her protection in this blind policy and in the energies and sagacity of her own people, in spite of your efforts to reduce her free laborers to the level of slaves and coolies.

Mr. Chairman, while I would myself have preferred the old-fashioned tariff, the schedule that prevailed, as I have before said, from the establishment of our first tariff in 1789 until 1870, with one rate upon all common sugar and another upon all refined sugar, I am willing in a spirit of fair adjustment to accept the tariff proposed either by the Committee on Ways and Means through Mr. TUCKER to the Forty-sixth Congress, or that proposed by the Tariff Commission to the present Congress. I well recollect that in the winter of 1879, when I had the honor to serve on the Ways and Means Committee, the honorable gentleman [Mr. CANDLER] who has so ably addressed the Committee of the Whole then appeared before the Ways and Means Committee to present a memorial containing resolutions adopted by the importers, refiners, and dealers in sugar in Boston, signed by sixty-six firms. I beg leave to insert the memorial and call attention to it:

BOSTON, *January* 30, 1879.

At an adjourned meeting of the importers, refiners, and dealers in sugar, held this day, the following resolution was unanimously adopted:

"*Resolved*, That the duties on sugar should be assessed by a graduated scale of specific rates, adjusted as nearly as possible to the ad valorem principle, and that this can be done by the use of the polariscope better than in any other way. Its general use in buying and selling in all civilized countries proves that it is less complicated and more reliable than any other method of determining the actual value of sugar."

* * * * * * *

JOHN W. CANDLER, *Chairman*.
WM. H. GREELY, *Secretary*.

This was the first introduction of the polariscope. It is the plan now proposed. It is the Boston plan brought here by the honorable gentleman from Boston, and yet he now disowns and repudiates it. Instead of this plan he now urges us to adopt an ad valorem tariff upon all sugars, but insists that while the rate should be only 35 per cent. on common sugar it should be 45 per cent. on refined sugar, upon the ground that the refiners require a higher degree of protection against the British refiners, 3,000 miles from our markets, than the Louisiana planters against the Cuban producers, quite as near to the centers of trade and consumption in our own country—nearer to Boston than Louisiana and with cheaper freights.

In the first place, such a discrimination would be both unprecedented and unjust, and would create, or rather uphold, the existing monopoly of the refiners.

When the ad valorem system was adopted in this country, from 1846 to 1861, the same rate—30 per cent. to 1857, and after that 24 per cent. until 1861—was applied to all sugars, common and fine alike. The ad valorem rises with increased price in an ever-ascending ratio; 30 per cent. ad valorem on common sugars, worth say 4 cents per pound, would be 1.20 cents a pound, but on sugars worth 8 cents it would be 2.40 cents, double as much on the refined as on the unrefined sugars. Is not that enough? Is not that fair and just? Will nothing less than prohibition satisfy the refiners, nothing short of a monopoly of the American market? Shall all sugars fit to eat be banished from the commerce of our country in order to satisfy the handful of refiners whose work is mainly done by machinery? Such a policy can not possess a table foundation, for it violates all our notions of the fitness of things and of the freedom of trade and commerce. No article of necessity should be thus eliminated from the field of commercial enterprise or denied admission to the consumers who may desire to purchase it.

But, Mr. Chairman, I call to witness against the gentleman [Mr. CANDLER] the gentleman himself. For at the very time of which I have been speaking, the gentleman [Mr. CANDLER] declared before the Committee on Ways and Means—

We can manufacture sugars from No. 10 Dutch standard up at less than they can be made in any other country.

Mr. Spaulding, of Boston, said:

We refine cheaper than in any other country. The refiners of the United States do not ask protection. If you repeal all duties we can supply the world.

Mr. Theodore Havemeyer, of New York, who must be accepted as a high authority both on account of his success, his intelligence, and character, and wide experience, declared:

Refineries can give a cheaper refined article than it can be imported at.

Mr. David A. Wells said:

Refined sugars can be sold here cheaper than anywhere else.

Mr. Perot said:

The producer abroad can not manufacture high-grade sugars as cheaply as they can be manufactured here.

These gentlemen are competent judges and witnesses. They can not be contradicted.

But while I might be disposed to adopt the ad valorem as the universal principle upon which to base a tariff system, it would be grossly unjust to apply it to one article only. In the first place, it would open the door to frauds innumerable and keep the sugar trade in constant ferment, while above all things stability is desired. How easy it would be (as has been done) for the planters to establish commission-houses in New York and to make up their own invoices of value on their own plantations and consign the sugar to their own agents in New York? These would be the controlling evidences of the cost of production upon which the value of the sugar would be determined.

Then, again, this system would afford the Louisiana industry high protection against Cuba when prices were high, when no protection would be needed, and afford little or no protection when prices were low and when protection would be required, if required at all. When sugar is worth 3 cents per pound with the tariff at 30 per cent. the tariff would only be ninety-hundredths of a cent per pound, but when the price of the same sugar was 6 cents per pound the tariff would be 1.80, just double.

The compensation to the producer of anything when the price of his produce is low is that everything else is low in price also, and the ad valorem system while it cheapens the produce of one tends to cheapen the produce of all, and thus the benefits or disadvantages are equalized and made uniform.

Mr. Chairman, gentlemen have sought to create throughout the country a vast amount of prejudice against the tax on sugar, and these efforts are put forth seriously by the representatives of industries that claim the highest rates of taxation and impose the heaviest burdens upon the people of the country. The statement has been made that the cost of sugar per capita and to every household is as great as the cost of flour, of bread. No statement could be more false and delusive. I find by reference to the regulations for the Army that a daily ration of flour or soft bread is eighteen ounces, while fifteen pounds of sugar are allowed to every one hundred rations of flour, showing that the proportion of sugar to bread or flour is as fifteen is to one hundred. If we adopt 4 cents per pound as the average price of flour, or of equivalent breadstuffs, which is a low estimate, and one pound as the average daily consumption, we have three hundred and sixty-five days—$14.60. While the average retail price of sugar is 10 cents per pound—the Louisiana crop does not average 5½ cents per pound—the cost of sugar per capita is about $4 per annum, the consumption being, as I have shown, forty pounds per capita every year.

The fact is sugar is not an absolute necessity to the poor; but blankets and clothes are. In winter many a poor man would dispense and does dispense with sugar entirely in order to save up from month to month little by little his hard-earned wages to pay the additional tax your tariff imposes upon the blankets with which to cover the limbs of his little ones, articles are doubled in price by the tariff. And while gentlemen are commiserating the poor man because his cup of sugar costs him the twentieth of a cent more, an infinitesimal amount, incapable of being reckoned in our money, they do not hesitate to tax the cup itself, so as to double its price, and the plain dishes and saucers, knives, and spoons upon his table, as well as the coat on his back and the shawl on his wife's and the spools of thread in her lap. There is not an article the price of which is so little affected by the tariff as sugar or one on which the duty is so easily collected or which affords so certain a revenue and so little a bounty.

The consumption in our country, owing to its cheapness and the general prosperity, is rapidly increasing. It is already over forty pounds per capita, and I venture to say to the people of Louisiana that they will find in the widely expanding American markets and in more economical methods and better machinery and by raising as much as possible of what they consume, a safer foundation for their industry than the uncertain policy of this Government, controlled, as it may too often be, by more powerful interests ready at any time to sacrifice one another in order to gain greater advantages and larger bounties. The consumption is greater at present in England, over sixty pounds per capita, but it must be borne in mind that sugars from the distant East, half dirt, are often imported in ballast and fed to cattle, and that immense quantities are also consumed in making beer and in manufactures; but, after making allowances for these differences, I find a margin in the home markets yet to be filled. With peace and prosperity the total consumption in this country will double in the next decade at the present rate, for there will be also a great increase of population.

Our political situation is settled and improving, our laborers becoming more helpful and intelligent; better systems of cultivation and manufacture are coming into use, and our lands are unsurpassed in fertility, while the countries competing with us are depending upon a form of labor that must sooner or later involve their whole social organization in serious disorders and losses. No party can long maintain itself which proposes to establish or support by bounties out of the common treasury of the people of our country, either in the Hawaiian Islands or in Mexico or in Cuba, the cooly system of slavery. They will be condemned by the moral sentiment of the people of this country, who will demand that whenever the treaties of this Government extend special bounties the principles of free labor and of political liberty shall be recognized, and any alliance between the manufacturers of this country and the slave-owners or cooly-owners of the tropics will surely bring discredit and losses to both. If sugar is to come in free from Mexico or the Hawaiian Islands let all grades come in, so that the consumers may be benefited, and do not attempt while imposing all the burdens upon the planters to limit the benefits to the refiners alone by excluding the sugars really fit for consumption. Let us have fair play.

Support of Common Schools—A National System of Compulsory Education.

SPEECH

OF

HON. WILLIAM R. MOORE,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, February 28, 1883,

On the bill (H. R. 6158) to aid in the support of common schools.

Mr. MOORE said:

Mr. SPEAKER: Whether we shall educate, even imperfectly, the prodigious masses of dense ignorance now located in many States of our American Union—notably in the late slave States—or whether we shall permit these ignorant and unlettered masses, already provided (wisely or unwisely) with the high prerogative of the freeman's ballot, to dangerously shape and mold the legislation of a great nation like ours of which we are in the habit of so loudly boasting, is a question so vast in its bearings that no man can fully estimate its ultimate importance. I shall therefore, without undertaking to occupy the valuable time of this House in making extended argument, merely content myself with announcing my approval of the present bill in its general scope and purposes.

It is not contended, I believe, even by its supporters, that its provisions comprehend all that the friends of education desire; I am sure that it is not by any means what my own views would suggest. I, however, occupy more advanced ground than many upon the subject of American education. If in my power, I would, in brief, inaugurate a purely national system of compulsory education, to be placed and held exclusively under the national control, with a national series of primary text-books, in which the national idea should be kept always at the front. The late national arbitrament—the arbitrament of the sword—the last and highest mode of arbitration known to nations and

to mankind, decided, if it decided anything, that this is a nation, a single supreme sovereignty, and not, as our Bourbon "State-rights" friends so ardently advocate, an agglomeration of petty sovereignties. I would have our primary text-books written in harmony with this high decision, and our children taught to acquiesce in it.

As it is to-day there are localities in our land where this decision is ignored; where children are being daily taught to antagonize the national sentiment; where the vicious and dangerous heresy is taught that the State is greater than the nation, of which it is only a very inconsiderable part, and where teachers deem it to be their first duty to inculcate in the schools under their charge local political theories wholly at variance with the idea of the future integrity and stability of this great nation. I would prohibit all this by a well-regulated national law. While, therefore, I shall vote for this bill, I shall do so only because I may consider it to be a step in the direction of promoting that intelligence which is now so urgently demanded in many portions of our common country, and which can only be hoped for through the wise and generous intervention of a beneficent national and paternal Government.

Let not any part of this grand Republic, no matter how seemingly safe, rest in fancied security while other portions of it are being dominated by the twin sisters of illiteracy and superstition. All are but parts of one stupendous whole, and it were worse than folly to even hope for a healthy body-politic while its legs and arms are being insidiously poisoned by the deadly upas tree of ignorance.

While under the provisions of this bill the late slave States may, if so inclined, receive the larger share of the benefits to be conferred by it, the other States are none the less interested in its provisions. What is good for one in this case is good for all. It will enable especially the negro race in the United States to become comparatively intelligent and educated, and if their education shall have, as it is believed it will, the effect to jostle its million and a quarter voters into the ranks of both political parties instead of substantially only into one of them as now, this single result alone would be a sufficient argument for the passage of the bill, to say nothing of the higher reason that it would tend powerfully to strengthen the safety and stability of our noble and free institutions.

No thoughtful man can contemplate without alarm under our form of government the solid and undivided permanent vote of a whole race of people for a particular political party; and any legislation tending, as this inevitably must, to encourage among the people a free discussion and personal investigation of all questions affecting their political welfare, can not but in the very nature of things result in benefit to all the people of the whole nation. These, therefore, Mr. Speaker, are a few and only a few of the many reasons why I am heartily in favor of the passage of the pending bill.

River and Harbor Bill.

SPEECH

OF

HON. OSCAR TURNER,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, February 28, 1883.

The House, in Committee of the Whole on the state of the Union, having under consideration the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes, Mr. TURNER, of Kentucky, offered the following amendment:

After the word "dollars," in line 372, add "$50,000 of said $250,000 to be expended at the Grand Chain, or so much thereof as may be necessary to provide five feet of water at low-water mark."

Mr. TURNER, of Kentucky, said:

Mr. CHAIRMAN: Knowing the impatience of the committee to get through the consideration of this bill, I would not trespass upon their time if it were not that I regard the amendment which I have offered as of great importance to the commerce of the country. It is not local in its effects. It is to promote the navigation of not only the Ohio River, but the Cumberland and the Tennessee. I am opposed to expending the public money upon streams that are local and not of a national character and that do not benefit the commerce of the country, many of which have been included in river and harbor bills since I have been a member of Congress, and many of which are included in this bill, and some of which have been condemned by the Secretary of War in his late letter in response to the resolution of inquiry of this Congress in regard to the insignificant streams included in the last river and harbor bill, which excited the indignation of the tax-payers of the country and caused the veto of the President.

I am in favor of improving the great navigable rivers of the country that will give us cheap water transportation and break down the railroad monopolies, and for that reason I shall vote for the improvement of the Mississippi, Ohio, Cumberland, and other navigable rivers mentioned in this bill; but when it comes to voting for the improvement of the creeks mentioned in this bill, which are not navigable and which never will be, I shall vote against them, and if they are not stricken out I shall be compelled to vote against the bill on constitutional grounds.

I believe, sir, in the democratic doctrines in regard to internal improvement by the Federal Government, the doctrines laid down in the veto message of President Polk which has been referred to in this debate, and in the views entertained by General Jackson.

But, sir, the amendment which I offer is not subject to these objections. Let us look at it for a few moments, and I want the attention of those who are not familiar with the Ohio River. The Ohio River is of a national character; it bears the commerce of many great States; it is over 1,000 miles in length. The Grand Chain is a ledge of rocks in the Ohio River, beginning eighteen miles from its mouth and extending several miles up the river. It is below the mouth of the Tennessee and the Cumberland. This barrier, as I have stated before, locks up not only the commerce of the Ohio, but that of the Tennessee and Cumberland. Hundreds of boats and barges have been sunk on that ledge of rocks. Saint Louis, Louisville, Cincinnati, Evansville, Paducah, and all the cities on the Ohio and Cumberland are interested in removing this barrier or impediment to the navigation of the Ohio.

The farmers in the valleys of these rivers are forced to ship their produce in low water upon railroads that charge high and exorbitant freight, and have a deep interest in removing this barrier, and I hope yet to see the day when large boats can pass through this chain in low water. It is practicable to improve it, and it ought to be done. I have urged it upon Congress at every session. It is true we have had some appropriations for this purpose, but the work is not yet finished. Now, gentleman, look at this bill: only $250,000 are given by this bill for the improvement of the whole Ohio River, over eight hundred miles in length, and it is left discretionary with the engineers where they will spend this money.

We know, sir, that the improvement of the Davis Island Dam, six miles from Pittsburgh, has been for years the pet scheme of the engineers. Why I do not know; but we know it is so. At every session for five years the attempt has been made to swallow up the whole appropriation for the Ohio River, or nearly so, for that improvement near Pittsburgh, and I and other members have fought it time and again on this floor. In this bill, it is true, it is not said where this money shall be expended; but, sir, we have every reason to believe that it will go to Davis Island Dam. I do not want it left discretionary with the engineers; I want it to be imperative upon them to expend at least $50,000 this year toward the improvement at the Grand Chain; and I hope the amendment which I have offered will be adopted. I have urged upon Congress at every session the removal of this barrier. It is no wild project of speculation; it is practicable, and can be done. All that is necessary is to complete the dikes and blow out a channel.

Mr. Chairman, I shall append to my remarks the bill under consideration, for I desire that the country may see what its provisions are, and that I represent the bill fairly when I say it includes creeks and streams, local, insignificant, and of no benefit to the general commerce of the country. The bill will pass, but I can not indorse such appropriations by my vote, and I regret that the committee should tack on to appropriations for meritorious items such as the Mississippi, Ohio, Cumberland, and other great rivers useful to the people and commerce, such appropriations as the one to Cheesequake's Creek.

I will also append an extract from the letter of the Secretary of War in regard to Cheesequake's Creek, New Jersey, an item in the bill and a specimen of the character of the other items in this bill to which I have referred as local and insignificant. It is as follows:

IMPROVING CHEESEQUAKE'S CREEK, NEW JERSEY.

Continuing improvement $15,000

The purpose of this appropriation is to improve about three miles of creek by such dredging operations as will secure a navigable channel four feet deep and one hundred feet wide as far back as Whitehead.

The report of the Chief of Engineers shows that the original condition of the channel from the bar or jetty at the mouth gives a depth of one foot at mean low water for about three-fourths of the length to be improved, and for the remaining portion a depth of from four feet to one and one-half feet at low water. The course of the creek is very crooked and requires to be straightened.

The project is a change of the outlet into a direction at right angles to the beach, to sustain this direction by jetties of stone, and to straighten the course of the creek and increase its depth in the upper portions.

The official reports furnish no definite information as to the amount of commerce to be benefited.

Balance in Treasury July 1, 1882	$24,000
Appropriated act August 2, 1882	15,000
Drawn on requisition, July 1 to December 31, 1882	15,000

IMPROVING MATTAWAN CREEK, NEW JERSEY.

Continuing improvement $6,000

From the report of the local engineer it would appear that the object of this improvement is to increase local developments.

The present commerce is small, but he states that "by the proposed enlargement of the channel-way and increased facility for shipping goods it is computed that there would be a growth in the commerce of from one-third to one-half, and that a large portion of Monmouth County would be benefited. Manufacturers would also be induced to locate there, as inquiries have already been made as to whether the creek is easy of access by water."

Balance in Treasury July 1, 1882	$——
Appropriated act August 2, 1882	6,000
Drawn on requisition, July 1 to December 31, 1882	6,000

An act making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the Secretary of War, for the construction, completion, repair, and preservation of the public works hereinafter named:

Improving harbor at Portland, Maine: Continuing improvement, $15,000.
Improving harbor at Rockland, Maine: Continuing improvement, $20,000.
Improving harbor at Burlington, Vermont: Continuing improvement, $4,000.
Improving harbor at Nantucket, Massachusetts: Continuing improvement, $5,000.
Improving harbor at Newburyport, Massachusetts: Continuing improvement, $20,000.
Improving harbor at Plymouth, Massachusetts: Continuing improvement, $1,000.
Improving harbor at Provincetown, Massachusetts: Continuing improvement, $1,000.
Improving harbor at Wareham, Massachusetts: Continuing improvement, $4,000.
Improving harbor and breakwater at Block Island, Rhode Island, extending main breakwater to afford increased shelter, $10,000.
Improving Little Narragansett Bay, Rhode Island: Continuing improvement, $3,000.
Improving harbor at Newport, Rhode Island: Continuing improvement, $15,000.
Improving harbor at Bridgeport, Connecticut: Continuing improvement, $10,000.
Improving harbor at Milford, Connecticut; Continuing improvement, $3,000.
Breakwater at New Haven, Connecticut: Continuing construction, $50,000.
Improving harbor at New Haven, Connecticut: Continuing improvement, $8,000.
Improving harbor at New London, Connecticut: Continuing improvement, $3,000.
Improving harbor at Norwalk, Connecticut: Continuing improvement, $5,000.
Improving harbor at Stonington, Connecticut: Continuing improvement, $6,500.
Improving harbor at Buffalo, New York: Continuing improvement, $50,000.
Improving harbor at Ogdensburgh, New York: Continuing improvement, $12,000.
Improving harbor at Oswego, New York: Continuing improvement, $30,000.
Improving channel between Staten Island and New Jersey: Continuing improvement, $25,000.
Improving Raritan Bay, New Jersey: Continuing improvement, $20,000.
Improving harbor at Erie, Pennsylvania: Continuing improvement, $10,000.
Improving harbor at Delaware Breakwater, Delaware: Continuing improvement, $65,000.
Ice harbor at Marcus Hook, Pennsylvania: Continuing construction, $6,500.
Improving harbor at Wilmington, Delaware: Continuing improvement, $15,000.
Improving harbor at Baltimore, Maryland: Continuing operations for shortening and deepening the channel to twenty-seven feet at mean low water, $175,000.
Improving harbor at Breton Bay, Leonardtown, Maryland: Continuing improvement, $3,000.
Improving harbor at Charleston, including Sullivan's Island, South Carolina: Continuing improvement, $100,000.
Improving harbor at Georgetown, South Carolina: Continuing improvement, $3,000.
Improving harbor at Brunswick, Georgia: Continuing improvement, $6,500.
Improving harbor at Savannah, Georgia: Continuing improvement, $150,000.
Improving harbor at Pensacola, Florida: Continuing improvement, $25,000.
Improving Tampa Bay, Florida: Continuing improvement, $10,000.
Improving harbor and river at Mobile, Alabama: Continuing improvement, $100,000.
Improving Aransas Pass and Bay, Texas: Continuing improvement, $75,000.
Improving harbor at Brazos Santiago, Texas: Continuing improvement, $30,000.
Improving harbor at Galveston, Texas: Continuing improvement, $200,000.
Improving Passo Cavallo, Texas: Continuing improvement, $30,000.
Improving Sabine Pass, Texas: Continuing improvement, $75,000.
Improving harbor at Ashtabula, Ohio: Continuing improvement, $10,000.
Improving harbor at Black River, Ohio: Continuing improvement, $6,000.
Improving harbor at Cleveland, Ohio: Continuing improvement, $75,000.
Improving harbor of refuge near Cincinnati, Ohio: Continuing improvement, $17,000.
Improving harbor at Fairport, Ohio: Continuing improvement, $7,500.
Improving harbor at Huron, Ohio: Continuing improvement, $4,000.
Improving harbor at mouth of Muskingum River, Ohio: Continuing improvement, $20,000.
Improving harbor at Port Clinton, Ohio: Continuing improvement, $5,000.
Improving harbor at Sandusky city, Ohio: Continuing improvement and deepening channel to sixteen feet, $10,000.
Improving harbor at Toledo, Ohio: Continuing improvement, $25,000.
Improving harbor at Michigan city, Indiana: Continuing operations at outer harbor, $30,000.
Improving harbor at Calumet, Illinois: Continuing improvement, $50,000; $35,000 of which shall be expended for the improvement of the Calumet River in accordance with the recommendation of the board of engineers in their report dated October 6, 1882.
Improving harbor at Chicago, Illinois: Continuing improvement, $75,000.
Improving harbor at Waukegan, Illinois: Continuing improvement, $15,000.
Improving harbor at Au Sable, Michigan: Continuing improvement, $4,000.
Improving harbor at Black Lake, Michigan: Continuing improvement, $6,000.
Improving harbor at Charlevoix and entrance to Pine Lake, Michigan: Continuing improvement, $6,000.
Improving harbor at Cheboygan, Michigan: Continuing improvement, $8,000.
Improving harbor at Frankfort, Michigan: Continuing improvement, $10,000.
Improving harbor at Grand Haven, Michigan: Continuing improvement, $25,000.
Harbor of refuge at Lake Huron, Michigan: Continuing improvement, $25,000.
Improving harbor at Ludington, Michigan: Continuing improvement, $8,000.
Improving harbor at Manistee, Michigan: Continuing improvement, $10,000.
Improving harbor at Muskegon, Michigan: Continuing improvement, $15,000.
Improving harbor at Marquette, Michigan: Continuing improvement, $3,000.
Improving harbor at Ontonagon, Michigan: Continuing improvement, $15,000.
Improving harbor at Saugatuck, Michigan: Continuing improvement, $4,000.
Improving harbor at South Haven, Michigan: Continuing improvement, $8,000.
Improving harbor at White River, Michigan: Continuing improvement, $8,000.
Improving harbor at Ahnapee, Wisconsin: Continuing improvement, $8,000.
Improving harbor at Green Bay, Wisconsin: Continuing improvement, $10,000.
Improving harbor at Kenosha, Wisconsin: Continuing improvement, $4,000.
Improving harbor at Kewaunee, Wisconsin: Continuing improvement, $8,000.
Improving harbor at Manitowoc, Wisconsin: Continuing improvement, $9,000.
Improving harbor at Menomonee, Wisconsin: Continuing improvement, $6,000.
Milwaukee Harbor, Wisconsin: Continuing operations, $50,000.
Improving harbor at Oconto, Wisconsin: Continuing improvement, $12,500.
Improving harbor at Port Washington, Wisconsin: Continuing improvement at outer harbor, $6,000.
Improving harbor at Racine, Wisconsin: Continuing improvement, $3,000.
Dredging Superior Bay, Wisconsin: Continuing operations, $30,000.
Improving harbor at Sheboygan, Wisconsin: Continuing improvement, $20,000.
Improving harbor of refuge at entrance of Sturgeon Bay Canal, Wisconsin: Continuing improvement, $10,000.
Improving harbor at Two Rivers, Wisconsin: Continuing improvement at the piers, $3,000.
Improving harbor at Duluth, Minnesota: Continuing improvement, $30,000.
Improving harbor at Grand Marais, Minnesota: Continuing improvement, $5,000.
Improving harbor at Oakland, California: Continuing improvement, $80,000.
Improving harbor at Wilmington, California: Continuing improvement, $50,000.
Improving entrance to Coos Bay and Harbor, Oregon: Continuing improvement, $20,000.
Improving Yaquina Bay, Oregon: Continuing improvement, $30,000.
Improving Lubec Channel, Maine: Continuing improvement, $6,000.
Improving Merrimac River, Massachusetts: Continuing improvement, $3,000.
Improving Taunton River, Massachusetts: Continuing improvement, $5,000.
Improving Providence River and Narragansett Bay, Rhode Island: Continuing improvement, $50,000.
Improving Connecticut River, Connecticut: Continuing improvement below Hartford, $25,000.
Improving Housatonic River, Connecticut: Continuing improvement, $1,500.
Improving Thames River, Connecticut: Continuing improvement, $25,000.
Removing obstructions in East River and Hell Gate, New York: Continuing operations, $150,000.
Improving Hudson River, New York: Continuing improvement, $10,000.
Improving Newtown Creek, New York: Continuing improvement, $6,000.
Improving Cheesequake's Creek, New Jersey: Continuing improvement, $7,000.
Improving Elizabeth River, New Jersey: Continuing improvement, $5,000.
Improving Mattawan Creek, New Jersey: Continuing improvement, $4,000.
Improving Mantua Creek, New Jersey: Continuing improvement, $3,000.
Improving Passaic River, New Jersey: From Pennsylvania Railroad bridge to mouth of river, $15,000.
Improving Rahway River, New Jersey: Continuing improvement, $5,000.
Improving Raritan River, New Jersey: Continuing improvement, $10,000.
Improving Shrewsbury River, New Jersey: Continuing improvement, $5,000.
Improving South River, New Jersey: Continuing improvement, $10,000.
Improving Woodbridge Creek, New Jersey: Continuing improvement, $1,000.
Improving Allegheny River, Pennsylvania: Continuing improvement, $5,000.
Improving Schuylkill River, Pennsylvania: Continuing improvement, $13,000.
Improving Delaware River between Trenton, New Jersey, and Bridesburgh, Pennsylvania: Continuing improvement, $8,000.
Improving Delaware River below Bridesburgh, Pennsylvania: Continuing improvement, $90,000.
Improving Delaware River near Cherry Island Flats, Pennsylvania and Delaware: Continuing improvement, $30,000.
Improving Mispillion Creek, Delaware: Continuing improvement, $1,500.
Constructing pier in Delaware Bay, near Lewes, Delaware: Continuing construction, $2,000.
Improving Delaware River at Schooner Ledge, Pennsylvania and Delaware; Completing improvement, $15,000.
Improving Corsica Creek, Maryland: Continuing improvement, $5,000.
Improving Susquehanna River above and below Havre de Grace, Maryland: Continuing improvement, $15,000.
Improving Upper Water Passage between Deal's Island and the mainland on Darne's Quarter, Maryland: Continuing improvement, $5,000.
Improving Appomattox River, Virginia: Continuing improvement, $5,000.
Improving Chickahominy River, Virginia: Continuing improvement, $5,000.
Improving James River, Virginia: Continuing improvement on the plan for deepening the channel to twenty-two feet at mean low tide, $50,000.
Improving New River, Virginia and West Virginia: Continuing improvement, $8,000.
Improving Rappahannock River, Virginia: Continuing improvement, $12,000.
Improving York River, Virginia: Continuing improvement, $12,000.
Improving Dan River, in Virginia and North Carolina: Continuing improvement, $5,000.
Improving Great Kanawha River, West Virginia: Continuing improvement and operation of works, $120,000.
Improving Cape Fear River from the ocean to Wilmington, North Carolina: Continuing improvement, $50,000.
Improving Currituck Sound and North River Bar, North Carolina: Continuing improvement, including Coanjok Bay, $6,000.
Improving Pamlico and Tar Rivers, North Carolina: Continuing improvement, $4,000.
Improving Trent River, North Carolina: Continuing improvement, $5,000.
Improving Great Pedee River, South Carolina: Continuing improvement, $2,000.
Improving Wateree River, South Carolina: Continuing improvement, $8,000.
Improving Altamaha River, Georgia: Continuing improvement, $10,000.
Improving Chattahoochee River, Georgia: Continuing improvement, $20,000.
Improving Coosa River, Alabama and Georgia: Continuing improvement, $40,000.
Improving Flint River, Georgia: Continuing improvement below Albany, $15,000.
Improving Ocmulgee River, Georgia: Continuing improvement, $3,000.
Improving Oconee River, Georgia: Continuing improvement, $3,000.
Improving Romley Marsh, Georgia: Continuing improvement, $9,000.
Improving Savannah River, Georgia: Continuing improvement between Augusta and Savannah, $17,000.
Improving Choctawhatchee River, Florida and Alabama: Continuing improvement, $10,000.
Improving Escambia and Conecuh Rivers, Florida and Alabama: Continuing improvement, $2,000.
Improving Saint John's River, Florida: Continuing improvement, $100,000.
Improving Volusia Bar, Florida: To complete improvement, $1,000.
Improving Alabama River, Alabama: Continuing improvement, $8,000.
Improving Warrior and Tombigbee Rivers to Tuscaloosa, Alabama, and Fulton, Mississippi: Continuing improvement, $20,000.
Improving Big Sunflower River, Mississippi: Continuing improvement, $3,000.
Improving Pascagoula River, Mississippi: Continuing improvement, $3,000.
Improving Pearl Piver, Mississippi, $8,000.
Improving Tallahatchee River, Mississippi: Continuing improvement, $3,000, $2,000 of which sum to be expended between Batesville and the mouth of the Coldwater.
Improving Yazoo River, Mississippi: Continuing improvement, $8,000.
Improving Red River, Louisiana: Continuing improvement from the Atcha-

falaya to Fulton, Arkansas, including its tributaries above Black River, and for closing the outlet of the river known as "Sale and Murpli's Canal," $50,000.

Improving mouth of Brazos River, Texas: Continuing improvement, $30,000.

Improving Buffalo Bayou, Texas: Continuing improvement, $30,000.

Improving Arkansas River, Arkansas: Continuing improvement at Pine Bluff, $15,000.

Improving Black River, Arkansas and Missouri: Continuing improvement below the railroad bridge, $5,000.

Improving Fourche Le Fevre River, Arkansas: Continuing improvement, $3,000.

Improving Ouachita River, Arkansas and Louisiana: Continuing improvement, $6,000.

Improving Saline River, Arkansas: Continuing improvement, $3,000.

Improving White River, Arkansas: Continuing improvement between Jacksonport and Buffalo Shoals, $12,000; continuing improvement above Buffalo Shoals, $4,000.

Improving White and Saint Francis Rivers, Arkansas: Continuing improvement, $12,000.

Improving Cumberland River, Tennessee: Continuing improvement above Nashville, $18,000; continuing improvement below Nashville, $16,000.

Improving Tennessee River, Tennessee: Continuing improvement below Chattanooga, Tennessee, and Alabama, $200,000.

Improving Kentucky River, Kentucky: Continuing improvement, $51,000.

Improving Ohio River: Continuing improvement, $250,000: *Provided, however*, That not more than forty thousand of this appropriation shall be expended on the Davis Island Dam; of which sum not less than $25,000 shall be used in improving the Grand Chain Rapids: *And provided further*, That an amount not exceeding $35,000 may be used for continuing the improvement of the Indiana chute at the Falls of the Ohio, and $10,500 may be expended for continuing improvement of ice-harbor at the mouth of the Muskingum River, Ohio. And the Secretary of War be, and he is hereby, authorized to take such action as may be necessary for the reconveyance of Thomas Mulvehill, of Pittsburgh, Pennsylvania, of an amount of land erroneously conveyed by him to the United States, as set forth in a message from the President of the United States to Congress January 19, 1883 (Executive Document No. 46).

Improving Detroit, Michigan: Continuing improvement, $50,000.

Improving Hazy Lake Channel of Sault Saint Marie River, Michigan, via the Middle Neebish: Continuing improvement, $150,000.

Improving Saginaw River, Michigan: Continuing improvement (of which sum $20,000 to be used opposite Bay City and for deepening the channel from the river into the bay, and $25,000 for improving the river above Bay City), $45,000.

Improving Chippewa River, Wisconsin: Continuing improvement, $2,500.

Improving Fox and Wisconsin Rivers, Wisconsin: Continuing improvement, $150,000, $5,000 of this sum to be available for the improvement of the channel between Green Bay and Depere: *Provided*, That before any money shall be expended the Secretary of War shall appoint a commission of three, to be officers of the United States Engineer Corps, but neither of whom shall be connected in any manner with any Government work in the State of Wisconsin, whose duty it shall be to carefully examine the improvement made and proposed and report to the Secretary of War whether in their judgment the interests of commerce and navigation will be advanced sufficiently to warrant the continuation and completion of this project. If their report be favorable, and shall be approved by the Secretary of War, this appropriation is made available. If in the judgment of the board the work should not be continued, it shall be their duty to report to the Secretary, and he to Congress, what disposition should be made of the work. The Secretary of War is hereby authorized to expend a sum sufficient to defray all expenses connected with this examination, and such amount as necessary is hereby made immediately available out of the sum appropriated. And the said commission shall inquire and report the extent to which the public works on this river are used to furnish water-power to private persons and corporations, and where and by whom so used, and whether such persons or corporations pay any compensation for such privileges.

Improving Saint Croix River below Taylor's Falls, Wisconsin and Minnesota: Continuing improvement, $12,000.

Improving Wabash River, Indiana and Illinois: Continuing improvement, $20,000.

Improving Illinois River, Illinois: Continuing improvement, $50,000.

Improving Upper Mississippi River: Operating snag-boat, $25,000.

Improving Mississippi River from Saint Paul to Des Moines Rapids, Minnesota, Iowa, Missouri, Illinois, and Wisconsin: Continuing improvement, $225,000.

Improving Des Moines Rapids, Mississippi River, Iowa, and Illinois: Continuing improvement, $30,000, of which $10,000 to be used in construction of connecting pier at outer wall of Des Moines Rapids Canal, in accordance with project of the Engineer Corps.

Examinations and surveys at South Pass, Mississippi River: To ascertain the depth of water and width of channel secured and maintained from time to time by James B. Eads, at South Pass of the Mississippi River, and to enable the Secretary of War to report during the maintenance of the work, $10,000.

Gauging waters of Lower Mississippi and its tributaries: Annual expense of gauging the waters of the Mississippi River and its tributaries, continuing observations of the rise and fall of the river and its chief tributaries, as required by joint resolution of February 21, 1871, $5,000.

Improving Mississippi River: That the sum of $1,500,000 be, and is hereby, appropriated, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated, for the improvement of the Mississippi River from the head of the Passes to Cairo, including the harbors of New Orleans, Natchez, Vicksburgh, Memphis, and the reaches at Plum Point and Lake Providence, and the deflection of waters of the Red and Mississippi Rivers from the Atchafalaya River; $500,000 from Cairo to the Illinois River, including Alton Harbor, and $150,000 from the Illinois River to the Des Moines Rapids, including improvement of Quincy Bar; which said sums shall be expended under the direction of the Secretary of War, in accordance with the plans, specifications, estimates, and recommendations of the Mississippi River Commission, $2,150,000: *Provided*, That no portion of the money hereby appropriated shall be expended at any other points than those herein specified.

Improving Mississippi, Missouri, and Arkansas Rivers: Continuing removal of snags, wrecks, and other obstructions from the Mississippi River, $50,000; continuing removal of snags, wrecks, and other obstructions from Missouri River, $50,000; continuing removal of snags, wrecks, and other obstructions from Arkansas River, $20,000.

For continuing the practical test of the flume invented by M. J. Adams, the said test to be made under the supervision and direction of the said Adams, $5,000.

Improving Missouri River, from its mouth to Sioux City, Iowa: Continuing improvement, including survey, from its mouth to Fort Benton, Montana, $350,000.

Improving Missouri River, from Sioux City to Fort Benton, Montana: Continuing improvement, $75,000.

Improving Yellowstone River, Montana and Dakota: Continuing improvement from Glendive to the mouth, $10,000.

Improving Red River of the North, Minnesota and Dakota: Continuing improvement, $10,000.

Improving Mississippi River above Falls of Saint Anthony: Continuing improvement, $3,000.

Improving Sacramento River, California: Continuing improvement, for the improvement and protection of the navigable channels of the Sacramento and Feather Rivers, $60,000.

Improving San Joaquin River: Continuing improvement, $30,000: *Provided*, That $8,000 of this money may be used at the discretion of the engineer in charge for improvement of the mouth of the Mokelumne River up to New Hope Landing and Staten Island.

Constructing canal around Cascades of Columbia River, Oregon: Continuing construction, $125,000.

Improving Lower Willamette and Columbia Rivers, Oregon: Continuing improvement, $40,000.

Improving mouth of Coquille River, Oregon: Continuing improvement, $7,000.

Improving harbor at Norfolk, Virginia: Continuing improvement, $10,000.

Improving Cumberland Sound, Georgia and Florida: Continuing improvement, $25,000.

Improving Rancocas River, New Jersey: Continuing improvement, $6,000.

Improving Maurice River, New Jersey: Continuing improvement, $4,000.

Improving Broad Creek, Delaware: Continuing improvement, $5,000.

Examinations, surveys, and contingencies of rivers and harbors, $25,000.

Improvement of the mouth of Columbia River, Oregon, $75,000.

That the appropriations made by the acts of June 18, 1878, and March 3, 1879, for improving Harlem River, New York, be covered into the Treasury.

Improving Monongahela River: Continuing improvement, $25,000.

That the officer of the United States engineers in charge of the improvement of the Tennessee River at Muscle Shoals and other points between the towns of Bridgeport, Jackson County, Alabama, and Eastport, Mississippi, be required, from the surveys heretofore made and by such additional surveys as he may be able to have made by the force under his charge without interference with the progress of his present work in his next annual report, to give a statement of the condition of the streams which empty into the Tennessee River between the towns above mentioned and the cost of their improvement and the depth of water therein and their commerce.

That the Secretary of War shall prescribe such rules and regulations as may be necessary to secure a judicious and economical expenditure of said sums, and shall cause to be made and submitted to Congress annual reports on or before January 1, giving detailed statements of the work done, the expenditures made, and the effect of such work, together with such recommendations as he may deem it proper to lay before Congress. It shall be the duty of the Secretary of War to apply the money herein appropriated for improvements other than surveys and estimates in carrying on the various works as far as can be without actual detriment to the interest of the Government by contract. Where such works can not be done by contract without injury to the public interest they may be prosecuted by hired labor. Where said works are done by contract, such contract shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to such contract and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material.

That the Secretary of War be, and he is hereby, authorized and directed to make such regulations as may be necessary to preserve and protect the channels of the rivers and the harbors herein appropriated for from damage, injury, or impairment by the deposit of refuse or other matter or materials.

That no tolls or operating charges whatsoever shall be levied or collected upon any vessel or vessels passing through any canal or other work for the improvement of navigation belonging to the United States.

That surveys shall hereafter be made upon application to, and authorization of, the Secretary of War, and in every case where surveys are made the report thereon shall embrace such information concerning the commercial importance, present and prospective, of the improvement contemplated thereby, and such general commercial statistics as the Secretary of War may be able to procure: *Provided*, That no survey shall be made of any harbors or rivers until the Chief of Engineers shall have directed a preliminary examination of the same by the local engineer in charge of the district, and then only when such local engineer shall have made such examination and shall have reported to said Chief of Engineers, with the approval of that officer, that in the judgment of the engineer in charge said harbor or river is worthy of improvement, and that the work is a public necessity.

That such parts of the money appropriated by this or any previous act for any particular improvement, whether requiring locks or dams or otherwise, as may be necessary in the prosecution of such improvement, may be expended in the purchase, voluntary or by condemnation, as the case may be, of necessary sites: *Provided*, That such expenditure shall be under the direction of the Secretary of War: *And provided further*, That if the owners of such lands shall refuse to sell them at reasonable prices, then the prices to be paid shall be determined and the title and jurisdiction procured in the manner prescribed by the laws of the State in which such lands or sites are situated.

That all moneys hereby appropriated shall be immediately available.

Passed the House of Representatives March 1, 1883.

Attest: EWD. McPHERSON, *Clerk*.

American Shipping.

SPEECH

OF

HON. JOHN R. THOMAS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, January 11, 1883.

The House having under consideration the bill (H. R. 7061) to remove certain burdens on the American merchant marine, to encourage the American foreign carrying trade, and to amend the laws relating to the shipment and discharge of seamen—

Mr. THOMAS said:

Mr. SPEAKER: When this bill was reported to the House, after giving it a cursory examination, I was disposed to support it. But upon further investigation of the question I see that it is simply a question of free trade or protection, that question that divides the two great parties as they are represented upon the floor of this House; and it is for the purpose of demonstrating this that I have been led to indulge in a few philosophic reflections, and will now give the House the benefit of them.

In looking back over the history of this country and of parties in years gone by I find that there were two different civilizations, one known

as the Southern civilization and the other known as the Northern civilization. The Southern civilization was built upon (and its politics followed as a necessary consequence) the theory or idea of cheap slave labor, and that labor was degrading and dishonorable. Upon that theory the Democratic party of the South grew up. Upon that foundation the free-trade principles of the Southern section of this country were built. On the other hand, the civilization of the North was built upon the idea that labor was creditable and honorable.

The North built itself up into grand proportions by following the idea that education and honorable labor went hand in hand, and that with nations as with men educated ideas were more profitable to the nation than any other kind of wealth. And so we see how that civilization spread and grew strong. The Republican party laid its foundation upon the fundamental idea of the elevation of the laboring classes of this country. When the Southern Democracy discovered that the foundation stones of the structure they had erected were knocked away by the abolition of slavery, it picked up the crutch of English free trade, and we now find Democratic Representatives from all parts of the South hobbling along in the great race of life, supported by all that is left of their ideas of government, civilization, and politics; that is, English free trade. And we find them here to-day, as we have found this same Democratic party throughout its whole history, striking at the very heart of the development of this country. We find them striking at the laboring men, the producers of this country. We find them striking at everything that tends to aggrandize and to develop this great country of ours, and are attempting here to defeat this most wholesome measure by raising the false cry of "subsidy." In order to make this measure offensive, a stench in the nostrils of the American people, in the hope of defeating that which would protect and encourage the labor of this country, they denounce it as a subsidy. Mr. Speaker, I denounce their statement, and say it is not only not true, but is in keeping with the action, charges, and doctrines of the Democratic party made under the influence of British agents of free trade from time immemorial. While they have not the courage to wear that banner openly, the "gridiron" of the English Government, the Democrats as a party wear beneath their coat lapels the English flag, representing free trade and the degradation of labor.

For these and other reasons I shall vote for this bill and shall oppose free ships. We are asked what ought to be done to aid the American carrying trade? In the olden time, Mr. Speaker, ships were built of wood, and America was in a position and condition where she could build them more cheaply than any other nation, for the timber on our coast was bountiful and could be cheaply obtained; therefore there was necessarily little expense in building ships. But a new order of things was entered upon during the war. The old system of ship-building has been changed, and the vessels of the present day are constructed of iron. Now, let us see the difference in the cost between England and ourselves in reference to the manufacture of iron. The raw materials out of which iron is manufactured are the iron ore itself, coal, and limestone. The average distance that these three elements or materials have to be freighted and brought together for the manufacture of iron in England is only eight miles. That is for the transportation of the crude materials. How is it in this country? The average distance apart here of the ore, the coal, and the limestone is one hundred and twenty miles.

The SPEAKER. The time of the gentleman has expired.

Mr. THOMAS. I ask unanimous consent that I may have a few minutes longer. This is the first time with the exception of five minutes on a former occasion that I have sought the indulgence of the House.

The SPEAKER. The Chair hears no objection to permitting the gentleman to proceed.

Mr. THOMAS. I was saying, Mr. Speaker, that the average distance that the materials of which iron is manufactured have to be freighted in this country is one hundred and twenty miles. Hence we have a difference in the cost of the transportation of the raw material as between England and this country of eight miles in her case against one hundred and twenty in ours. This is one of the causes of the breaking down of the American ship-carrying trade in iron vessels propelled by steam, because as a necessary consequence their iron is cheaper than ours.

On the other hand when the iron is manufactured in England the average distance it has to be transported to the seacoast is but thirty miles. After it is manufactured in the United States the average distance it has to be transported to the seacoast where ships are built is five hundred miles.

Here, then, we have the difference in the cost of transportation between thirty miles in England and five hundred miles in the United States. Is it necessary to ask further what causes the decay in the carrying trade of the commerce of the United States in American bottoms as compared with the era of wooden ships? It is simply the difference in the cost of the material out of which you build ships to-day and the cost of the material that they were built of when we claimed the proud distinction of being the Queen of the Seas.

But, sir, I hope to see the American carrying trade restored in a measure by the adoption of this bill. It is a move in the right direction. It is prompted by the proper spirit. It encourages American labor, fosters American manufactures, is in opposition to the aggression of England that solicits trade at the point of the bayonet and demands purchasers with cannon-balls and with shells.

Sir, I want our people to be in such a condition, should war arise, that we can build within our own ship-yards such vessels of war as we may need, or convert the vessels constructed within our own dominions into fast cruisers; and that can only be done by fostering the building of ships within our own limits and the possession thereby of a merchant marine which may be converted into cruisers in time of war.

Originating Revenue Bills.

SPEECH

OF

HON. BENJAMIN BUTTERWORTH,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 27, 1883.

The House having under consideration the following resolution:

Resolved, That if this bill shall be referred to a committee of conference it shall be the duty of the conferees on the part of the House on said committee to consider fully the constitutional objections to said bill as amended by the Senate and herein referred to, and to bring the same, together with the opinion of the House in regard thereto, before said committee of conference; and if necessary in their opinion, after having conferred with the Senate conferees, said conferees in said committee may make report to the House in regard to the objections to said bill hereinbefore referred to—

Mr. BUTTERWORTH said:

Mr. SPEAKER: I desire to say a word upon the pending question, not that I expect to change the vote of any gentleman. An eminent member of the British Parliament once said that he had often heard arguments which changed his judgment, but never heard one that had changed his vote. I do not expect, therefore, to change a vote; but I wish now to have the attention of the House a moment, because it has been whispered around among certain anxious brethren that the members of this House from Ohio and certain gentlemen from other States press this question of constitutional privilege with the view ultimately to defeat the Senate bill; and for no other reason do they press this constitutional question. If it is intended by that statement to say that the Representatives upon this floor from the State of Ohio oppose the revision of the tariff, that they are not anxious to secure a revision, then I challenge the correctness of that assertion. If it is intended simply to say that we would prefer no revision of the tariff to such a revision as would leave no flocks upon our hills or in our valleys, which would send us home to stand amid the wreck of ruined industries, then let me say to the gentlemen that they may be correct. We desire a revision that will foster, and not destroy, our industries. Unfortunately we may be left to choose between two evils: either to vote against a revision of the tariff and thus continue the business stagnation which now prevails, or vote for a bill which will injure some one of our great industries. We will choose when the occasion requires.

But this, Mr. Speaker, is a question above and beyond the mere passage or defeat of any bill pending here. I am astonished at the earnest language of my friend from Kentucky, who suggests that even an idiot can see that his construction of the Constitution, namely, that the Senate has the right to amend, to alter, to add to any bill originating in the House, even to the extent and in the manner presented in the bill I hold in my hand, in which the Senate has been pleased to add to a short revenue bill, containing a few items covering in all two pages, so-called amendments revising the whole tariff system of the country, striking out all the House did and originating an entirely new bill.

If idiots who run may read what he states, it is because idiots are accustomed to see things which do not exist and read that which is not written.

I wish to call attention to the fact that the men whose names I shall read differ from the gentleman in his construction of that clause of the Constitution to which he has called attention; and if this House may be guided by the lights along the highway of precedent, there can be no doubt as to what our decision will be touching the question as to whether in the case under consideration the Senate has been guilty of infringement of the rights, privileges, and prerogatives of the House in the matter of right to originate money bills. Sir, Hamilton, Franklin, Mason of Virginia, Gerry, Sherman, Randolph, Webster, Clay, Benton, Mangum, Forsythe, Sumner, Wilson, Seward, Garfield, and a host of others all along the line of distinguished statesmen have insisted that what has been done by the Senate in this bill is a plain, open, palpable violation of the constitutional prerogatives of this House to originate money bills. What are we to understand by the term "money bills?" It is used, sir, as it was used in the debates on the resolution fixing the relations between the English House of Commons and the House of Lords. "Revenue bills," "appropriation bills," and "money bills" are synonymous and express precisely the same idea. The House of Lords are prohibited from even amending in any manner a money bill; while the

Senate claim and has the right to amend such bills. I hold that the clause of the Constitution under consideration should be construed in the light of precedent and in the light of the debates which took place when that clause of the Constitution was adopted. The considerations which led to the adoption of the clause must serve as a valuable guide in determining the measure and limit of authority intended to be conferred and fixed by it.

The provision of the seventh section of article 1 of the Constitution was adopted as a compromise and adjustment of a controversy between the larger and the smaller States as to the power each should wield in controlling the legislation of the country in matters of taxation, &c. The larger States objected to the small States having an equal voice in the Senate, Rhode Island and Delaware having the same power as Pennsylvania and New York. It was finally agreed that the smaller States should have the same voice and vote in the Senate as the large States, and in consideration of this concession the House had conferred upon it the exclusive right to originate "money bills." In other words, quoting the Constitution, "All bills for raising revenue shall originate in the House, but the Senate may propose or concur with amendments as on other bills."

It is claimed that the Senate has not infringed the exclusive prerogative of the House in the matter of the bill now before us, but has simply exercised the right of that body "to propose or concur with amendments as on other bills."

If this view is sound the prerogative which the House boasts and which was secured to it after a long and bitter struggle is not worth the ink used in writing it.

If the House in the exercise of its high prerogative—which implies, "if there be any meaning in that part of the Constitution which requires that revenue bills shall be originated in the House, it is supposed to mean that the immediate representatives of the people shall be as well the judges of the proper objects of taxation as of the amount of revenue, the selection of the objects of taxation being not only the most undoubted but in fact the most important power of the House of Representatives"—I say if the House in its wisdom is pleased to originate and pass a revenue bill repealing the law imposing a stamp tax on bank checks, and the Senate may, in the exercise of the right of the Senate "to propose or concur with amendments as on other bills," strike out the item contained in the House bill, and proceed to revise the internal-revenue system and also the entire tariff system of the country, thus determining both the objects to be taxed and fixing the rate and the amount of revenue, the mere right to originate the bill would be of no value; and if such a proceeding would not, in the sense of the Constitution, be originating, practically originating, a revenue bill, it would be difficult to determine what would.

The history of the clause in the Constitution which secures to the House the exclusive right to originate "money bills" leaves no doubt as to the end sought, which was to secure to the immediate representatives of the people the determination not only of the amount of revenue to be raised, but the objects which shall be taxed to raise that revenue.

But it is urged that the words "as on other bills" extends the limit of the authority conferred by the clause, so that the Senate may in fact substitute another bill for that which originated in the House with possibly a single item, or a dozen items, if you please, and in that substitute revise the internal-revenue and tariff laws of the country, changing and fixing rates and objects of taxation as they will. I am not clear what "amendments" were allowed on other bills, when the Constitution was adopted. But one thing is clear, and that is, that it was the express purpose and intent of the convention which adopted the Constitution to withhold from the Senate the very power which that body has exercised in its action on this bill.

Will it be claimed that the revision of the tariff as it appears in the bill sent to us by the Senate originated in this House. Is not the action of the Senate a plain, palpable violation of the spirit of the clause which denies to that body the right to originate revenue bills. The provisions inserted in the bill by the House have not been concurred in, but struck out entirely. Those provisions and items have in no proper sense been amended. Such a claim borders on the absurd.

The prerogative which is secured to the House by the clause of the Constitution in question is referred to by Mr. Justice Story (section 876, Story on the Constitution) in the following language:

> That it is fit the House should possess the exclusive right to originate money bills, since it may be presumed to possess more ample means of local information, and it more directly represents the opinions, feelings, and wishes of the people; and being directly dependent on them for support, it will be more watchful and cautious in the imposition of taxes than a body which emanates exclusively from the States in their political capacity.

In the same behalf, Judge Tucker (1 Tucker's Blackstone, Appendix 195) says:

> Now, as the relation between taxation and representation in one branch of the Legislature was fixed by an invariable standard, and as that branch of the Legislature possesses the exclusive right of originating bills on the subject of revenue, the undue weight of the smaller States is guarded against effectually in the imposition of burdens.

But what becomes of this right if the Senate may, in the form of what by grace is called an amendment to the House bill, which contains a single paragraph reducing the import duty on a single article, proceed to add to the list of articles subject to taxation under the existing law, a hundred other and additional articles, and in the same bill provide a system of internal-revenue taxation?

Can it be doubted that the Senate, in the sense in which the term is used in the Constitution, does originate a revenue bill? Why, sir, there is not a trace of the House bill left. I repeat, in conclusion, that the spirit of the Constitution if not its letter is clearly violated by the Senate in its action upon the bill now before the House. This must be so, unless the exclusive right to "originate money bills" is in its practical operation a delusion and a snare. For neglecting to maintain this inestimable right of the representatives of the people to control the public purse we will be called to a severe account.

It is the people's prerogative, and we can not surrender it as against them if we would. They will sooner or later assert it even, if need be, to the abolition of the Senate itself.

The SPEAKER. The time of the gentleman has expired.

Importation of Works of Art.

SPEECH

OF

HON. PERRY BELMONT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Monday, February 26, 1883,

On the bill (H. R. 7417) in relation to the importation of works of art.

Mr. BELMONT said:

Mr. SPEAKER: In order that the House may see who are asking Congress to aid and encourage American art by permitting the importation of foreign works of art free of duty, I desire to print in the RECORD the following names, comprising a few of the artists, painters, sculptors, engravers, art students, manufacturers of art work, and designers who are petitioning for the passage by Congress of the bill in relation to the importation of works of art, H. R. 7417:

Albert Bierstadt, 1271 Broadway.
Walter Shirlan, 51 W. 10th st.
Frederick Dielman, 51 W. 10th st.
Wm. N. Chase, 51 W. 10th st.
Kruseman Van Elty, 51 W. 10 st.
J. C. Nicoll.
Olin L. Warner, 80 E. Washington sq.
Wm. Gedney Bunce.
Frederick W. Freer, University.
Geo. F. Shelton, University.
R. W. Shurtliff.
Albert Ryder, 80 E. Washington sq.
Wyatt Eaton, Pres't Society of American Artists, 80 E. Washington sq.
Richard M. Hunt, New York.
B. S. Walcott, 54 E. 43d st.
H. Victor Newcomb, 683 Fifth ave.
Logan C. Murray, 37 Fifth ave.
Robert Lenox Kennedy, 99 Fifth ave.
Jacob H. Schiff, 35 W. 57th st.
A. Wolff, 35 E. 38th st.
Chas. J. Haskin, 119 Broadway.
Henry T. Drowne, 60 Wall st. and 147 W. 36th st.
Wm. H. Tillinghast, N. Y.
Stephen G. Clarke.
W. T. Schley.
Carl Shurz, New York.
Robert W. Weir, 24 E. 10th st.
J. Alden Weir, 80 E. Washington st.
Frank Hinsunit, 171 Tremont st., Boston.
J. Hopkinson Smith, 150 E. 34th st.
Arthur Quartley, 1 Union sq.
Dr. J. Lewenberg, 129 E. 63d st.
R. Swain Gifford, 152 W. 57th st.
F. D. Willet, 578 Fifth ave.
H. G. Philpot, 49 Fifth ave.
Charlisle Truslow, 110 E. 57th st.
Orrine Davis, The Burlington.
Tiffany & Co., Union sq.
Chas. S. Ward, 18 W. 30th st.
A. L. Abbott, 337 Fourth ave.
Benoni Irwin, 152 W. 57th st.
Wm. Sartain, 152 W. 57th st.
D. W. Tryon, 152 W. 57th st.
Will. H. Low, Sec. Society Am. Artists, 152 W. 57th st.
Wm. Bailey Faxon, 152 W. 57th st.
Walter Clark, 145 W. 55th st.
J. S. Hartley, 145 W. 55th st.
Frederick A. Marquand, 119 E. 24th st.
H. G. Marquand, 21 W. 20th st.
Luther Kountze, 120 Broadway.
Charles Lanier, 26 Nassau st.
J. Pierpont Morgan, 23 Wall st.
J. Seligman, 19 Broad st.
Howard Potter, 57 Wall st.
Jas. M. Brown, 59 Wall st.
Sam'l D. Babcock, 50 Wall st.
William Alexander, 27 W. 35th st.
Francis Lathrop, 80 E. Washington sq.
H. Pruett Share, University B'ldg.
M. J. Burns, University B'ldg.
Frank Fowler.
A. J. Conant, 51 W. 10th st.
A. D. Shattuck, 51 W. 10th st.
A. Carey Smith, 51 W. 10th st.
Frank Waler, 337 Fourth ave.
J. W. Champney, 337 Fourth ave.
Nicholas B. Kittell, 337 Fourth ave.
H. R. Bischof, New York.
Samuel P. Avery, New York.
L. P. Di Cesnola, New York.
Wm. L. Anderson, New York.
C. Thaxter Hill, Art Students' League.
Frederick Beadel, Art Students' League.
Emil M. Allewelt, Art Students' League.
John MacDonald, Art Students' League.
Ernest L. Major, Art Students' League.
Henry Pulwitz, Art Students' League.
H. Bolton Jones, 58 W. 57th st.
Carroll Beckwith, 58 W. 57th st.
Edron H. Blashfield, 58 W. 57th st.
R. W. Van Boskerck, 58 W. 57th st.
Rob't Blum, 58 W. 57th st.
A. H. Wyand, 58 W. 57th st.
Thos. S. Clarke, Union sq.
W. T. Smedley, South Union Sq.
Louis St. Gaudens, 80 E. Washington Sq.
Aug. St. Gaudens, 148 W. 36th st.
John Taylor Johnston.
W. C. Prime.
Frederic E. Church.
H. H. Chittenden, New York.
Edward Jordan, New York.
Thatcher M. Adams, New York.
S. W. Evarts, New York.
W. E. Dodge, jr., New York.
R. F. Butler, New York.
George De Forest Lord, New York.
Sam'l Thorn, New York.
Willis K. Jessup, New York.
Charles H. Holed, New York.
Henry F. Spaulding, New York.
Wm. Buchanan, New York.
Wm. H. Fogg, New York.
J. Paton, New York.
R. D. Coursy.
F. H. Church, 58 E. 13th st.
B. N. Mitchell, 58 E. 13th st.
Jas. Symington, 58 W. 57th st.
Harry Chase, 58 W. 57th st.
C. B. Owen, 58 W. 57th st.
S. H. St. John, 58 W. 57th st.
T. W. Dewing, 139 W. 55th st.
Mrs. M. R. Dewing, 139 W. 55th st.
Ella F. Pell, 139 W. 55th st.
Dewitt C. French, 139 W. 55th st.
Geo. Inness.
L. M. Niles, 52 E. 23d st.

H. Amy, 21 Nassau st.
J. B. Trenn, Yonkers.
R. D. Sawyer, Art Students' League.
J. Lewis Webb, Art Students' League.
Carl A. Widner, Art Students' League.
John F. J. Fresch, Art Students' League.
Poultney Bigelow, 21 Gramercy Park.
Elliott Roosevelt, 8 W. 57th st.
Robert W. De Forest, 7 Washington sq.
J. E. Hindon Hyde, 152 E. 27th st.
Frederic H. Betts, 78 Irving Place.
Horace Russell, 44 W. 34th st.
Duncan D. Parmly, New York.
J. L. O'Sullivan, New York.
Chas. H. Ward, 193 Second ave.
Henry Marquand, New York.
Park Godwin, 19 E. 37th st.
Neil M. Keating, Art Students' League.
Jos. T. Clark, Art Students' League.
Edgar S. Cameron, Art Students' League.
W. S. Mary, 52 E. 23d st.
A. F. Tait.
John Peoli, 25 E. 74th st.
Chas. Harry Eaton, 52 E. 23d st.
P. E. Rudell, 1 Union Square.
C. G. Turner, 11 E. 14th st.
Wm. St. J. Harper, 11 E. 14th st.
A. Seggin, 11 E. 14th st.
John L. Fitch, 51 W. 10th st.
Henry A. Ferguson, 52 E. 23d st.
E. D. Foster, Englewood, N. J.
J. W. Colleuder, New York.
Bernard Roelker, New York.
George Mosle, New York.
Geo. A. Cusker, New York.
J. A. Roosevelt, New York.
D. Willis James, New York.
J. M. S. Alexander, New York.
E. A. Willard, New York.

ENGRAVERS.

T. Cole, New York.
John H. Whitney, New York.
Minna Williams, New York.
Henry Vetten, New York.
R. T. Feinemann, New York.
W. H. Morse, New York.
M. L. Owens, New York.
Wm. H. Lippincott, artist, 44 W. 30th st., New York.
Charles F. Ulrich, artist, 1155 Broadway, New York.
John H. Sherwood, 531 5th avenue, New York.
A. Irwin, New York.
R. H. Carson, New York.
C. A. Powell, New York.
J. A. Taylor, New York.
A. Waldyer, New York.
H. Davidson, New York.
C. Schwartzburger, New York.
J. J. Blodgett, New York city.
Jno. J. Level, 21 West 50th st., New York.
Chas. W. Larned, professor U. S. Military Academy, West Point.

In order to meet the only objection that has been made against the bill, I would favor an amendment striking out the word "lithographs" from the second section.

Internal-Revenue Taxes.

SPEECH

OF

HON. THOMAS M. GUNTER,

OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 20, 1883,

On the motion to suspend the rules and pass a bill to reduce internal-revenue taxes.

Mr. GUNTER said:

Mr. SPEAKER: On the 4th of March next, after ten years' continuous service, I shall retire from this House. After having been honored by the people of my district—a brave, generous, and intelligent people—with five successive elections as their Representative, I declined to again become a candidate, and desire here and now to express my profound gratitude to my constituents for their more than deserved favors.

I came here, Mr. Speaker, as a Democrat, representing a district where the Democrats are in a majority of at least four to one, and while I have never failed to advocate the principles of my party and advance its interests, I have always felt that they were subordinate to my duty to my country, and were only worthy of support because, carried into effect, formulated into laws, these principles would make the country still greater and more glorious.

Now, Mr. Speaker, in the close of my career as a member of this House, I desire to say a few words as to the present and future condition of the country, of its needs, and what I believe should be done to advance the interests of the people.

There are but three great questions before the people, and the first of these, of which I shall speak and that but briefly, is the improvement of the navigation of the Mississippi River. This is no local matter. It is one in which the people of the Eastern seaboard, "the toilers by the sea;" the men and women who work in the cotton and woolen mills and shoe shops of New England; who delve in the iron and coal mines of Pennsylvania, Maryland, and Ohio; who labor in the baleful light of their forge fires; the hardy lumbermen of Maine; the tobacco and cotton growers and manufacturers of Virginia and the Carolinas, all are equally interested with the inhabitants of the great valley; the farmers who cultivate the fertile soil of the great West and from the teeming bosom of mother earth gather the breadstuffs to feed the world.

A cheap method of transportation will cheapen the food of those who have to buy and at the same time increase the earnings of those who produce the food. The improvement of the navigation of the Mississippi River will give that cheap method. It will not only provide one cheap route, but many—for the railroads which now control the transportation will lower their prices to compete with the river route, and five men can no longer meet as now in a luxuriously furnished chamber in New York and levy a tax of fifty cents or a dollar a barrel upon every barrel of flour consumed by the laborers of the Eastern States.

But a few months ago the butchers in Chicago found it would be profitable for them to slaughter beeves, hogs, and sheep in that city and send the beef, pork, and mutton to the Eastern cities in refrigerator cars, as the freight was much cheaper on the meat than it was on the live animals. This difference in freight enabled them to sell at but little more than half the price required by those who transported the live animals. But it decreased the profits of the railroads, and they at once put up the charges on the refrigerator cars, and in doing it added from 5 to 10 cents per pound to the prices of beef, pork, and mutton.

With the Mississippi River made navigable for boats of heavy draught at all times and seasons the railroad monopolists could not do this. Hence it is a great duty we owe to the people of the country to make it navigable at any cost.

The second great question in politics is the regulation of the tariff, the placing of such duties on imports as will at the same time produce the greatest amount of revenue to the Government, and will not oppress those who labor either in the workshops and mines or upon the farms in the forests or stores of the country.

Our duty, Mr. Speaker, is to legislate to protect the poor; the rich can care for themselves. I do not say this in any agrarian or communistic sense, for I am as far from entertaining communistic or agrarian ideas as any gentleman on this floor, but we all know that capital cares for itself. I am not one of those who believe that it is our duty to legislate money out of the pockets of men who have honestly made it, but I do believe that we should so legislate that capital can not oppress labor, the rich grow richer upon the labor of the poor, while the poor grow poorer and have to labor harder for the mere necessaries of life.

Why, sir, what did it mean when but a few days ago the amendment offered by the gentleman from Indiana [Mr. HOLMAN] was voted down.

It was claimed and shown that the duties on material entering into the building of a first-class iron steamship averaged $34 per ton, and it was proposed that to any one building a 4,000-ton steamship of American materials a subsidy should be given from the Treasury of the amount of the duties; that is, $136,000. These duties, it is claimed, are to protect the American laborer from the competition of the poorly-paid labor of Europe.

Mr. HOLMAN'S amendment provided that one-half the amount of this subsidy should be divided between the laborers who built the ship, the sons of toil who forged the iron from which the mighty traverser of the seas was made, the artisans who wrought it into shape and under whose skillful hands the unsightly ore blossomed into the magnificent vessel. But that amendment was voted down. The gentlemen on the other side of the House—the Republicans, who advocate "a tariff to protect the laboring man"—were unanimous in opposing it, and I am sorry to say were re-enforced by two calling themselves Democrats, and to my great astonishment by one elected as the special advocate and representative of the laboring man.

This vote proves the falsity of the Republican claim that that party represents the interests of the laboring men when it advocates a tariff.

The tariff as it stands is a monstrosity it oppresses the people to such an extent that it is a matter of wonder they have not risen in revolution against it; it protects the rich manufacturer and leaves the poor artisan to protect himself, to work at such wages as his master chooses to concede or starve; it taxes the many for the benefit of the few; it impoverishes the great West, the granary of the world, and the South, which produces the material for clothing the world, that the New England and Middle States may grow rich; not that the masses of the people of these States grow rich; but that the few who are rich may grow richer.

The tariff should be changed, and that can only be done through the triumph of the Democratic party. I would not, Mr. Speaker, strike down one single industry in this country. I would not vote to deprive one man of the means of earning an honest competence by honest toil. I would rather diversify labor, make our country so that everything the world needs could be produced from its soil and its workshops; but I do not believe that the present tariff leads to that end, and therefore I am in favor of changing it; not tinkering it as has been proposed in this Congress, but making such radical changes as will do justice to all the people of the country, will provide a revenue sufficient for the wants of the Government and at the same time levy the smallest possible tax upon the people. Such a tariff will be one based upon the principle of securing revenue with the incidental protection that such a tariff would give.

But there is another question greater than these that must be disposed of. When all the citizens of the great republics of ancient times were alike poor, while there were no millionaires and no tramps, the people were free. In Rome when great wealth was acquired by some and the masses became poor dependents upon the bounty of the rich the republic fell. And such has been the history of the world through all ages. The accumulation of wealth in the hands of the few impoverished the many.

Louis the Magnificent, as he loved to be called, concentrated all the wealth and power of France into the hands of the king and the nobles. He was warned, but only answered, "After me, the deluge." Luxury such as the world never saw before and has not seen since until now was the rule with the rich. Poverty, grinding poverty, was the lot of

the many. This continued for a time. The French people had never enjoyed the blessings of liberty and competence, and they merely groaned under their burdens. The world had not advanced as it has now, when the harnessed lightning flashes intelligence around the globe and Shakspeare's Ariel is no longer a dream; the tamed fire-fiend works the mighty press and then with headlong speed carries the wet sheets whereon are impressed the vigorous words of the world's best thinkers into every hamlet; and it took years for the people to realize their strength.

But they did, and then the deluge came. It was a deluge of blood. Europe was almost a charnel-house, but from it has sprung the beautiful Republic of France.

Now, sir, but a few years ago the millionaires of this country could be counted without exhausting the fingers of one hand, while the tramps would not have required the thumbs. Now we have millionaires by the score and tramps by the thousand. Why is it? Why is wealth being concentrated in the hands of the few? The answer can be found in our statute-books. Vicious legislation is the sole cause. The legislation to which I have already alluded—the unequal and unjust tariff laws are partly the cause, but there is another class of laws which are more directly responsible. When this Government was first formed and was growing through two-thirds of a century to its present grand proportions, it was rich in lands and poor in all else.

The great West and South were so sparsely settled that the people had no means of communication with each other or with "the balance of mankind." The teeming soil gave forth its abundant fruits, but they were valueless; there were no mouths to eat them and no means of transporting them to where there were mouths. Neither the people nor the Government had money to provide routes for transportation or to improve those which nature had provided. But the Government was rich in lands, and it at once inaugurated the system of giving lands to the States—mind you, Mr. Speaker, to the States—to aid in the construction of wagon-roads and canals. Six million acres of land were given to five States of the West—Ohio, Indiana, Illinois, Wisconsin, and Michigan—for these purposes.

But soon railroads came. It is not the life of an ordinary man, Mr. Speaker, since the whistle of the first locomotive was heard in this country; since the first mile of railroad was laid. It is not a generation since the Government of the United States made its first grant of land to a State to aid in building a railroad.

The Democratic party inaugurated that policy and it may be proud of the results. From the time the first grant was made in July, 1850, to the State of Illinois to aid in building the Illinois Central Railroad, from the great lakes of the north to Cairo, and to the States of Alabama and Mississippi, to aid in building the continuation of that road, the Mobile and Ohio Railroad from Cairo to the Gulf, the party continued that policy until it went out of power in blood and fire, and during the eleven succeeding years there had been granted to the States of Missouri, Arkansas, Louisiana, Mississippi, Alabama, Florida, Wisconsin, Iowa, Michigan, and Minnesota 35,000,000 acres of land, six sections to the mile, to aid these States in securing railways through their borders, and the result more than justified the anticipations of the grantors. The railroads in aid of which land was given were built, and thousands of miles of other roads were built because of these. That my words may be verified, let me here present a table of the States to which grants were made by Democratic Congresses, the number of miles of land-grant railways in each State, the number of acres of land patented or certified to each State, the number of acres of land to each mile of land-grant railway, and the number of miles of railways in the States.

State.	Land grant to State.	Miles of road built by land grant to State.	Number of acres to each mile of road.	Miles of railroad in State.
Illinois	2,595,053	1,320	1,960	7,780
Missouri	1,764,710	584	3,000	3,740
Arkansas	2,381,650	542	3,900	1,100
Florida	1,760,468	247	7,000	600
Alabama	2,825,932	822	3,430	1,932
Louisiana	1,472,405	152	7,000	950
Wisconsin	3,413,650	633	5,400	2,896
Michigan	2,580,020	1,005	2,600	2,692
Minnesota	7,360,000	1,800	4,100	3,270
Mississippi	935,158	406	2,300	1,140
Iowa	4,695,490	2,250	2,090	4,898
Kansas	4,153,470	1,210	3,430	3,101
Total	35,938,006	10,971	.....	34,099

Average number of acres for mile of railway, 3,273.

But, sir, the Democratic party passed out of power, the scepter departed from Judah, and the Republicans came into absolute control of the legislative, executive, and judicial functions of the Government. A new system was inaugurated; corporations were created to whom immense subsidies were given in money and lands to enrich individuals. Where the Democrats had given six sections of land per mile to the States to aid in road-building the Republicans gave twenty and forty sections per mile, and added to this immense bounties in money.

I have shown the amounts given by the Democrats, and the results; now, sir, I will show you the amounts given by the Republicans, and the results in miles of railroad.

The Union and Central Pacific Railway and their branches received 33,000,000 acres of land, over $100,000,000 in money, and for this outlay we have 4,454 miles of railway. The States to whom land was granted by Democrats gave us a mile of railway for 3,300 acres of land; these Republican corporations gave us one mile of railway to each 7,500 acres of land and $25,000 in money.

But there are eight other corporations created under this Republican plan; they were to give 6,500 miles of railway for 111,000,000 acres of land, that is one mile for each 17,000 acres, but in fact they only gave us 1,000 miles according to contract, and now demand the land, 110,000 acres per mile.

Observe, Mr. Speaker, the difference between the true policy of the Democratic party in giving to the States and the false policy of the Republican party in building up rich corporations to receive its favors.

But, sir, I hear Republicans say that it was the liberal and wise policy of the Republican party that secured for us our transcontinental railways. It is not true. This was the Democratic policy. A Democrat, one of the greatest, noblest, and purest who ever occupied a seat within the walls of this building, Stephen A. Douglas, introduced the first bill granting lands to aid in building a railway from the great lakes to the Pacific. A Democratic Secretary of War, a man whose name I shall ever revere as that of a patriot and statesman, Jefferson Davis, ordered the first surveys and examinations by engineers for railway routes across the continent.

Go to your library, sir, and there you will find thirteen quarto volumes containing the examinations made and the reports upon the practicability of railways across the continent, and then, sir, take a map of the United States and you will find upon every route examined by the order of this Democrat a railway built or rapidly being built. There, sir, you will see the Northern Pacific route, the Union and Central Pacific, the Kansas Pacific, the Atlantic and Pacific, and the Southern Pacific; the forty-ninth, the forty-first, the thirty-eighth, the thirty-fifth, and the thirty-second parallel routes were all selected by him and surveyed under his orders.

But, sir, those railways were not built under the Democratic policy. The last Democratic President of the United States, in advocating the policy of giving aid toward building a transcontinental railway, said, "The construction of this road ought therefore to be committed to companies incorporated by the States; Congress might then assist them in the work by grants of land or money, or both." This was in accordance with the precedents set and with the Constitution. But the Republicans disregarded the precedents and violated the Constitution, and in so doing inaugurated a saturnalia of robbery. They not only permitted but they encouraged and invited robbery, until the very floors of this House were reeking with the corruption that had overflowed from the corridors and contaminated the members.

The Credit Mobilier has gone into history. But the world does not know a tithe of the corruption that was caused by these land grants to corporations. Mr. Speaker, you can not descend from you chair now, sir, and pass out into either of the corridors of this House without finding the agent or representative of a land-grant railway ready to greet you with a cordial smile and shake of the hand, ready to whisper in your ear some word of advice as to what should be done in regard to them. They come in more shapes than Proteus; they stand like Satan at the apple tree handing you the fruit; they even penetrate, as ex-members, upon the floor of this House; they infest your hotels and residences; are as numerous as the lice and repulsive as the frogs that came upon Egypt at the command of Moses, and they all grew out of this system inaugurated by Republicans of building up monster corporations and fathering them upon the people's money and land.

Mr. Speaker, there is danger to the American people while this condition of affairs exists, and the representatives of the American people in Congress assembled should remove the cause of alarm. It is their bounden duty to the people and to themselves. This threatening cloud is the great political question of the time. We must recognize it as such; we must accept and meet the responsibility.

Briefly, Mr. Speaker, I have alluded to what I consider the questions of moment before the country. They are all cognate to each other and revert back to the one great question of taxation and revenue. With the Mississippi River navigable, railroad charges will be reduced. With railroad charges reduced the products of the farmer and manufacturer can be delivered to each other at lower prices with a greater profit to each. With the public domain rescued from the monopolists, who are trying to seize it, and restored to the people, taxation will be lightened still further and prosperity accordingly enhanced.

Sir, in rising for the last time, perhaps, in this House I desire to return my thanks for the uniform courtesy shown to me alike by political friends and foes, assuring you that in returning to my home and to the pursuits of private life I shall carry with me many pleasant recollections of my service here and many warm friendships that will continue during life.

Fitz-John Porter.

SPEECH

OF

HON. RUFUS R. DAWES,

OF OHIO.

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883,

On the bill (S. 1844) for the relief of Fitz-John Porter.

Mr. DAWES said:

Mr. SPEAKER: In the record of the proceedings of this House for Monday, January 15, 1883, occurs the following:

Mr. BRAGG. I move to take from the Speaker's table the bill (S. 1844) for the relief of Fitz-John Porter.

Mr. DAWES. I object. [Cries of "Regular order!"]

Owing to its parliamentary status this objection probably is, as it was intended to be, the death of the bill so far as the Forty-seventh Congress is concerned. It has always been my conviction that Fitz-John Porter interposed the "regular order," to say the least, against the appeal for consideration sounding from the cannon and crashing from the muskets of his fellow soldiers engaged in deadly struggle on the field of battle. Justice to Fitz-John Porter in the way of relief from the penalties imposed by the court-martial that condemned him will be, I think, more poetic at the hands of the Forty-eighth Congress. I desire that that Congress shall have the satisfaction and the glory of granting such justice, if it is so inclined. The poetic justice due him from a soldier in the army of General Pope it was my desire to place upon the record.

On the 27th day of November, 1862, a court-martial convened in Washington for the trial of General Fitz-John Porter. The court consisted of the following-named officers: Major-General D. Hunter, Major-General E. A. Hitchcock, Brigadier-General Rufus King, Brigadier-General B. M. Prentiss, Brigadier-General James B. Ricketts, Brigadier-General Silas Casey, Brigadier-General James A. Garfield, Brigadier-General J. P. Slough. Colonel Joseph Holt, Judge-Advocate-General of the Army, was judge-advocate and recorder of the court. General Porter, the accused, was represented by Hon. Reverdy Johnson and Charles Eames, esq., as counsel.

The court attracted the attention of the whole country to its deliberations on account of the distinguished character of the accused, and on account, also, of the grave crime against his country and his comrades in battle with which an officer of unquestioned fidelity and approved valor on other fields of battle stood charged. The court sat about forty-five days. It sat with open doors and in the sunlight of public criticism. I find it impossible to doubt that there was willingness on the part of the court-martial to give the accused full, fair, and impartial hearing. It is impossible, also, to believe that the men constituting that court would be willing to do less than justice on the side of mercy. In the name of the best, the wisest, the truest, and most charitable of the great men who stood our leaders in those dark days, I repel the degrading suggestion that this court was organized to convict. General Porter had, therefore, a trial according to the custom of war in like cases—a fair trial and by a court of the highest possible standing as to intelligence, character, and integrity. He had before this court a powerful defense. Every witness important to his defense and accessible to the court was summoned, appeared, and testified. Only persons engaged in armed rebellion and restrained from attendance by that fact are lacking from the list of witnesses desired by the accused. If such witnesses could have appeared they would have known absolutely nothing of the animus or personal action of General Porter, for the plain reason that he did not get near enough for them to see him. It was his first duty as commander of an army corps moving toward a field of battle where cannon were sounding and musketry crashing to possess himself by armed reconnaissance of information as to the force and position of the enemy in his front.

But he had halted his column before a cloud of dust and recoiled from a slight and bloodless encounter with the enemy. For this very reason he was unable to prove to the satisfaction of the court his allegations as to the presence of Longstreet in superior force. His failure to have this knowledge was an essence of the crime of which he stood accused. It was what he had not known that condemned him. The fact that he could not prove his allegations by a cloud of witnesses from his own line of battle, but was forced to rely in part upon a cloud of dust, was one vital point against his case. Had he shown the spirit, action, and inspiration of the soldier he was known to be, all would have been well for him before that court-martial of true patriots and gallant soldiers. An excellent soldier of that same campaign, when criticised as to his battle action, answered:

My justification must rest solely upon the circumstances as they existed to my knowledge at the time. If these do not justify me nothing can.

The court-martial convicted General Porter of criminal insubordination and disobedience of orders on the battle-field. The sentence was that he be cashiered and forever disqualified from holding any office of trust or profit under the Government of the United States. It is the tradition of the court that the question was not between dismissal and a lighter sentence, but between dismissal and death. The sentence was approved by Abraham Lincoln, President of the United States. Hon. Robert T. Lincoln, in his testimony upon the subject, says:

My father was exceedingly severe in his condemnation.

As a soldier of the army of General Pope, and afterwards in the Army of the Potomac, I then accepted this action of the court-martial as conclusive upon the subject. It was sustained by impression, observation, and knowledge of events as they existed all around us. I am proud to claim the honorable gentleman from Wisconsin [Mr. BRAGG], who champions this bill, as my instructor in the battle duty of a soldier. He never flinched in battle nor in getting into battle, and woe to the man under his command who did. From an old letter of my own, written from our camp near Belle Plain, April 8, 1863, I take these words as expressing the sense and indignant feeling at that time of the soldiers of the regiment with which I was connected, and which the gentleman commanded:

Shot to death by musketry for Fitz-John Porter would have been poor penance for the thousands slaughtered at Bull Run, and we, their surviving comrades and friends, would for their sakes rejoice at it.

Lapse of time has cooled my feelings, but reconsideration has not changed my judgment.

But, unless my memory plays me false, a reconsideration has changed the judgment of my honorable friend, the gentleman from Wisconsin. He was my leader on many fields of bloody endeavor, and my Nestor in military law. It is my recollection that our opinions upon this case were not different in 1863. From his emphasis I think I drew in part my inspiration. The Army wanted victory, not a victim. Political discussions and disrespectful and treasonable language toward the Government and superior officers had proved a bane to the discipline of the Army of the Potomac, which a vigorous enforcement of the penalties could alone correct. In this conspicuous case the Army believed the crisis demanded the most vigorous exaction of the penalty. Perhaps we were mistaken, and soldierly instinct on the spot must give way to legal acumen at long range in passing judgment upon battle action.

Sixteen years after these events the case was opened for rehearing before a board of three officers of the Army. They were gentlemen of high character, and distinguished in history. But this tribunal of three men, far removed from the events, of questionable legality in its constitution, anomalous in its character, without power to compel attendance of witnesses, is, I submit, not entitled to the respect due to the original court-martial whose conclusions it reverses with entire completeness. Before this board General Porter came with an *ex parte* case, carefully prepared by sixteen years of devotion to the subject—a devotion that is touching in its sincerity and earnestness—and he was represented by the strongest legal talent—"three skillful, able, and learned counsel." With all respect for the recorder of this board, and admiration for his heroic struggle against odds, and full appreciation of his excellent conduct of the case, I must still say the Government had an unequal hearing compared with the trial of the issue before the original court-martial. A harsh criticism has said, "This board was a whitewash for Porter and a drag-net for McDowell." The board found Porter's conduct worthy of high encomium. It was ready to canonize him as a martyr, and to place his name on the scroll of fame as a hero—God save the mark!—who saved an army by not fighting! It reached, also, the conclusion that General Porter's animus toward his commander, General Pope, which was granted bad, was of no importance in the case.

What a proposition in military jurisprudence! The spirit and intention of the actor to be eliminated from consideration in passing judgment on the nature of the act. On this point I will quote a distinguished soldier and jurist. He says:

The spirit and intention constitute the difference between a man's being foolishly captured by the enemy and his being a deserter deserving death. It constitutes the essential difference between an officer's doing some blundering or timid thing deserving only censure or contempt, and his being guilty of the highest of military crimes. The stern law of war punishes even cowardice with death when it sets a dangerous example; but if a hostile spirit of hatred and insubordination toward the commander produces the same results as cowardice would, the crime is exaggerated. In the one case it may be physical weakness, which we pity and despise while we punish it; in the other it is a purposed and willful wrong, allied closely to treachery. To say that malice makes no difference in offenses is merely to invert all rules.

The animus of Porter will be the controlling consideration in the debate before the American people, as it was before the court-martial that condemned him. Says one whose judgment carries weight before the nation:

It requires no oral testimony to establish that, as their intrigues, dispatches, and intercourse at that time establish that fact beyond any possible controversy.

There was no darker epoch in the war than the summer and fall of 1862. The grand campaign against Richmond was a flat failure. Upon the Army of the Potomac, the finest, most elaborately equipped, and completely organized army of the land, had been centered and lavished the resources, the hopes—yes, the agonized prayers of our people. The power that swept the eagles of France to irresistible victory in the name of Napoleon had been invoked for its

commander by the worshipful devotion of his soldiers and the loud acclaim of a people new in war and hungry for a hero. The net result of its campaign of the fall of 1861 was a grand review at Ball's Cross-Roads. The people were disappointed; but the summer of 1862 had added disaster to disappointment. In the campaign upon the Peninsula priceless time had been lost in the ditches at Yorktown, and when the grand shock came in front of Richmond the army was found straddled across the Chickahominy, as President Lincoln said, "like an ox half jumped over a fence that could neither hook one way nor kick the other." In this form McClellan had been attacked by his masters in war, Lee and Jackson, and despite the valor of his soldiers and the heroism and skill of his generals, Fitz-John Porter most faithful and conspicuous of them all in the desperate struggles, he had been driven back from Richmond and was on his defense at Harrison's Landing on the James. Still McClellan's soldiers and most of his officers clung to him with an unfaltering faith and an unchilled devotion. But "Mac's star" had set. The people could not be fed on husks; their hearts had turned elsewhere. The banners of the undrilled and undecorated Army of the West had flashed from Fort Donelson, and by vigorous action that army had wrested victory from the bloody field of Shiloh, and pushed southward the lines of invasion. The President, recognizing the stern logic of events, had looked to the West for a commander to defend the capital, threatened by the failure of the Peninsula campaign, and he now ordered the humbled commander of the Army of the Potomac to bring his army back to Washington, a rear guard for Pope. Let the hero and martyr, General Philip Kearney, tell in his own words the story of the situation, as one portion of the army and of the people regarded it at this juncture:

[From Wilkes' Spirit of the Times.]

HARRISON'S LANDING, *August* 4, 1862.

DEAR PET: I thank you for your kind, long letter. You extend to me hope. You suggest withdrawing me and my division out of this ignoble position. With Pope's army I could breathe again. * * * For McClellan, he is burnt out. Never once on a battle-field, you have nothing to hope from him as a leader of a column. How do they expect Pope to beat with a very inferior force the veterans of Ewell and Jackson? Peace! peace! but there is no peace. No, not even with a disrupted Union. Let the North cast away that delusion. Draft we must, or the disciplined thousands of the South will redeem scrip in Philadelphia, and yet the North must accept it, and quickly, to a man, or the moment it draggles in debate, Maryland, Tennessee, and Kentucky will cast past victories to the winds and rise with their nearly allied rebel kin. * * * Adieu. Get me and my fighting division with Pope. With best regards,

KEARNEY.

To Mr. O. S. HALSTEAD, Jr., *Newark, N. J.*

Kearney may speak for those who distrusted McClellan. Fitz-John Porter clung to McClellan, as his record abundantly shows, with a devotion passing the love of woman. With an unexampled indiscretion, General Pope had recognized this McClellanism of the Army of the Potomac, and defied it. In the following order he assailed both the Army of the Potomac and its commander:

WASHINGTON, D. C., *July* 14, 1862.

To the officers and soldiers of the Army of Virginia:

By special assignment of the President of the United States, I have assumed command of this army. I have come to you from the West, where we have always seen the backs of our enemies, from an army whose business it has been to seek the adversary and beat him when found; whose policy has been attack, not defense. * * * Meantime I desire you to dismiss from your minds certain phrases which I am sorry to find much in vogue amongst you. I hear constantly of "taking strong positions and holding them," of "lines of retreat," and "bases of supplies." Let us discard such ideas. The strongest position a soldier should desire to occupy is one from which he can most easily advance upon the enemy. Let us study the probable lines of retreat of our opponents, and leave our own to take care of themselves. Let us look before and not behind. Disaster and shame lurk in the rear. * * *

JOHN POPE,
Major-General, Commanding.

This was accepted and resented as an uncalled-for taunt by the Army of the Potomac, smarting already under unjust criticisms, jealous of its honor as an army, and still swift to resent an insult to its commander. If General Pope could have economized combativeness to the extent of sparing the Army of the Potomac from this ungracious assault it would have been better to have done so. The logic of the situation now became this: If Pope's Army of Virginia, aided by the Army of the Potomac, should defeat the enemy, should relieve the capital, and should lift the dark cloud from the despairing hopes of the people, this "braggart" Pope would displace McClellan in command of the Army of the East and send him to the rear. The iconoclasm of a victory by Pope would shatter the idol of the eastern army.

To Kearney with his "fighting division" and to Fitz-John Porter with his splendid corps came alike the orders to leave the Army of the Potomac and go to Pope. Kearney, with enthusiasm and a sense of relief to escape a "pent up Utica that restrained his powers," hastened with soldierly alacrity to duty and to death with Pope. Fitz-John Porter, with bitterness and gall toward Pope, moved in obedience of orders in the same direction. In the light of history I have endeavored to define and restore the issue. On the part of some officers of the Army of the Potomac there was criticism of orders, expressed contempt for Pope, snail-like marching, excuses, haltings, delays, sneers for Pope's soldiers, and a dull ear for the booming cannon of battle pleading for comrades to fly to the rescue. On the part of others, like Kearney, Hooker, and Reno, there was zeal to act and unquestioning faithfulness to obey. History will recognize this demoralization as an important factor in shaping great events. It will say that a better union of the two armies was possible by more vigorous effort of the commander of the Army of the Potomac and certain of his corps commanders. It will say that the armies, so united, had power to defeat the enemy and prevent the invasion of Maryland with all its bloody consequences; and it will say that the tardiness and heartlessness of commanders of their own fellow-soldiers betrayed to slaughter and defeat the faithful and gallant army of General Pope which had toiled and struggled with unflinching valor and unquestioning fidelity. Here there were no wagons; there it was all wagons. Here mud was too deep; there the dust was too thick. There was nothing to eat; there was nothing to drink; they were so tired; the moon would not shine, and the nights were too dark, and Pope ought to be "left to get out of his scrape" the best he could. It was not their funeral. Oh! my bleeding country! We captured a straggler from Stonewall Jackson's Flying Corps, which was now creating all the trouble. He said "old Jackson gave us a gum blanket and a hundred rounds, and he druv us so like hell on parched corn that I couldn't stand it." Rain or shine, night or day, through dust and mud, "old Jackson druv" his column in that campaign, and his faithful vigor as a soldier stands in contrast to illuminate the dark record by showing what true men might have done, if they had tried, for our cause. I have devoted so much effort to restore the existing conditions of history to show that when the Schofield board ruled that "evidence of bad animus in Porter's case was not material," it undertook a large contract. It reversed the judgment considerately formed, under direct responsibility, by Abraham Lincoln and James A. Garfield, our two martyred Presidents; it reversed the judgment of hundreds of leading men of that day, and thousands of soldiers, and it directly and severely censured the court-martial that convicted Porter. On February 13th, 1880, General Garfield, then a Member of Congress, and gathering material for a speech upon the pending bill for the relief of Fitz-John Porter, wrote as follows:

It is now perfectly evident that the Fitz-John Porter debate will arouse more bad feeling and awaken more war memories than anything that has occurred in Congress in a long time. We are now called upon to defend the honor of the living and the memory of the dead heroes of the war who fought with a spirit of unquestioning loyalty, not only to their country, but to their commanders. If the Fitz-John Porter bill passes it condemns hundreds of leading men from Lincoln down, and leaves a blot on their names.

General Porter says that he willingly acknowledges that he was one of those who did not think that the Army of the Potomac should be removed from the Peninsula, and that he shared with others distrust of Pope's capacity to command.

But he says his opinions on this subject were not asked by the authorities; that circumstance did not restrain him from giving them with great liberality. There was certainly nothing mean about him in that direction. Let us follow the naked record of his official communication. He first reported to General Pope by note on August 26, and in person on the morning of August 27, 1862, at Warrenton Junction. In a brief and cordial (?) interview he acquired his knowledge of General Pope's plans of campaign, purposes, and strategy. If we may judge by his complete and ready disclosures of them, his power as a "soul reader" was quite equal to that of Lieutenant-Colonel T. C. H. Smith, of whom he bitterly complains for being impressed by his own manners and bearing. What seems to strike him first are the excellent jokes on Pope, swiftly communicated to General Burnside in his first dispatch after the interview. General Porter says he was giving Burnside his "impressions:"

Everything here is at sixes and sevens, and I find *I am to take care of myself* in every respect. *Our line of communications has taken care of itself in compliance with orders.* The army has not three days' provisions. The enemy captured all Pope's and other clothing, and from McDowell the same, *including liquors;* [McDowell was known to be a total abstainer]; no guard accompanying the trains and small ones guard bridges. The wagons are rolling on, and I shall be here to-morrow. Good-night.

F. J. PORTER, *Major-General.*

The true inwardness of the whole situation, according to his "impressions," is given in a fuller dispatch on the same day, as follows:

AUGUST 27—4 P. M.

To General BURNSIDE, *Falmouth, Va.:*

* * * Wagons are rolling along rapidly to the rear as if a mighty power was propelling them. I see no cause of alarm, though this may cause it. McDowell is moving to Gainesville, where Sigel now is. The latter got to Buckland bridge in time to put out the fire and kick the enemy, who is pursuing his route unmolested to the Shenandoah or Loudoun County. * * * Everything has moved up north. *I found a vast difference between these troops and ours,* but I suppose they were new, as to-day they burned their clothes, &c., when there was not the least cause. *I hear that they are much demoralized* and needed some good troops to give them heart, and, I think, head. We are working now to get behind Bull Run, and I presume will be there in a few days, if strategy don't use us up. The strategy is magnificent, and tactics in the inverse proportion. I would like some of my ambulances. I would like, also, to be ordered to return to Fredericksburg, to push toward Hanover, or, with a larger force, to push toward Orange Court-House. I wish Sumner was at Washington, and up near the Monocacy, with good batteries. I do not doubt the enemy have a large amount of supplies provided for them, and I believe they have *a contempt for the Army of Virginia.* I wish myself away from it, with all our old Army of the Potomac, *and so do our companions.* I was informed to-day by the best authority that, in opposition to General Pope's views, this army was pushed out to save the Army of the Potomac, an army that could take care of itself. Pope says he long since wanted to go behind the Occoquan. * * * I hear many of the sick of my corps are in houses on the road—*very sick,* I think. There is no fear of an enemy crossing the Rappahannock. The cavalry are all in the advance of the Rebel army. * * * If you can push up the grain to-night, please do so, direct to this place. There is no grain here or anywhere,

and this army is wretchedly supplied in that line. Pope says he never could get enough. Most of this is private, but if you can get me away, please do so. Make what use of this you choose, so it does good. Don't let the alarm here disturb you. If you had a good force you could go to Richmond. A force should at once be pushed on to Manassas to open the road. Our provisions are very short.

F. J. PORTER.

In another dispatch to General Burnside, on the 27th of August, he says:

Please hasten back the wagons I sent down, and inform McClellan, that I may know I am doing right.

And at 2 p. m., on the 28th of August, he dispatches—

All that talk about bagging Jackson, &c., was bosh. That enormous gap Manassas, was left open, and the enemy jumped through; and the story of McDowell having cut off Longstreet has no good foundation. * * * The enemy destroyed an immense amount of property at Manasses—cars and supplies. I expect the next thing will be a raid on our rear by Longstreet, *who was cut off*.

Also, in another dispatch, on the 28th, he says:

I hope for the best; my lucky star is always up about my birthday, the 31st, and hope Mc's is up also. You will hear of us soon by way of Alexandria.

At six o'clock in the morning of August 29th he telegraphs to Burnside—

Heintzelman and Reno are at Centreville, where they marched yesterday, and Pope went to Centreville with the last two as a body-guard, at the time not knowing where was the enemy, and when Sigel was fighting within eight miles of him and in sight. Comment is unnecessary. * * * I hope Mac's at work, and we will soon get ordered out of this. It would seem from proper statements of the enemy that he was wandering around loose; but I expect they know what they are doing, which is more than any one here or anywhere knows.

At risk of throwing some defender of General Porter into the usual rage occasioned by it, I will again place before the country for a rehearing the conclusion drawn by Judge Advocate General Joseph Holt in his review of the case made for President Lincoln, at the President's written request:

The precise import of these remarkable words in their connection cannot be mistaken, nor can it fail to be observed how harshly they jar upon the proprieties of military life. It may be safely affirmed that they express, on the part of the accused, an intense scorn and contempt for the strategy and movements of the Army of Virginia, a weariness and disgust for his association with it, added to a bitter fling at his commanding general, as found in the extraordinary declaration that he had taken two divisions of his army as a "body-guard to Centreville." The words, as quoted, disclose also a looking by the accused not to General Pope, but to General McClellan, as his guide, and a reliance upon his exertion and influence to relieve him from his connection with the Army of Virginia, and an expectation, if not a hope, that they would all soon arrive at Alexandria. This, it is true, would involve the discomfiture of that army, but it would also involve the discredit of its commander, and would restore the accused to his former position under General McClellan. Such must have been the anticipation, and such certainly was the result.

This is the officer who commanded ten thousand veteran soldiers, the freshest, best fed, best equipped, and highest-toned corps, on that day, at General Pope's disposal. His column closed on Warrenton Junction early in the evening of August 27, portions of the corps arriving during the afternoon. On that day General Joe Hooker had fired away, in battle with the enemy at Bristoe, all but five rounds of cartridge to the man. To the ears of the Fifth Army Corps and their commander the breezes had doubtless wafted the sound of this distant battle. This is the man who was nine miles away, and who, at 10 o'clock that night, received from the commander of his army this order:

HEADQUARTERS ARMY OF VIRGINIA,
Bristoe Station, August 27, 1862, 6.30 p. m.

GENERAL: The Major-General commanding directs that you start at 1 o'clock to-night and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas, and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward at all speed to take your place at Warrenton Junction. *It is necessary, on all accounts, that you should be here by daylight.*

I send an officer with this dispatch who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the railroad trains to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General POPE.

GEORGE D. RUGGLES,
Colonel and Chief of Staff.

P. S.—If Banks is not at Warrenton Junction, leave a regiment of infantry and two pieces of artillery, as a guard, till he comes up, with instructions to follow you immediately upon his doing so. If Banks is not at the Junction, instruct Col. Clary to run the trains back to this side of Cedar Run, and post a regiment and a section of artillery with it.

By command of Major-General POPE.

GEORGE D. RUGGLES,
Colonel and Chief of Staff.

Major-General PORTER, *Warrenton Junction.*

The judgment of the court-martial was that General Porter "did then and there disobey the said order, being at that time in the face of the enemy." It is urged vehemently by the defenders of General Porter that it would have made no difference in results if he had obeyed or tried to obey the order. All that elaboration does not touch the case. The order to march was urgent and imperative, explicit, and glowing with the urgency of a call to battle. The excuses are briefly summarized: "The night was too dark;" "the road was bad and obstructed;" "the troops were tired;" the subordinate generals, "our companions," advised against it. It was a foolish order anyhow, from a general who did not know what he was about.

Let us consider whether General Porter could have marched in the darkness that night, approximately, according to his orders, if he had tried. The rebel army could march and did march that night in its efforts to destroy our country. Do not say to me, a member of that corps who marched with it on the awful night of May 13, 1864, in obedience to orders of General Grant at Spottsylvania, that the old Fifth Army Corps could not march to save their country on any night the enemy was moving to destroy it. As a soldier, afterward attached to that corps and having an interest in the glory of its name, I resent the imputation as an insult to its history. I cannot encumber the Record in my limited space with thrice-told tales of historic evidence, but it is not, cannot be denied that almost the entire rebel army in that same campaign marched on the night of August 27 General Taliaferro's division, of Jackson's corps, taking along a wagon train captured from the rear of our army. It was because they could march at night, and did march at night, that the enemy were able to so completely surround and defeat General Pope's disjointed and paralyzed army. Let me compare the march of the Fifth Army Corps, in obedience to the orders of General Grant, on the night of May 13, 1864, at Spottsylvania, with Porter's pitiful record. That corps was under heavy fire on May 8, and also on May 9, and engaged in bloody assaults on May 10, and under fire on May 11, and in two desperate assaults upon the enemy's intrenchments on May 12, 1864. After this continuous and bloody service by day, accompanied by digging of trenches by night, with men living on half rations, and no fires to "cook coffee," God knows they were tired and hungry. But I will give the naked record from official reports and history of what soldiers of the Fifth Army Corps could do. I quote from the official report of a regiment of that corps, the Sixth Wisconsin Volunteers:

About dark (May 12) we moved back again two miles toward the right, and the brigade was ordered to construct works. * * * In the midst of darkness and a driving rain-storm I proceeded to construct breastworks. In a short time we were ordered to leave this work and march back to our position in support of troops fighting along the line of captured intrenchments. My regiment was sent forward to relieve troops firing upon the enemy's works at the salient. In compliance with instructions my regiment stood in mud more than six inches deep, and kept a continuous fire upon the enemy's work during the entire night.

This night, at the so-called "angle of death," on the line of Spottsylvania, was the most horrible conceivable. The mud was full of dead bodies of our own soldiers; and yet the report continues:

During the night of May 13 *we were on the march.*

Notice this is after five days of battle and nights of restless toil.

The night was very dark, the roads exceedingly muddy, and the men were obliged to wade swollen streams, passing through water three feet deep.

This regiment had been educated to soldierly obedience and faithful performance of duty by my friend, the honorable gentleman from Wisconsin [Mr. BRAGG], who was then its colonel. Now let us turn to Swinton's History, page 455, for what the Fifth Army Corps, in which my friend was commanding a brigade, essayed to do that night of May 13, 1864, after a campaign so continuous, so exhausting, and so trying, as I have shown, and then think of the insult implied upon that noble band of unflinching heroes, by the intimation that they could not march on the night of August 27, 1862, for the flimsy reasons given:

The Fifth Corps, during the night of the 13th, was ordered to march from its position on the extreme right, take post on the extreme left to the left of Burnside's corps, and assault in conjunction with that corps at 4 a. m. on the 14th. The march began at 10 p. m. The wet weather, however, had badly broken up the roads, and the night being one of Egyptian darkness, the move was made with immense difficulty. The route of march was past the Landrum House to the Ny River, which had to be waded. The narrow route afforded no road, but traversed the fields and a piece of woods where a track had been cut. Here, midway of the journey, a dense fog arose and covered the ground so that not *even the numerous fires that had been built to guide the column could be seen.* The men, exhausted with wading through mud knee-deep and in the darkness, fell asleep all along the way.

I will quote the closing sentences of the official report of the Sixth Wisconsin Volunteers, as to all this service:

These operations were the most exhaustive to the energies of the men, and perhaps the most trying to their *morale*, of anything in the experience of the oldest in service. But the hardships and dangers were undergone with fortitude, and the men were always ready to put forth their best effort in the most perilous undertaking.

Knowing so well his record, I may safely say that had my honorable friend from Wisconsin [Mr. BRAGG] had command of the Fifth Corps, they would have marched on that night of August 27, 1862, if he was then an officer in the "demoralized army of Virginia," that needed some "good troops to give them heart." I have no doubt that that night was dark; nights are apt to be when there is no moon. There is unimpeachable evidence that the night was dark. I find evidence that it was "very dark," given by my gallant leader who fell at Gettysburg, General John F. Reynolds. He testifies:

It was a very dark night, as was the succeeding night. I recollect both of them distinctly from having been about a good deal until after 12 o'clock on each night.

Ah, on the succeeding night I was about myself, and so was my honorable friend from Wisconsin. We can swear it was dark—very dark. At 6.30 p. m., August 28, General John Gibbon attacked two divisions of Jackson's corps. In that battle six regiments of Pope's "demoralized" Army of Virginia, as history now shows, grappled and fiercely battled with thirty regiments of the enemy—regiments that were the flower of the rebel army—that formed the corps of

Stonewall Jackson. Go read the Confederate reports for tributes to their valor. Far into the night the desperate and unequal struggle raged. We lost a thousand men, but we held our ground. After this battle then, "at 1 o'clock, a. m.," we marched for Manassas Junction, "nine miles." How strangely similar this sounds to the situation of Fitz-John Porter on the night before, only he had fought no battle. We reached the Junction, nine miles away, "at daylight." My friend, the honorable gentleman from Wisconsin, marched that night at the head of our column. There are others in this hall who marched that night. Hugh Lewis, an employé of this House, whose arm is off at the shoulder-joint, carried on that midnight march his shattered arm destroyed in the fight. Ask him whether soldiers could march on those nights. Ask the one-legged doorkeeper, Williams, now in attendance in your galleries, who crawled over that road, coming safely through, whether soldiers could march on those nights. Take what lines of defense you can, but do not justify your recreant generals by impeaching the willingness and devotion of the soldiers of the line; and do not say the Fifth Army Corps could not accomplish in 1862 what it did in 1864. The difference was not in the men, but in the leaders of the men. I fancy that such excuse as I take from the record, as follows, would not have been accepted by General Grant for failure to march on the part of the brigade commanded by my honorable friend from Wisconsin [Mr. BRAGG] on the night of May 13, 1864:

It will not be necessary for me to explain to a soldier that every ditch, every bad place on the road, every bridge, every ford, operates as a serious impediment to a march at night. Soldiers stretch out into single file and pick their way carefully at the slightest obstruction. If there was a little stream to wade, and a log lay across it above or below the ford, they will take to the log in single file until the officers, finding the column broken, ride to the rear for the cause and force them across the stream even at the risk of muddying their boots. The same result follows the miring of a battery.

Yet this is the gentleman's excuse for Porter.

It is not the consequences of disobedience that we are considering. I care not whether they were damaging or not. It is the fact of disobedience that is in question. Does any one suppose that if the soldiers had had the order to march at 1 a. m. they would have refused or hesitated? They did not have the order, and General Porter alone is responsible for the disobedience involved in that fact. I do not suppose that a general with the true spirit and inspiration of a soldier and the true devotion of a patriot would have withheld that order. Ah! but you argue he consulted his generals, took testimony, sought it, I think, as to the terrible darkness and formidable wagons in the road. I cannot forget that ugly sentence in Porter's dispatch about "our companions," but I will do justice to these generals. They were heroes on other fields. So were Pope's soldiers heroes on other fields, and on this field too where they became, in a measure, victims of their own heroism. General Porter in this midnight council of war that did not march, did not utter or make known to his generals of brigade anything but the single fact that he was directed to march at 1 o'clock:

He named the hour and invited their counsel, but said nothing of the urgency, and he encouraged them to the counsel he wished by adding to his mention of the hour the sneering or indifferent remark, "There is something for you to sleep on." He handed the order to one of his generals with whom he was most intimate, with this remark, and the result was that the one who received it, if he looked at it at all, glanced at it so slightly that he remained unacquainted with its terms.

General Sykes testified:

General Porter informed me that he had received an order directing his corps to march at 1 o'clock.

Question by the Judge-Advocate. Do you remember whether you were made acquainted with the urgent language of the order, stating that by all means General Porter must be at Bristoe Station by daylight the next morning?

Answer. No, sir, I did not; for I am satisfied that if the emergency had been made known to us we would have moved at the hour prescribed.

General Butterfield said:

Question by the accused. Will you state what was said by General Porter in relation to that order, and what the order was?

Answer. The order, I believe, was for General Porter to move his forces at 1 o'clock to Bristoe.

Question by Judge-Advocate. Did you see the order, the 27th, from General Pope, or know anything about the urgency of its terms?

Answer. I did not read it.

General Morell says, in answer to the question as to "what occurred:"

General Porter said to us that he had received this order to march at 1 o'clock that night; we immediately spoke of the condition of our troops, they being much fatigued, and the darkness of the night, and said that we did not believe that we could make any better progress attempting to start at that hour than had we waited until daylight. After some little conversation General Porter said, "Well, we will start at 3 o'clock—get ready." I immediately left his tent, &c.

It is quite evident that General Morell was not stimulated to march. They got ready at 3 o'clock, but they did not go. This kind of alacrity to obey battle orders reminds one of the tempestuous bully who stripped himself to the skin for fight and then said, "Just wait until I spit on my hands." Ah! gentlemen, your action creates a bad impression as to what might have been your animus.

Great merriment is made of the psychological powers of the witness, Colonel Thomas C. H. Smith, who met General Porter on the afternoon of August the 28th, after this failure to march. Colonel Smith chatted with him for only ten minutes. It is not denied at all that General Porter said to Smith that the ammunition was on the road to Alexandria, "where we were all going," and used other like complimentary allusions to the strategy of the army commander to a member of that commander's personal staff. I incline to believe that while Colonel Smith was emphatic in expression, he was all too near the truth in his "impressions." I can safely say that Colonel Smith told General Pope what he believed to be the exact truth, for I have personally known the gentleman for many years. I will quote from his testimony:

"General, I saw General Porter on my way here," said he. "Well, sir," I said, "General, he will fail you." "Fail me," said he; "what do you mean? What did he say?" Said I, "It is not so much what he said, though he said enough; he is going to fail you." These expressions I repeat. I think I remember them with exactness, for I was excited at the time from the impression that had been made upon me. Said General Pope, "How can he fail me? He will fight where I put him; he will fight where I put him;" or, "He must fight where I put him; he must fight where I put him"—one of these expressions. This General Pope said with a great deal of feeling and impetuously, and perhaps overbearingly, and in an excited manner. I replied in the same way, saying that I was certain that Fitz-John Porter was a traitor; that I would shoot him that night, so far as any crime before God was concerned, if the law would allow me to do it.

I speak of this to show the conviction that I received from General Porter's manner and expressions in that interview. I have only to add that my prepossessions of him were favorable, as it was at headquarters, up to that time. I never had entertained any impressions against him until that conversation. I knew nothing with regard to his orders to move up to Kettle Run; I knew nothing of any failure on his part to comply with any orders.

Let me give some facts concerning this witness at that time. He was a lawyer by profession, a Democrat, a graduate of Yale College, I believe, an earnest, sincere, devoted friend to the Government, and he was a gentleman of fine ability. He had convictions, and the courage of a man who had. Psychologist or prophet, call him what you choose, he had the courage to say exactly what he believed. "Ay, there's the rub." It cuts too near the line. Always toward Alexandria General Porter turns his longing eyes. There his star, McClellan, was to rise; and if Pope, meanwhile, gained no victory to intrench him in the gratitude of his country, the commander of the Army of the Potomac, under the sixty-second Article of War, upon arrival at Alexandria, where he was slowly moving, might become commander of the united armies. It did not suit such cherished plans for General Pope to win a battle. A battle is an emphatic time. Give me emphatic men for such a crisis. All honor to Colonel Smith, who braved the incredulity of his harsh commander by denouncing a laggard whom he had found, as he believed, when the lines were gathering for battle.

Writing in haste and earnestness it might well be expected that a soldier on the field of battle would lay himself open to criticism in his documentary order. It strikes me that the order is very clear and explicit; that General Pope wanted General Porter's whole corps at Bristoe by daylight in the morning. It is argued that because he could not get his whole corps to Bristoe Porter was justified in not trying to get any of it there. This is fine logic for peace, but it wins no battles in war. If the artilery stuck in the mud the infantry were not therefore necessarily and absolutely obstructed and detained, according to my experience in night marching. There was room enough in that country to get around all such obstructions, and there was wood enough in that country to build fires, as we did on the night of May 13, 1864, at Spottsylvania. The true soldier exercises discretion on the side of action, not delay, when he is called toward the field of battle. General Washington laid down the rules of obedience to orders, as understood in the British army, from whence came the American Articles of War and customs of the service. Said he:

It is not for every officer to know the principles upon which every order is issued and to judge how they may, or may not, be dispensed with or suspended, but their duty is to carry them into execution with the utmost punctuality and exactness. They are to consider that military movements are like the working of a clock, and they will go quickly, regularly, and easily, if every officer does his duty; but without it, be as easily disordered, because neglect from any cause, like the stopping of a wheel, disorders the whole.

Mr. Samuel, in his historical account of the British army and of the law military, says:

Whether the orders of the superior enjoin an active or a passive conduct the officer or soldier subject to them is equally obliged to obey; otherwise, every military operation or enterprise would be made to depend not on the prudence or counsel of the commander but upon the caprice of the soldiery, either for the furtherance or destruction of its object.

The prompt, ready, unhesitating obedience in soldiers to those who are set over them is so necessary to the military state and to the success of every military achievement that it would be pernicious to have it understood that military disobedience, in any instance, may go unquestioned.

Let us see exactly how General Porter obeyed his orders. I now quote from evidence given for his defense:

We had reveille about 1 o'clock, * * * ordered to move at 3, and moved between 3 and 4 across the run, less than a mile from camp, and halted there and remained until after daybreak. * * * I only knew there was some artillery and teams we had to pass by going through the field as we passed over that road. * * * We encountered a difficulty in getting out of camp in the darkness, and getting many of our carriages stuck in the run near the edge of camp. Some of them were not got out until after daylight, especially one battery wagon.

General Sykes speaking of the march from Warrenton Junction, says (court-martial record, pages 170, 171):

Reveille in my own division was beaten at 2 or 2.30 o'clock a. m., and the advance was sounded as soon as I could distinguish the road. * * * Before I directed the advance to be sounded I sent an aid-de-camp to find the road, so as to lead the column upon it. He returned in a short time and told me the darkness was so great that he could not distinguish the road. He also told me he was assisted in that search by several soldiers. * * * As I anticipated, we

ran upon this train of wagons within two miles of my camp; they encumbered the road for miles.

Now let us have evidence as to the road and its condition.

Captain De Kay, of General Pope's staff, testified (court-martial record, page 47):

The road runs through the woods part of the way, through an undulating country of small hills and valleys, so that I could not tell whether troops were closed up or not. * * * General Porter then asked me how the road was. I told him the road was good, though I had difficulty in getting down on horseback owing to the number of wagons on the road; but I told him I had passed the last wagon a little beyond Catlett from this direction, and as they were moving slowly he would probably get up with them by daylight.

General Heintzelman, commanding a division in Pope's army, who was over the road on August 27, testifies:

It was a narrow road, in tolerably good condition. A part of it ran through some woods. * * * Troops could only march in one line. There were a few little ditches that were bad crossings, and I think the road crossed the railroad once or twice. These crossings were bad. I do not recollect distinctly about the road. It was not a very good road, however. There was a large train of wagons behind us—a considerable obstruction. The wagons were in front of the accused.

Colonel T. C. H. Smith testifies:

For the first mile and a half until you go to Cedar Run the road was bordered on either side by open fields or open woods over which troops could march easily in great part without going on the road. Indeed, I doubt if there is any regular road a good part of the way up. The troops marched through the fields to Bristoe Station; a road has been worn by the troops, I suppose. At Cedar Run, on the west, just above the railroad, there is a bridge and a ford with it, and men coming from this side of Cedar Run soon struck a small piece of woods, which is, perhaps, less than a quarter of a mile. I give these things as I remember; I may be mistaken on this point. * * * At Kettle Run there was another bad place. There was, however, a very practicable ford there; a narrow ravine, the road running down with high banks to it on either side. I should say that there was half or three-quarters of a mile of the road in which if there was a wagon train the march of troops would be badly impeded. The railroad track was good, all that I saw of it; men could march upon it.

I find also that the Sixth Wisconsin Volunteers marched all night over this route June 14, 1863, on the way to Gettysburgh. We had no trouble, but we wanted to get there. I quote from the journal of that march:

We marched at daylight Saturday and camped for night near Bealton Station. Marched Sunday morning and all day Sunday and *all night* and until the middle of the afternoon to-day, when we reached this point (Centreville), tired, sore, sleepy, hungry, *dusty*, and as dirty as pigs. Our army is in a great hurry for something.

There is great similarity in the conditions attending this night march, but great dissimilarity between the march itself and that essayed by General Porter. But then Porter had those terrible mules—stubborn and dangerous—in the way. He knew they were there, for had he not sent out for information as to the presence of this enemy in force. Mules and McDowell barred every road to action and to victory for poor Porter. A soldier with a "brilliant career" behind him and a battlefield before would rush forward to "glory or the grave," but mules were in the way. How it touches our hearts and appeals to our weeping sympathy. Why did not the commander of the Army get his mules out of the way of this impetuous hero? Porter's idea of "strategy and tactics" was that the Army commander should get the mules out of the way. This has only one parallel that I know of in history, and that is when General McClellan sent word to General Pope that he would reenforce him with a wagon train if he (Pope) would send cavalry from the battle front to escort it. It seems that some generals of that day had wagons on the brain; they thought of them twice while they thought of their country once. Now, if one of Pope's "demoralized regiments" had been there I could swear that they would have cleared the road if they had had orders to attack, or it would have been bad for the mules. They were no more appalled at mules than they were at rebels. There was plenty of time for one regiment to have cleared that road after General Porter got his orders and before it was time to march under them. Three hours would have been enough for one regiment of "good" troops to have cleaned the mules out. Ah, but says an experienced soldier, what would you have done with the train? I would have driven it into the fields, of course. Anywhere out of the road to let the column pass forward toward the battle ground. That narrow road was not all the territory in Virginia. There is abundant evidence of troops and ambulances marching in the fields, which shows that trains could have been everywhere driven off the road, at least until the column passed. No; history will say that General Porter surrendered to mules without an effort.

The second branch of excuse, that the road was bad and obstructed, in the light of such facts as I have given, only brings us to the conclusion that it was General Porter's business to act vigorously and clear it of obstructions and get along as fast as possible with his column.

The third branch of excuse, that the troops were tired, I dismiss as an insult to the troops themselves.

The fourth branch of excuse, that it was a foolish order from a foolish general, has been sufficiently considered.

While the consequences of General Porter's failure to march exactly at 1 o'clock on the night of August 27 may not have been serious in affecting the final results of the campaign, they are very serious in affecting a proper judgment upon his animus in the campaign. The gravamen of the crime charged was unwillingness to act and captious and obstructive tardiness to obey. That other generals under Pope in that campaign may have failed is quite probable. It was a general failure all around, so far as results are concerned. No other general failed purposely, and none other gave ground for even such suspicion. To assail other generals does not defend Porter. No one suspected that General Porter meant to be a traitor to his country. It has only been thought that if he had been such he could have hardly acted more in accord with such a feeling. Now, if loyalty to McClellan and disloyalty to Pope, which in a moment of haste General Porter acknowledged, influenced him to act against the interest of his country and his comrades, fine lines will not be drawn as to original motives.

Let us now proceed to the action of August 29. Porter's corps had a good rest all day and all night on the 28th of August, at Bristoe Station. I allude to this to show their fresh condition. General Pope, it seems, had curtly ordered him to stay there until he was called for. Early on the morning of August 29 he was called and moved toward Centreville until arrested by this order. General Gibbon said:

General Pope on the morning of the 29th gave me a written order which I delivered to General Porter.

This is the order:

HEADQUARTERS, ARMY OF VIRGINIA,
Centreville, August 29, 1862.

Push forward with your corps and King's division, which you will take with you, upon Gainesville. I am following the enemy down the Warrenton turnpike. Be expeditious or we lose much.

JOHN POPE,
Major-General Commanding.

Now, let us see about King's division. For here this division of Pope's "demoralized" troops come into their first direct contact with Porter's corps. I quote from a personal record made very shortly after the events:

About midnight of the 28th, after the battle was fairly over and the wounded (all that could be found) cared for, the troops of King's division marched for Manassas Junction. We moved very rapidly, reaching the junction about daylight. The fatigue, together with the excitement and horror produced by the first bloody battle in which the troops ever took part, almost prostrated them. The men looked haggard and worn out. Fresh beef was issued and cooked for breakfast, and everybody laid down for a little rest. About 9 o'clock a. m. the corps of General Fitz-John Porter came hurrying along by us toward the Bull Run battlefield, where now the cannon were roaring loudly. The troops looked splendidly that morning,

Other little circumstances connected with this passing of Fitz-John Porter's corps on that fateful day are remembered. Chaff like this came occasionally from their ranks to us soldiers of Pope's army: "Where's your man with his headquarters where his hindquarters ought to be?" The reference is to Pope's fulminations about headquarters in the saddle.

This is not evidence illustrating Porter's action; it is only an incident of the feeling toward General Pope and his army that prevailed in the Army of the Potomac. How they imbibed it the country may judge. It broke out into loud and open jeers at General Pope himself after his defeat, for I saw and heard the exhibition. It is an incident of the issue between the two armies, or rather between certain generals of the two armies, which was avowedly eliminated from the rehearing of the case. There is not the least in this to indicate that the soldiers of Fitz-John Porter were not ready to fight, for in their pride as superior soldiers they said, "We'll show you how to fight." Every man in that column expected to fight, and every man of them heard the cannon roaring and saw, as we did, the smoke of battle rising.

The first important question bearing upon General Porter's action during the whole of that day is that of whether a battle was raging. The evidences that there was were plain and palpable to every general and every soldier in the line. It is not my recollection that the army stood in quaking apprehension of the approach of Longstreet. There was nothing in the general knowledge of the situation that justified General Porter exercising any discretion against vigorous, aggressive action, which was the well-known purpose of General Pope, the commander of the army. The joint order says:

You will please move forward with your joint command toward Gainesville. I sent General Porter written orders to that effect an hour and a half ago.

What General Pope had sent an hour and a half ago it will be remembered was this:

Push forward with your corps and King's division, which you will take with you, upon Gainesville. Be expeditious, or we lose much.

With the announcement that he was following the enemy. The joint order proceeds:

I desire that as soon as communication is established between this force and your own the whole command shall halt.

But not halt until communication is established is the clear inference. The order continues:

It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so, on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall on the enemy's flank and rear. I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts and instruct him to rejoin the other divisions of his corps as soon as possible.

If any considerable advantages are to be gained by departing from this order it will not be strictly carried out. One thing must be had in view, that the

troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day. My own headquarters will be, for the present, with Heintzelman's Corps, or at this place.

JOHN POPE,
Major-General, commanding.

Stripped of all but the naked language, and the attendant circumstances of a progressive battle, it is perfectly clear that General Pope expected of General Porter a general advance of his lines in force until communication was established. But General Porter never deployed his corps in line of battle. I quote in full from the record an excellent account of his approach upon the enemy with 10,000 men at least under his control, whether King's division was with him or not:

I ask you to join the Fifth Corps on its march from Manassas Junction. General Morell leads the column, followed by Sykes, Sturges, and King's division; an effective force of *fifteen thousand* men ready and willing to fight under a corps commander, whose name was a prestige of victory. We meet a mounted man just from Gainesville; he tells us the enemy's skirmishers were there to the number of about four hundred, and their main body was not far behind them. If we are to reach Gainesville it is apparent the sooner we get to work and clear the road the more likely we will be to reach the point of our destination, for we know that every moment increases the force in our front. Without hesitation Griffin's brigade halts, throws *four companies* of the Sixty-second Pennsylvania to the front with instructions to move on in advance about half a mile, throwing out flankers to the side and skirmishers to the front. We then move on until we reach a cleared place, about five miles from Manassas Junction. Our skirmishers have found the enemy's pickets and firing commences; the other *eight companies* of the Sixty-second Pennsylvania are ordered out to the front to support their comrades—there are twelve companies in this regiment. Our skirmishers capture and send in to us *three mounted prisoners*. We are now on the crest above Dawkins Branch, and it is at least 11 *o'clock, and General Porter immediately formed line of battle* on the crest. General Porter examines the prisoners and learns they are Longstreet's men. *Griffin puts a battery in position*, and General Porter receives the joint order.

There has been nobody hurt as yet under the first order. But now along comes McDowell and takes General King's division away, and the joint order is in operation.

There have been maps and maps made of this battlefield, but the position occupied by General Porter's corps, now in the face of alleged, enormous, and accruing forces of the enemy, very much resembles in appearance on the Government map a 10-penny nail with the head toward the enemy and the troops strung along the road, stretching away to the rear, with their arms stacked, and the corps commander with his headquarters at Bethlehem Church, the rear of the column. A few skirmishers are scattered along the front, who fired a few shots during the day, and a few shots were fired by Porter's artillery, which is the battle service, and the extraordinary record of strategic service, which I quote from General Porter's own statement, was made during the day:

General McDowell decided to separate from me and turn his troops up the Sudley Springs road toward Grovetown. Soon after 1 o'clock I sent Colonel Locke, my assistant adjutant-general, to King's division with instructions for it not to go away, intending to use it in extending my march to the Warrenton pike. I received the following *verbal reply*.

[The italics are mine.]

From General McDowell to Porter, on Manassas road, delivered by Colonel Locke, between 1 and 2 o'clock:

Give my compliments to General Porter, and say to him that I am going to the right, and will take King with me. I think he had better remain where he is; but if it is necessary to fall back, to do so upon my left.

The following was given early in the afternoon, and was followed by the dispatches and indorsements in the order now arranged, at various hours up to 6.35 p. m., 29th August:

[No. 30.]

GENERAL: Colonel Marshall reports that two batteries have come down in the woods on our right toward the railroad, *and two regiments of infantry on the road.* If this be so, *it will be hot here in the morning.*

GEO. W. MORELL, *Major-General.*

Now, see what General Porter sends back to his commander at the battle-front:

Move the infantry and everything behind the crest and conceal the guns. We must hold that place and make it too hot for them. Come the same game over them they do over us and *get your men out of sight.*

F. J. PORTER.

Now comes word from the commander at the battle-front:

[No. 31.]

GENERAL PORTER: I can *move everything out of sight* except Hazlitt's battery. Griffin is supporting it and is on its right, *principally in the pine bushes. The other batteries and brigades are retired out of sight.* Is this what you mean by everything?

GEO. W. MORELL, *Major-General.*

Now from the commander of the Army corps to the commander at the battle front:

GENERAL MORELL: I think you can move Hazlitt's or the most of it, *and post him in the bushes* with the others so as to deceive. I *would get everything* if possible in ambuscade. All goes well with the other troops.

F. J. P.

[No. 29.]

GENERALS MCDOWELL AND KING: I found it impossible to communicate by crossing the woods to Groveton. The enemy are in force on this road, and as they appear to have driven our forces back, the fire of the enemy having advanced and ours retired, *I have determined to withdraw to Manassas.* I have attempted to communicate with McDowell and Sigel, but my messages have run into the enemy. They have gathered artillery and cavalry and infantry, *and the advancing masses of dust* show the enemy coming in force. *I am now going* to the head of the column to see what is passing and how affairs are going, and I will communicate with you. *Had you not better send your train back?*

F. J. PORTER, *Major-General.*

Here is another dispatch of the same purport:

GENERAL MCDOWELL: The firing on my right has so far retired that, as I can not advance, and have failed to get over to you, except by the route taken by King, *I shall withdraw to Manassas.* If you have anything to communicate, please do so. I have sent many messengers to you and General Sigel, and get nothing.

F. J. PORTER, *Major-General.*

An artillery duel is going on now; been skirmishing for a long time.

F. J. P.

Now he sends to the commander at the battle front who has not yet been hurt by the enemy by the little trifling and contemptible skirmishing and artillery firing that has been going on:

GENERAL MORELL: Push over to the aid of Sigel and strike in his rear. If you reach a road up which King is moving, and he has got ahead of you, let him pass, but see if you can not give help to Sigel. If you find him retiring, *move back toward Manassas*, and should necessity require it, and you do not hear from me, push to Centreville. If you find the direct road filled, take the one via Union Mills, which is to the right as you return.

F. J. PORTER, *Major-General.*

If all this does not indicate a clear and settled purpose to fall back and go to the rear without further communication with or information from the commander of the army, what does it indicate? The part of the joint order that looks toward retreat he energetically seeks to enforce. The part that looks to forcing a communication with Pope who is "following the enemy" he enforces with the energy of a sucking dove. Now, General Porter says:

But soon, finding he was mistaken as to the main army retiring, and before anything was done by Morell in execution of it, I sent him the following:

"GENERAL MORELL: Hold on, *if you can*, to your present place. What is passing?

"F. J. PORTER."

"GENERAL MORELL: Tell me what is passing, quickly. If the enemy is coming, hold to him, and I will come up. Post your men to oppose him.

"F. J. PORTER, *Major-General.*"

GENERAL MORELL: The enemy must be in a much larger force than *I can see*; from the commands of the officers, *I should judge a brigade.* They are endeavoring to come in on our left, and have been advancing. Have also heard the noise on left as the movement of artillery. Their advance is quite close.

E. G. MARSHALL,
Colonel Thirteenth New York.

This was the officer in command of the skirmish line, and the only officer who on that day came in contact with the enemy at all. Now, General Morell in swift haste sends back to General Porter upon this report:

GENERAL PORTER: Colonel Marshall reports a movement in front of his left. *I think we had better retire. No infantry in sight*, and I am continuing the movement. Stay where you are to aid me if necessary.

MORELL.

GENERAL MORELL: I have all within reach of you. I wish you to give the enemy a good shelling *without wasting ammunition*, and push at the same time a party over to see *what is going on.* We cannot retire while McDowell holds his own.

F. J. P.

Five o'clock and forty-five minutes in the afternoon has now come, and this is the record of the strategy of the commander of the magnificent Fifth Army Corps from the time he came in contact with the enemy at about 11 o'clock in the forenoon:

GENERAL SYKES: I received an order from Mr. Cutting to advance and support Morell. *I faced about and did so.* I soon met Griffin's brigade withdrawing by order of General Morell, who was not pushed out, but returning. I faced about and marched back two hundred yards or so. I met then an orderly from General Porter to General Morell, saying he must push on and press the enemy; that all was going well for us, *and he was returning.* Griffin then faced about, and I am following him to support General Morell as ordered. None of the batteries are closed up to me.

Respectfully,

G. K. WARREN.

GENERAL MORELL: Put your men in position to remain during the night, and have out your pickets. Put them so that they will be in position to resist anything. I am about a mile from you. McDowell says *all goes well* and we are getting the best of the fight.

How this sounds like "Betsey and I killed the bear."

I wish you would send me a dozen men from the cavalry. Troops are passing up to Gainesville pushing the enemy.

Thank God, there was somebody willing to push the enemy on that field.

Ricketts has gone, also King.

F. J. PORTER, *Major-Geaeral.*

GENERAL MCDOWELL OR KING: I have been wandering over the woods and failed to get a communication to you. Tell how matters go with you. The enemy is in strong force in front of me, and I wish to know your designs for to-night. If left to me I shall have to retire for food and water, which I can not get here. *How goes the battle?* It seems to go to our rear.

How anxious our friend seems to have things advance toward the rear.

The enemy are getting to our left.

F. J. PORTER, *Major-General.*

GENERAL MCDOWELL: Failed in getting Morell over to you. After wandering about the woods for a time I withdrew him, and, while doing so, artillery opened upon us. My scouts could not get through. Each one found the enemy between us, and I believe some have been captured. Infantry are also in front. I am trying to get a battery, but have not succeeded as yet. *From the masses of dust on our left*, and *from reports of scouts*, think the enemy are moving largely in

that way. Please communicate the way this messenger came. I have no cavalry or messengers now. Please let me know your designs, whether you retire or not. I can not get water and am out of provisions. Have lost a few men from infantry firing.

F. J. PORTER, *Major-General.*

Meanwhile the commander of the Army of Virginia had been anxiously watching and waiting for the sound of artillery from the splendid corps—the flower of the Army of the Potomac—under command of its best corps commander, whom he believed to be on the flank of the enemy, as he himself had secured as yet no reliable information to the contrary, for Porter had used time enough to get to where Pope supposed him to be, and no sound of battle resistance reached the commander's ears. General Pope can scarcely be criticised for sending at 4.30 p. m. this order on the ground that Porter was checked. There was no battle notice given of such a fact nor any other notice.

MAJOR-GENERAL PORTER: Your line of march brings you in on the enemy's flank. I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds.

The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank.

Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,
Major-General, Commanding.

As a matter of course this officer did not attack. If anybody finds the least reason to suspect that he would after reading over the bare record of his communications with his generals of brigade and his action of that day, he must draw different conclusions from those I have been obliged to reach. It was too late for him to fight.

Soldiers of Shiloh, of Cold Harbor, of Kenesaw, and of Mission Ridge, read this record of the service of a corps sent against an enemy with the battle roaring in their sight; remember your own service in like conditions and restrain your condemnation for this commander if you can. This is the hero who, as we see, first gallantly halted and heroically engaged in a bloodless reconnaissance of a cloud of dust; who next laid hour after hour under the shade of the trees two miles from the front, sending word to his troops to hide in the bushes, and who finally pocketed the express order from the commander of his army to attack the enemy, an order received before sunset on a summer evening. This is the hero who is crowned with glory for the service of that day by the Schofield Board because he "saved the army."

Well might Pope's army retort to the fling in the Burnside dispatches. "We did take care of ourselves," and we had to for all the good you rendered us. That army acknowledges its own good muskets as its saviors, not Fitz-John Porter's pine-bush strategy.

The night before, precisely as the sun was dipping below the hills, General John Gibbon commenced his attack upon the two divisions of Jackson's corps. I need not repeat the history of that gallant struggle. Far into the night the battle raged. It illustrates what a few determined men could do after half past 6 p. m. when properly led by a determined and devoted soldier. I cast aside all such excuses as that the ground in front of Porter was impracticable, when over the same ground the rebel army moved with unbroken line to our attack and discomfiture on August 30. I remember also that on the night of September 14, 1862, starting into action just as the sun was dipping behind the South Mountain, a line of battle was pushed right up the steep and stony slope, fighting for every inch of ground, reaching at midnight and carrying the crest. I remember that this action was under the personal observation of General McClellan, the commander of the Army of the Potomac, and that he pronounced the troops engaged in it "equal to the best troops of any army in the world." It was the same brigade that fought with Gibbon on the night of August 28, 1862, the Iron Brigade of Wisconsin. I well remember that the resolute spirit who pushed the line up the slope of South Mountain, who held longest his line in front of the fierce assaults of Jackson the night of Gibbon's battle, was none other than the honorable gentleman from Wisconsin [Mr. BRAGG], who stands upon this floor and before the country as the apologist for and defender of Fitz-John Porter. I can not agree with him.

> Achilles' wrath to Greece, the direful spring
> Of woes unnumbered, heavenly goddess sing;
> That wrath which hurled to Pluto's gloomy reign
> The souls of mighty chiefs untimely slain,
> Whose bones unburied on the bending shore
> Devouring dogs and hungry vultures tore.

In the old story of Troy there is too much of the history of this ill-starred campaign of General Pope. The fact that we found our poor dead upon the field of Gibbon's woods, some of them rooted from their shallow trenches and torn by hogs, completes the sad similarity. Is it surprising that the soldiers of the Iron Brigade of King's division felt deeply on this question?

I have spoken not for General Pope. History must attend to his case; it is not here for trial. I have no concern as to the plots or machinations of General Irvin McDowell. I know nothing of his personal schemes, plans, or purposes in that campaign. I have spoken only as a soldier in the line of an army that obeyed cheerfully, toiled faithfully, and asked only to be led to battle to place their lives freely in peril for their cause and for their country. I respect General Porter for his valor on other fields, but for his failure on this field I condemn him. I hold, indeed, the general condition of jealousy, intrigue, and disaffection more responsible than Porter personally. That he is the one victim in no sense abates the justice of the decree against him. I remember that Benedict Arnold could not be restrained from leading the line in face of flaming death over the intrenchments of Saratoga and winning the finest victory of the Revolution. But in a moment of chagrin and disappointment he cast away every jewel of honor, faith, and patriotism, and history brands him with eternal condemnation. I draw no comparisons, and would make no harsh judgments; but the cold calculation of General Porter, to put it mildly, so contrasts with the earnest, unselfish enthusiasm of the friends and comrades of my young manhood who died in battle at Bull Run, the second, that I dedicate this protest against Senate bill 1844, for the relief of Fitz-John Porter, to their memory.

The Tariff.

SPEECH

OF

HON. WILLIAM H. CALKINS,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 27, 1883.

The House, in Committee of the Whole on the state of the Union, having under consideration the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes—

Mr. CALKINS said:

Mr. CHAIRMAN: If this question is to be determined under the light of precedents which have occurred in this House, we have a line for a hundred years of unbroken authority one way; and while the Senate has often disagreed with the House in reference to the construction of the constitutional clause in question on certain bills, it will be found on examination that they have often agreed that to this House belongs the prerogative of originating all revenue bills.

There is respectable authority aside from the precedents of this House for the position assumed by the gentleman from Kentucky [Mr. KNOTT] and others in reference to the power of the Senate over the matter now under discussion. The whole question in this discussion and the proposition before the House, and the construction of this clause of the Constitution is, Where does the power of the Senate end in making amendments to revenue bills proposed by the House? That is a line at once narrow and hard to define, but it has always been held that it was the prerogative of this House to say when the Senate had gone beyond their constitutional limit. This House has the exclusive right to decide that question.

Now take an extreme case. Suppose this House originated a bill to reduce the postage on third-class mail matter and sent it to the Senate, does anybody say under the clause of the Constitution it gives it the right to propose and concur in amendments as on other bills not relating to the subject-matter of the bill thus sent? If so the Senate can not only revise the whole postal system, but add to it the internal-revenue system, and the tariff system, and all other systems of taxation. That is an extreme case, but if the doctrine that the Senate can propose amendments and concur as on other bills without limit and are unrestrained except by their own will be true, then they can go the whole length, as I have suggested.

This clause in the Constitution by the framers of that instrument was a matter of anxious solicitude, and it is called in contemporaneous history the first great compromise of the constitutional convention. First, the amendment allowing the Senate to propose and concur in amendments was offered for the purpose of compensating the larger States for equal representation with the smaller States in the Senate. This was stricken out after debate. A month of debate followed, and, as was well expressed, it came well-nigh stopping the whole process of the formation of the Constitution. And after a month's anxious debate it was again restored, as a compensatory measure, by giving to the Senate the sole right to ratify treaties; the sole right to try impeachments; and to the House was given the exclusive right to originate all measures for raising revenue. That right has been asserted in many forms and guises by the House ever since, and, as I said, there has been one continuous, unbroken line of precedents from the foundation of the Government to this time in this direction. We ought not to yield this question or shrink from the responsibility committed to us by the Constitution.

[Here the hammer fell.]

The Tariff.

SPEECH

OF

HON. WILLIAM PITT KELLOGG,

OF LOUISIANA,

IN THE SENATE OF THE UNITED STATES,

Tuesday, January 30, 1883.

The Senate having under consideration the bill (H. R. 5538) to reduce internal-revenue taxation—

Mr. KELLOGG said:

Mr. PRESIDENT: I understand that the Senator from Rhode Island, by his amendment, aims to reduce the rate of duty, as proposed by the Senate bill, one-hundredth of 1 per cent. on a degree.

Mr. ALDRICH. On a degree.

Mr. KELLOGG. It does not refer to any other grade of sugar than that below No. 13 Dutch standard.

Mr. ALDRICH. Not at present. As I stated and reiterated several times, I intend to follow that up with an amendment reducing pro rata the other grades.

Mr. KELLOGG. I should like to hear what measure of reduction the Senator proposes, because his present amendment strikes directly and exclusively at the interest of the producer, the planter, and does not affect the refiner or any other interest.

Mr. ALDRICH. The amount would be about 2.45, to preserve the same proportions between 13 and 16, and 2.95 between 16 and 20, and 3.25 above 20.

Mr. KELLOGG. Mr. President, I wish the Senate to bear in mind that the proposition to reduce the present duty of 2½ cents on sugar strikes directly at the planting interest not only of Louisiana but of other States, including all the growing and increasing sorghum interest in all the States of the Union.

Sir, I think the Senate will be surprised at the extent to which the sorghum-producing interest has grown. In nearly every State of the Union it is beginning to be an important industry. The Senator from Illinois [Mr. LOGAN] suggests that I show the extent of this industry now. I do not know any better way than by referring to an extract from a lecture delivered by our Commissioner of Agriculture recently in Saint Louis, and I ask the Secretary to read it:

The Secretary read as follows:

During the season of 1882 twenty-four counties in Arkansas have produced 729,500 gallons of sirup and no sugar, as returned; twelve counties in Alabama have produced 520,125 gallons of molasses and no sugar; five counties in Dakota have produced 139,648 gallons of molasses and no sugar; forty-two counties in Georgia have produced 568,023 gallons of molasses and 5,150 pounds of sugar; thirty-five counties in Indiana have produced 618,410 gallons of molasses and no sugar; thirty-two counties in Illinois have produced 660,633 gallons of molasses and 13,200 pounds of sugar; thirty-eight counties in Iowa have produced 491,949 gallons of molasses and 731 pounds of sugar; thirty-two counties in Kansas have produced 950,947 gallons of molasses and 100 pounds of sugar; thirty-five counties in Kentucky have produced 853,700 gallons of molasses and no sugar; ten counties in Louisiana have produced 81,800 gallons of molasses and no sugar; thirty-seven counties in Missouri have produced 1,408,350 gallons of molasses and 2,400 pounds of sugar; twenty-two counties in Minnesota have produced 267,483 gallons of molasses and 100 pounds of sugar; sixteen counties in Michigan have produced 46,503 gallons of molasses and no sugar; fifteen counties in Mississippi have produced 530,100 gallons of molasses and 2,200 pounds of sugar; one county in Maryland has produced 1,200 gallons of molasses and no sugar; two counties in New Jersey have produced 42,000 gallons of molasses and 319,000 pounds of sugar; eight counties in New York have produced 101,261 gallons of molasses and 90,150 pounds of sugar; nineteen counties in Nebraska have produced 177,420 gallons of molasses and 60,000 pounds of sugar; twenty counties in North Carolina have produced 371,300 gallons of molasses and 1,500 pounds of sugar; nineteen counties in Ohio have produced 201,555 gallons of molasses and 275 pounds of sugar; one county in Pennsylvania has produced 1,200 gallons of molasses and no sugar; six counties in South Carolina have produced 292,500 gallons of molasses and no sugar; thirty-one counties in Tennessee have produced 2,122,700 gallons of molasses and 50 pounds of sugar; forty-seven counties in Texas have produced 958,940 gallons of molasses and 800 pounds of sugar; seven counties in Utah have produced 67,840 gallons of molasses and 10,000 pounds of sugar; twenty counties in Virginia have produced 132,871 gallons of molasses and no sugar; thirteen counties in West Virginia have produced 379,200 gallons of molasses and 125 pounds of sugar; fourteen counties in Wisconsin have produced 281,300 gallons of molasses and 5,000 pounds of sugar. In all, 12,898,098 gallons of molasses and 509,731 pounds of sugar.

This is but a small number of the counties in the States enumerated, and undoubtedly some of the best sugar-producing counties have been omitted.

Mr. KELLOGG. Dr. Loring, our Commissioner of Agriculture, further says:

The prospect of the business in Kansas, Minnesota, Wisconsin, and Illinois is encouraging.

He further says:

The fact that sugar can be made from sorghum has been proved. That it can be profitably made Professors Weber and Scoville have demonstrated, and have so declared to this association with their figures before them. That there is a market for the product no man doubts. Who can say, as yet, that this crop will take its place among the special crops of our extreme Northern and Eastern States or will occupy the place now filled by the sugar-cane of the South?

A recent report made by a committee of the National Academy of Sciences says:

It is from the States of New Jersey and Illinois that we are able to cite examples of success on so large a scale and attended with such an unequivocal result as fairly puts to rest any doubts as to the production of sugar on a great scale in a northern climate with a commercial profit.

Mr. President, within the last four or five years in the State of New Jersey there has been a refinery erected called, I believe, the Rio Grande, which is doing a very important refinery business, devoted exclusively to making sugar from sorghum. In the State of Illinois, at Champaign, I am told, there is also a large refinery called the Champaign Sugar Sorghum Refinery, now in a flourishing condition.

Mr. MCPHERSON. If the Senator will allow me, I will say that we have commenced in New Jersey a large sorghum-sugar industry. The State pays a bounty of $1 per ton upon sorghum-cane and 1 cent per pound upon sugar manufactured from the cane. We have devoted for that purpose in the past two or three years 7,000 acres of land upon which sorghum is now being successfully raised, and it is fast becoming one of the great industries of the State, but largely under the bounty offered and given by the State itself.

Mr. KELLOGG. I am informed that the question is being agitated in several of the States of paying bounties to encourage this industry. Just before the war Louisiana raised nearly one-half of all the sugar consumed in this country. That State raises nearly $25,000,000 alone this year. Encourage this industry as France encourages her sugar industry and in ten years there will be large growers of sorghum in nearly all the different States of the Union. And this with the sugar that can be raised in Louisiana, Florida, and Texas will supply the entire country with a home product.

The war so nearly ruined this industry that only about 5,000 tons were produced the last year of the war in Louisiana. Of course the plantations were deserted, sugar-houses destroyed, levees dilapidated, and the whole labor system changed by the abolition of slavery. This was the opportunity of Cuba and other slave-growing countries to find a ready market here for their products, and for a time this country afforded a market for all the sugar produced in Cuba and its dependencies. The necessity of protecting the production of sugar was so apparent that Congress wisely imposed a duty of 3 cents per pound upon the lower grades of sugar. The protection thus afforded this important industry was so manifest that in 1866 the crop increased to 20,000 tons, and in 1870 75,000 tons were raised in Louisiana alone. The work of rehabilitation then commenced, and the planters began to extensively cultivate the land and purchase mules and machinery and build sugar-houses and improve their plantations.

The duties on the lower grades were cut down in 1870, as the Senator from Ohio [Mr. SHERMAN], who was, I believe, their chairman of the Committee on Finance, will recollect. This reduction of a cent very much crippled the planters, and besides they were embarrassed by the new problem of free labor growing out of the results of the war. The crop of 75,000 tons, produced in 1875, fell to 45,000 tons in three years. This result very seriously crippled not only the planter, but many sugar commission houses in New Orleans, and it largely depreciated the value of all the sugar plantations of the State. It was impossible for the planter to produce sugar with free labor and pay good wages to the laborer and successfully compete with sugar grown abroad by slave and cooly labor. But Congress again in 1875 advanced the duty on sugar 25 per cent. This 25 per cent. protection immediately raised the drooping fortunes of the sugar-planter occasioned by the reduction of 1 per cent. by the law of 1870. To such an extent was the beneficent influence of this protecting law of 1875 felt that the crop amounted to 110,000 tons in 1880 and 124,000 tons in 1882.

Mr. President, it is the sugar below No. 13 that I wish the Senate to understand as the grade the Louisiana planter is especially interested in. Upon nearly all sugars above No. 13 the duties have always been practically prohibitory. Under the law of 1875 the duty was made what it now is, 2½ cents per pound on sugars below No. 13.

Louisiana sugars are now bringing about 2½ cents a pound more than sugars grown in Cuba and elsewhere abroad of corresponding strength. As I have said, the chief protection the Louisiana planter has is upon the lower grades. The Senator from Rhode Island [Mr. ALDRICH], it will be remembered, admitted a short time since that his amendment now pending strikes directly at these lower grades of sugars; that is to say, below No. 13.

The wise protection afforded by Congress has enabled the Louisiana planter to increase his planting interest largely, until to-day that interest employs over ninety millions of capital, and supports directly or indirectly over 400,000 people. The amount of sugar machinery is represented by more than $10,000,000 in Louisiana alone, and there is a constantly-growing demand for machinery and supplies under the influence of this protection thus afforded the sugar-planters, the effect of which is felt all through the country. Their machinery was purchased from the North, principally Pittsburgh, Cincinnati, and elsewhere.

Besides all this our planters use enormous quantities of Pennsylvania coal, cotton fabrics of all kinds manufactured in the North, and of food supplies grown in the Northwest.

The crop of this year is estimated at $25,000,000. Here is the producing interest of this amount which reciprocates for the protection afforded it by sending the value of its products to the North, chiefly in payment of sugar machinery, cotton goods, agricultural implements, mules, corn, and other articles of subsistence. Massachusetts, Pennsylvania, New York, New Jersey, Kentucky, Ohio, and all the Northwestern States have thus a community interest and this interest is constantly growing.

The value of foreign sugars consumed in this country is between ninety and one hundred millions. The Senator from Rhode Island [Mr. ALDRICH] has stated that it is about eighty-five millions, but I think it will reach nearly one hundred millions. There is no reason why in the near future this treasure should not be retained by a proper system of protection to the Louisiana and other producers of sugar, developing a commerce between the States of nearly $150,000,000. Why should not the same protection be afforded to the Louisiana planter, to these agricultural interests, and for the protection of free labor as against slave labor that is given to the manufacturers of New England and to other great interests? This bill proposes, as I could show if I had the time, in the different schedules, with the exception of the metal schedule, a protection equivalent to or more than would be given to the Louisiana planter if the recommendations of the Tariff Commission were adopted. Indeed, so far as the schedule of pottery and glass-ware is concerned, the ad valorem rates are above that which is given to the sugar producer under the present tariff of 2½ cents per pound.

Sir, there is another aspect of this case that commends itself to the consideration of the Senate. Of the twenty-five millions of the estimated crop of the present year it is calculated 70 per cent., or nearly seventeen millions, has been expended for labor, and has been the principal support of nearly 400,000 people that are directly or indirectly maintained by this industry. These supplies come mainly from the Northern States, and, of course, contribute to the support, as they afford labor for hundreds of thousands of people engaged in the manufacture of the articles used by the planters, or supplies of corn, pork, &c., consumed by the planter and his laborers. Thus there are 700,000 or 800,000 people directly or indirectly interested in this industry. Again, by withdrawing the protection afforded by the duty on sugar from the Lousiana planter, and thus aiming a blow directly at the wages of the freedman, you put the interest of slave labor in antagonism to free labor.

Take the manufacture of sugar in the British West Indies, commencing at Demerara and ending with Porto Rico. Here are twelve or fifteen islands, the population of which amounts to hundreds of thousands. Take Demerara, for instance, which has a system of cooly labor, authorized by Parliament. These coolies are sent to Demerara at the rate of two to five thousand every year. They are paid one shilling for a woman and one and one-half for a man. They are let out by the colonial authorities to each planter and sugar estate. It costs them little to live. They wear scarcely any clothing. It does not cost a sugar-maker in South America $5 a year for clothing. They live on rice and pork chiefly. Take the labor of Brazil, which is slave. Take the labor of Cuba and its dependencies, which is purely slave labor; the amount paid a month by Cuban planters does not exceed 10 cents per day, or for labor and subsistence inclusive only $84 per year for each laborer. The standard wages for free laborers is only 25 cents per day in the West India Islands.

Mr. BLAIR. How much is paid for labor by the Louisiana planter?

Mr. KELLOGG. The standard wages of Louisiana are from 85 cents to $1.25 per day. I will read an estimate given me the other day by Governor Warmoth, who works a large plantation below New Orleans, of the wages paid by him; of course skilled and mechanical laborers are paid a larger amount:

	Per day.
For plowmen	$1 00
For hoe hands	85
For women	75

During the rolling season they pay:

	Per day.
Cane-cutters	$1 00
Loaders	1 25
Cartmen	1 25
Sugar-house people	$1 25-2 50

This does not include rations. The planters provide only horses, gardens, and fuel. Some planters pay cane-cutters $1.25 per day and 75 cents a watch.

Why, sir, the average cost of the production of Louisiana sugar is, I am told, fully 5½ cents. For much of this information that I am now giving the Senate I am indebted to a printed statement made some time since by a committee of planters of Louisiana, composed of John Dymond, Edward J. Gay, H. C. Warmoth, and F. M. Ames, which I had laid upon the desks of every Senator, and which has, I trust, fallen under the observation of Senators. The gentlemen say:

> A careful analysis of our expenses develops the fact that the cost of production is composed of 70 per cent. human labor and 30 per cent. supplies—such as feed, oil, coal, tools, implements, and machinery.

They say further:

> With the average cost of production at 5½ cents, 70 per cent. thereof would show 3.85 cents per pound invested in human labor, and, as we have shown before, our free labor costs us three and one-half times as much as the slave and other labor of Cuba and the tropics, the Cuban would pay but two-sevenths of this 3.85 cents per pound expended in human labor, and five-sevenths of it, or 2¾ cents per pound, is the excess we pay, as compared with their slave and semi-slave labor.

This committee go on to say in their statement:

> The Government is now collecting a shade under 2¼ cents on the foreign sugars imported, and hence we now get less protection by one-fourth cent per pound than the excess of the cost of our free American labor over the cost of the slave and semi-slave labor of Cuba and the tropics.

There is another consideration I desire to call to the attention of the Senate, and that is the disadvantage the planter labors under in point of expense and labor in producing his sugar as against the expense incurred by the foreign producer with slave labor in the production of his crop. The Louisiana planter is compelled to go through the various seasons in this country, winter, fall, spring, and summer, and they require different clothes for their laborers. It is not so in the tropical climates of Cuba and South America. There no more clothing is required in January to make sugar than in July. There is still another point I desire to make. Is the Senate aware of the fact that all the sugar-producing countries tax our products and domestic goods to the utmost? I doubt if you could find in all the West Indies $50,000 of domestic American goods. A barrel of flour is taxed $1; a barrel of pork, $3.50; a barrel of salmon, $2; a barrel of mackerel, $2; clapboards are taxed, per thousand, $1.50; cordage is taxed, per hundred pounds, $1; hoops (wood), per thousand, $1.50; rice, per hundred pounds, 25 cents; donkeys, per head, $1; mules, per head, $5; malt liquor, per hogshead, $5; cordials or bitters, per gallon, $2; resin, per barrel, 50 cents; oils, per gallon, $3; slates, per thousand, $1; staves of every description, per thousand, $1.50; varnish, per gallon, $2; muskets and guns, each, $2; pistols, each, $1. For every case containing a gross of matches we pay a tax of $3.75. All other merchandise is taxed ad valorem at the rate of 5 per cent., or $5 upon every $100 of goods at the place of shipment.

The sugar plantations of Demerara and of the West India Islands are largely owned in England. The owners have agents or overseers there, while they themselves live in grandeur in London. They never do business in this country; never have business relations with the United States, unless it be that they and their interests are often on the alert striving for the reduction of the tariff on sugar as well as on other commodities through their American connections.

Sir, are we under any obligation to aid them in striking a blow at the laborer and producer of this country?

Again the home producer has to encounter the opposition of the importers and refiners of this country, some of whom are said to be interested in plantations in Cuba; I am told that one firm of refiners has several hundred thousand dollars' worth of sugar property in Cuba. These refiners want a lower rate of duty on sugars below No. 13; at the same time they ask for higher rates on the manufactured article. They want high rates of duties on grades above No. 13 and low rates of duty on grades below No. 13. This is what the Louisiana planter does not want. He is interested in low grades. The Louisiana planter gets for all his sugar only the price paid to the Cuban planter for sugars of the same test, with the addition of a duty of 2½ cents per pound.

These foreign producers have been, as the gentleman from Ohio [Mr. SHERMAN] knows, coloring their sugars down, so that sugar producing 98° comes in at a duty of 2½ cents.

The only time that sugars are cheap in this country is when the Louisiana crop is being marketed. The refiners are trying to make it appear that the duties are for the benefit of the Louisiana planter. They talk about high duties on a prime necessity of life which should be removed. They are sending their circulars to Senators and deluging the Senate and House with petitions, which have been sent out headed in the same manner and printed with the same type, and you will find the first name on every petition from a city like Chicago and other large cities of the country to be the name of some large sugar importer or dealer.

See the effect of the refining interest on the Pacific slope. Sugars are higher there than in New York, notwithstanding sugar comes into the Pacific slope from the Sandwich Islands free of duty. The refiners control the market absolutely there. The Louisiana product does not reach the Pacific slope. It is the production of this country that keeps down the price and the competition which grows out of that which keeps down the price of the refined article in the East. To show how absolutely the refiner has the market under his control, and how the sugar produced abroad and by slave labor comes in competition directly with the home-produced sugar, I call the attention of the Senate to the fact that there was imported during the year ending June 30, 1882, tank-bottoms, melada, &c., 14,135,435 pounds; of sugar Dutch standard in color not above No. 7, 485,476,825; above No. 7 and not above No. 10, 1,305,991,757 pounds; above No. 10 and not above No. 13, 119,982,153; of sugars above No. 13 and not above No. 16 Dutch standard, 1,891,213 pounds; of sugars above No. 16 and not above No. 20 Dutch standard, 4,075 pounds; of sugars above No. 20 Dutch standard, refined, loaf, crushed, and granulated, 50,432 pounds. From this it will be seen that nearly two billions of the lower grades of sugars are imported, while of the higher grades a little over 54,000 pounds only are imported. The latter comes in direct competition with the sugars produced by the refiner, while the two billions imported comes in competition with the producer.

It is estimated, I believe, that the entire tariff bill will reduce the revenues from thirty-five to forty millions of dollars, and it is proposed to make this home-producing industry bear the burden of nearly eleven millions of this reduction; I am told by some Senators and by some members of the House that the entire reduction proposed by the bill will not exceed twenty millions.

Mr. MORRILL. I think that is the estimate of the bill of the House, and not of the bill as reported by the Committee on Finance.

Mr. KELLOGG. What does the Senator from Vermont estimate to be the total reduction contemplated by this bill?

Mr. MORRILL. More than twice the amount the Senator has named.

Mr. KELLOGG. The Senator stated it at $45,000,000 in his speech at the outset and when he reported the Senate bill, but at the same time he admitted, if I recollect aright, that the reduction on sugar would be $15,000,000. This is a third of the whole amount on sugar alone.

Mr. MORRILL. I am free to say that I made an error in the calculation on sugar, and did not discover it until after I had made my remarks.

Mr. KELLOGG. If it is $11,000,000 it is a quarter of the amount stated as the total reductions contemplated by the Senate bill.

Mr. President, other manufacturing interests have been protected to the extent of at least 50 per cent. ad valorem duty, or it is proposed by the Senate bill to give them that amount of protection; and here is an industry that from its peculiar nature and its surroundings labors under disadvantages that the manufacturing interests of the country do not have to contend with, difficulties which will readily suggest themselves. The manufacturing interests have great advantages in the matter of a better and more economical system of labor, they are supplied with better facilities for transportation, and yet it is proposed to reduce the protection afforded this agricultural interest below that afforded to these other manufacturing interests. Is this right? Is it right to compel this industry to bear one-fourth or even one-fifth of the reduction contemplated by this bill? I have not examined the matter carefully, but I believe that at no time except under the Robert J. Walker schedule of tariff has the tariff been lower than that proposed by the Tariff Commission—2¼ cents per pound for the lower grades of sugar.

The Senate bill proposes a still lower reduction, and the Senator from Rhode Island [Mr. ALDRICH] now proposes to reduce it in conformity, as I understand, with the bill reported by the Ways and Means Committee of the House, namely: one-hundredth of 1 per cent. upon every degree.

Mr. ALDRICH. The amount is correct.

Mr. KELLOGG. The Senator from Vermont [Mr. MORRILL] has offered an amendment which changes the Senate bill in regard to the higher grades, and it is altogether in the interest of refiners, I have shown, that the tariff on the higher grades, those which compete with the sugar manufactured by the refiners, is practically prohibitory, and that the refiner is interested while the duty is kept prohibitory on the higher grades in seeing the duty on lower grades of sugar reduced.

Mr. FRYE. If the Senator will alow me right there. I never yet have seen a refiner in an investigation covering now nearly three years, and I have seen about all of them in the country, who did not say promptly that the duty on sugar in his judgment ought to come down one-half at least.

Mr. KELLOGG. Precisely. The refiner is laboring with Congress to reduce the rates upon sugars, knowing well that if the duty on the lower grades of sugar is largely reduced it will strike down the producing interest of the country; but if only a proportionate reduction is had on refined sugar, as proposed by the Senator from Vermont [Mr. MORRILL], the duty upon sugar above No. 16 will still be practically prohibitory.

Now, is this right? Is it right to discriminate in favor of the refiner? Put down the price of the high grades of sugar and do not sacrifice the producer by unwisely reducing largely the duties on the lower grades in which he is interested. Tell the refiner to keep his hands off. Tell him that Congress is more interested in looking after the laborer in conformity with the grand principles of the Republican party; that it will give the benefit of the doubt and the advantage of the rate of protection to the producer, who earns his living by the sweat of his brow.

Mr. DAWES. That is right.

Mr. KELLOGG. Yes; but my friend from Rhode Island [Mr. ALDRICH] said that he thought the manufacturing interests of the refiners ought to be protected. Why? Because they work so many men? Because so many interests are involved? There are 400,000 people in Louisiana alone who subsist chiefly or exclusively upon this product.

Mr. SLATER. If the Senator will allow me to interrupt him right there, I ask him if he has estimated or knows the cost of refining sugar, the comparison of flavor, the wages paid, or the amount of the product?

Mr. KELLOGG. I have not the data before me in regard to the question asked by the Senator from Oregon, but I am quite certain that the refiners are very anxious to retain the tariff which is practically prohibitory, and under this operation their business is very remunerative indeed.

Mr. FRYE. I deny that emphatically. The refiners of this country are entirely content with one-eighth of 1 cent profit.

Mr. KELLOGG. Well, do you suppose that they would be contented with an amendment which proposes to make the rate 2¼ cents, or about what the Tariff Commission proposed upon all grades of sugar?

Mr. ALDRICH. Will the Senator from Louisiana allow me to ask him a question?

Mr. KELLOGG. Certainly; but I will ask the Senator from Rhode Island, as he rises to put a question to me, to answer the question, will they be content with that rate of duty?

Mr. ALDRICH. If the Senator will allow me, I will put to him a question.

Mr. KELLOGG. Certainly.

Mr. ALDRICH. Will the Senator state how many people are actually engaged upon plantations in his State in the business of raising sugar?

Mr. KELLOGG. I believe there are 30,000 men laborers in Louisiana alone. There are probably 60,000 men, women, and children engaged in this industry, and there are, as I have stated, nearly 400,000 persons directly or indirectly supported by it.

Mr. ALDRICH. The number of acres of land used in the cultivation of sugar-cane in Louisiana is 181,000. If there are 60,000 people employed, that is one person to every three acres.

Mr. KELLOGG. That is a disputed fact.

Mr. ALDRICH. I do not think the farmers of the North are in the habit of employing as many men as that upon farms.

Mr. JONAS. The Senator is mistaken about the number of acres of land.

Mr. ALDRICH. I am taking the figure in the census report.

Mr. JONAS. I have not seen that census report, but it must be inaccurate. There are between 1,100 and 1,200 sugar-planters in Louisiana, and every man who knows anything about sugar-planting knows that a plantation of four hundred or five hundred acres is a small plantation; so that it is absolutely impossible that the number of acres stated by the Senator is correct. The plantations would average according to the Senator's figure about eighteen acres apiece. There is no such plantation in the State of Louisiana. Every colored laborer has a bigger garden patch.

Mr. KELLOGG. However the case may be these acres grew 125,000 tons of sugar in 1882 and have turned out a crop valued at about $25,000,000 this year. The statement made by the Senator from Rhode Island [Mr. ALDRICH] I think is a mistake. Besides he is to take into account the industry not only in Louisiana but throughout the whole country, including the sorghum industry. This sugar interest involves and is connected with every material interest.

Mr. ALDRICH. If the Senator will allow me, I would like to say the census reports show the number of acres in Louisiana to be 181,592 used in raising sugar-cane.

Mr. BLAIR. I should like to ask the Senator [Mr. KELLOGG] a question, because he is informed upon this matter. The question to the consumer of the country is how he is to get the sugar any cheaper. As I understand, the consumer buys of the refiner. The sugar goes from the producer, whether it comes from abroad or from the plantations of Louisiana, to the refiner. As the tariff now is it goes to the American refiner and the consumer buys of him at his price. No foreign refined sugar comes in. There is no competition at the present between the foreign refiner and the domestic refiner. The refiner in all cases is the man next to the consumer. What I want to understand is how, except by a reduction of the tariff, any competition is to be created between the foreign refiner and the American refiner, so that there will be a chance for the American consumer to buy his sugar cheaper.

Mr. KELLOGG. How is the American consumer to buy it cheaper while he consumes chiefly what the refiner furnishes the market, and the refiner has the benefit of a rate of duty which, as I have shown, is practically prohibitory?

Mr. BLAIR. He has got to buy it from the refiner after it is subjected to the process of refining. He now buys of the American refiner, and until there is such legislation as will secure competition either between American refiners or between American and foreign refiners the American purchaser or consumer can never get his sugar any cheaper. Can he?

Mr. JONAS. If the Senator from New Hampshire will permit me, I will answer the question.

Mr. BLAIR. Certainly; all I want is an answer.

Mr. JONAS. That competition can be effected by reducing the tariff upon refined grades of sugar so as to permit free importation. It will never be effected by retaining the duty on the manufactured product of the refiner and permitting only raw sugars to come in.

Mr. BLAIR. Then I understand the Senator is in favor of a reduction of the tariff upon the high grades of sugar—that is, refined sugars—so that they may come in free.

Mr. JONAS. I am not here, I will say to the Senator, to fight or make war upon any particular industry, but I say to the Senator, and I say to the country, that the reason why sugar is dear and why we have dear sugar, and probably always will have it, is because the duties are prohibitory or practically so upon the importation of refined sugar, and because the American refiner controls the sugar market.

Mr. BLAIR. I should like to ask the Senator if he believes that a reduction of tariff upon the low-grade sugars, enabling the American refiner to purchase cheaper abroad than he can of the American producer, would result in the cheapening of the article of sugar to the American consumer?

Mr. JONAS. I do not believe it will.

Mr. BLAIR. Will not the effect be as it was when we removed the duty on tea and coffee?

Mr. JONAS. Exactly.

Mr. KELLOGG. Do you not know that when we removed the duty on coffee the Brazilian Government immediately imposed an export duty? What have we to hope for from the West India Islands and its thirty-one dependencies? They tax every barrel of flour now, as I have already shown, $1; every barrel of pork $3.50, and other articles in the same proportion; and still you propose to put a premium upon their products and say that they may import their products grown by slave labor at a low rate of duty against our free-labor products. But the result will not be the reduction of the price of sugar. It can not be. As I have said, the duty imposed upon all the high-grade sugars is absolutely prohibitory, and it is really proposed to keep it so. That will not be denied, I think.

Now, Mr. President, I have said about all I desire to say at this stage of the discussion. It is evident that this subject is to be discussed pretty fully, and my object at the present time has been chiefly to call the attention of the Senate to some distinctive points connected with this great agricultural industry. I wish to say to the Senate that the duty on sugar below No. 13, in which the Louisiana planters are chiefly interested, is, I believe, barely sufficient to properly protect that industry; that when the tariff was low the sugar industry languished and was nearly destroyed; as the duty was increased this great industry improved, and with it a corresponding benefit accrued to all parts of the country. This increasing production if fostered will produce in the near future a great interstate commerce that all parts of the country are directly interested in promoting. The present duty of 2½ cents, as I have said, is not a large protection, but the Senate bill proposes to reduce the protection to 2 cents per pound for sugars below No. 13.

There is an amendment which the Senate will probably be called upon to consider before this schedule is disposed of embracing the rate of 2½ cents fixed by the Tariff Commission. With this rate and with the improved machinery and improved facilities for transportation and the better disciplined system of labor which is coming in vogue the Louisiana planter may be able to maintain himself; but I fear a reduction below that will be a great hardship if it does not work great disaster to the Louisiana planter. The amendment of the Senator from Rhode Island [Mr. ALDRICH], as I stated in the outset and as he admits, strikes directly at sugar below No. 13, and consequently strikes directly at the interests of the producer, while, as I have shown, the amendment of the Senator from Vermont [Mr. MORRILL] from the Committee on Finance now proposes to increase the duty on the higher grades in the interest of the refiners. This I submit is unjust.

Sir, what we ask at the hands of the Senate is that kind of protection only which will enable the Louisiana planter to maintain this great industry which is now just beginning to fairly develop itself under the beneficent influence of the tariff that Congress has wisely given it during the last fifteen or twenty years, which has enabled the planter to increase his production in a few years from 5,000 tons to 125,000 tons, and from four or five million dollars to twenty-five million dollars, and has created a great trade with the North and Northwest—a trade which is constantly growing.

Do not reduce the present duty, which is barely sufficient to protect this great industry, and thus strike a blow at the immense interests involved in it; do not set a premium upon foreign against domestic productions; do not give slave labor an advantage over free labor.

The Tariff.

REMARKS
OF
HON. R. P. FLOWER,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the report of the conference committee on the bill (H. R. 5538) to reduce internal revenue taxation.

Mr. FLOWER said:

Mr. SPEAKER: As is well known I am heartily and earnestly in favor of a reduction of taxation and of the revenues. I will go almost any length to that end, and I have repeatedly voted for measures which did not meet my views of what ought to be done and could be done simply because they were in the line of reduction. But, sir, although I am for reduction of revenue and of taxes, although I have been told that this bill materially reduces internal taxation, I can not give my consent to the tariff portion of it, of which I know nothing beyond the fact that it increases the burdens of the people in some instances and deprives labor of its employment in others.

The bill which has been brought to us from the conference committee is neither the Senate nor the House bill, nor a modification of either to suit the provisions of the other. It is something new, something which we have had no hand in making, which we are not allowed to amend, and which we are asked to vote for without a due consideration of its contents. This is too important a measure to be decided without the most careful scrutiny of its provisions. The responsibility for its passage must rest with those who are acquainted with its details, and who have forced it upon us in obedience to the wishes of a powerful lobby and in direct opposition to the expressed dictates of both Houses of Congress. I shall not vote for it.

The Tariff.

SPEECH
OF
HON. COLUMBUS UPSON,
OF TEXAS,
IN THE HOUSE OF REPRESENTATIVES,

Monday, February 26, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. UPSON said:

Mr. CHAIRMAN: Feeling constrained by a sense of public duty to oppose this bill, I avail myself of this opportunity to place upon record some of the reasons which, in my judgment, justify such action on my part. I desire also to refer to past legislation and to the settled opinions of a number of the most distinguished American statesmen in the past and present history of this country to show the position of the Democratic party, and to express some of my own views and determined convictions upon the tariff question.

I regret that the work of the Tariff Commission has not resulted in the maturing of a bill which, if not to the full extent warranted and demanded by sound public policy, would substantially remove all, or the greater part, of the unnecessary and unequal burdens of taxation from the people, and to which I could give my hearty support.

My opposition to this bill is not of a factious or pretended character. Impressed with the great necessity of a thorough revision of the tariff and a substantial reduction of the duties on imports, and sincerely hoping that such a result might be brought about through a commission, when no other method seemed practicable, I voted for the creation of the commission. While in many respects I do not approve of the bill recommended by the Tariff Commission, I am pleased to say that its work is justly entitled to much credit for the valuable information furnished thereby to Congress and the country, and that from the facts contained in the report of the commission and within the possession of the Ways and Means Committee a fair tariff bill could and should have been presented. This bill, in my judgment, has been framed upon erroneous principles.

The leading and controlling purpose of the bill seems to be protection to private industries and not revenue for the support of the Government. The true rule which should govern the framing of a tariff bill, as I understand it, has been reversed. Protection has been made the object and revenue the incident.

DEMOCRATIC DOCTRINE.

The well-settled theory of the Democratic party on this subject, which I believe to be correct in principle, looks to the raising of the revenue necessary for the support of the Government, economically administered; for the payment of the public debt; for the common defense and general welfare of the United States; to the equal distribution of the burdens of taxation; and to the just promotion of the interest of each and every American citizen. As was stated by President James K. Polk in his inaugural address March 4, 1845, substantially as follows:

It is the duty of the Government to extend, as far as it may be practicable to do so, by its revenue laws, and all other means within its power, fair and just protection to all the great interests of the whole Union, embracing agriculture, manufactures, the mechanic arts, commerce, and navigation. A tariff should be for revenue, in adjusting which there should be such "moderate discriminating duties as will produce the amount of revenue needed, and at the same time afford reasonable incidental protection to our home industries;" a tariff should not be for protection merely, and not for revenue. "The raising of revenue should be the object and protection the incident;" "within the revenue limit there is a discretion to discriminate; beyond that limit the rightful exercise of the power is not conceded." "In making discriminations all home interests should, as far as practicable, be equally protected."

Regarding the doctrine announced by Mr. Polk as embodying the true constitutional principles and a sound policy on the tariff, I have taken it as a guide in voting upon the various provisions and amendments offered thereto of this bill which have already been acted on, and deeming the rates of duty proposed by the bill as too high, I have in almost every instance voted for a reduction. I am reluctantly forced to the candid conclusion that the bill as reported by the Committee of Ways and Means, and as it now stands after being amended, materially violates the principles and policy which I have indicated as my guide, and that I can not, therefore, give it my support. Between the Democratic doctrine as indicated of "a tariff for revenue with incidental protection" and the Republican doctrine of "a tariff for protection" or a "protective tariff" there is a plain, broad, and unmistakable

issue upon which the Democratic party should present a bold, solid, and unbroken front and wage an aggressive and an unrelenting warfare until the tariff is established upon correct principles and the people are thereby relieved from the unequal and unjust burdens of taxation, which under the Republican system of "high protection" are now inflicted upon them.

It has been asserted that there was practically no difference between the doctrine of "a tariff for revenue with incidental protection" and the doctrine of "a protective tariff." This statement, admitting the same to have been candidly made, has arisen from not clearly understanding or in confusing the two theories.

HIGH PROTECTION.

I understand the doctrine of the "protectionists," in effect, if not so broadly and openly declared, is in substance this: To lay such rates of duties on such foreign imports as will protect American industries, principally manufactures, against foreign competition, or, in other words, as will give American manufacturers the exclusive control and privilege of the American market, to the extent at least of the entire amount of their products. This character of protection the protectionist would give by a rate of duty sufficiently high to prevent or to destroy foreign competition, regardless of the amount of revenue to be raised, or if no revenue at all was needed for the support of the Government. The high protective system is designed and intended to give to Americans a monopoly of the American or home trade. It builds up home monopolies in part—I will not say wholly—at the expense of the many. It is a system of indirect taxation which forces contributions from the people for the benefit of a few without corresponding benefits being returned to the many. It is protection of private interests by indirect taxation for the purpose and for the sake of protection, and not taxation for revenue necessary to support the Government, which should be borne equally by all of the people in proportion to the property owned by each individual, corporation, or association.

I will not deny that high tariff duties create and stimulate home competition, as well as raise the price of labor to some extent, and that thereby the prices of manufactured products are reduced below what they otherwise would be without such stimulation in connection with foreign competition; but by the destruction of foreign competition the cost of the manufactured articles consumed by our people would not be reduced to the extent they otherwise would be under the system which enables the American manufacturer to obtain fair living profits in his business, and at the same time gives to the American consumer the benefits of a healthy competition between the home and the foreign manufacturer.

The "protectionists" in order to carry out their theory of protecting American industries to the extent of giving them virtually the control of the home market for the full amount of their products, and at the same time raise revenue sufficient to meet the wants of the Government, would adjust the rates of duty as not to be entirely prohibitory of the introduction of the foreign article, but at such rates as would give the American manufacturer a profit far above the profit of the foreign manufacturer. Leaving, however, to the foreigner, who will take the lowest if he can not get the highest profit, sufficient inducement to import such an amount as by the duties on the same would raise the required revenue.

In illustration of the propositions stated I submit some tabulated statements upon an assumed state of facts:

A revenue tariff equalizing the cost of the foreign and domestic article:	
Cost of article to foreign manufacturer	$5 00
20 per cent. profit to foreign manufacturer	1 00
Value in foreign market	6 00
Import duty at 50 per cent. ad valorem	3 00
Cost of importation—freight, &c	1 00
Cost of foreign article in American market	10 00
Cost of domestic article to American manufacturer	10 00
Prohibitory duty giving 30 per cent. profit to the American manufacturer:	
Value of article in foreign market, as above	6 00
100 per cent. import duty	6 00
Cost of importation—freight, &c	1 00
Cost of article delivered in American market	13 00
Cost to manufacturer of domestic article	10 00
30 per cent. profit to manufacturer on domestic article	3 00
Value in American market	13 00
High protective tariff, not prohibitory, but giving 30 per cent. advantage to American manufacturers over foreign importers:	
Value of article in foreign market, as above	6 00
100 per cent. import duty	6 00
Cost of importation—freight, &c	1 00
Cost delivered in American market	13 00
20 per cent. profit to importer	2 60
Price in American market	15 60
Cost to manufacturer of domestic article	10 00
56 per cent. profit to American manufacturer	5 60
30 per cent. advantage over importer	3 00

High protection, giving 74 per cent. profit to the American manufacturer and 30 per cent. to the importer:	
Value of article in foreign market	$8 00
125 per cent. import duty	7 50
Cost of importation—freight, &c	1 00
Cost delivered in American market	14 50
20 per cent. profit to importer	2 90
Price in American market	17 40
Cost of domestic article	10 00
74 per cent. profit to American manufacturer	7 40
45 per cent. advantage over foreign importer	4 50
A tariff below the revenue point, which gives an advantage to the foreign importer:	
Value of article in foreign market	6 00
Twenty-five per cent. import duty	1 50
Cost of importation—freight, &c	1 00
Cost delivered in American market	8 50
Cost of domestic article	10 00
Cost of foreign article delivered in the American market less than the cost of the American article	1 50

It will be seen that as the rates of duty are increased above the revenue point the tariff becomes proportionately more protective and prohibitory, and to the extent of the increase would give undue advantage to and enrich American manufacturers at the expense of the people at large. On the other hand, in proportion to the reduction of that rate below the point which places home manufactures on an equality with foreign imports the tariff would be injurious to and destructive of American industries, and to that extent would be detrimental to the general interest of the country.

REVENUE SHOULD NOT BE LEVIED REGARDLESS OF EFFECT.

The doctrine contended for by some that a tariff should be levied for revenue, independent or regardless of its effect upon home industries, is equally erroneous and unsound with that of levying a tariff for protection only.

It is an admitted and an undisputed fact that duties levied on imports coming in competition with articles either produced or manufactured in this country give more or less incidental protection to the latter. That being conceded, and as it must be likewise admitted that tariff duties may be so laid as to afford little or no protection or wholly inadequate protection to equalize the cost of the home product with the foreign product, there is no more warrant, right, or justification for laying a tariff for revenue in such manner or at such rates as will directly or indirectly injure, seriously cripple, or destroy important private domestic industries which have been built up under our tariff system than there is to lay a tariff directly for the protection and benefit of private industries at the expense of the consumers.

RIGHT OF DISCRIMINATING DUTIES.

The right of discrimination was clearly asserted by General Jackson in his second message to Congress, December 7, 1830, by the following language:

> The right to adjust these duties with the view to the encouragement of the domestic branches of industry is so completely identical with that power that it is difficult to suppose the existence of the one without the other.

This doctrine of discrimination is very forcibly maintained by Senator PUGH, of Alabama, in his speech in the Senate January 26, 1883, which I heartily approve. He said:

> The important question is, shall Congress levy the lowest duty that will produce the same amount of revenue as the higher rate without reference to the degree of protection the duty affords? In deciding this question we enter the field where Democrats meet each other on what I consider mere definitions of distinctions, which amount to nothing in principle or substance. * * * The right and duty of Congress to discriminate between the articles imported in selecting those to be taxed are founded on public considerations of justice, humanity, and patriotism. No Senator, whatever may be his opinions as to the objects of tariff laws, whether they should be for the single purpose of raising revenue or for the double purpose of raising revenue, and also affording incidental protection to American industries, will close his eyes to the effect the duty will have upon the different classes who consume the articles we propose to tax.
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> * * * * * * *
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> We all agree that it is right, just, and humane that as Senators representing our constituents we should afford all the "protection" we can to the weaker and poorer classes by discriminating in their favor by selecting from the imports those articles of necessity everybody must consume more or less, and putting all of them we can on the free-list, and making the duty as practicable on those that must bear some tax for revenue "only." We further discriminate to ascertain what articles imported are raw material and what articles are manufactured, and to what extent they are produced or manufactured abroad and in this country. Why do we make this examination? Is it for the sole purpose of seeing how much revenue "only" the lowest rate of duty will produce from the article imported, whether it be a necessity or a luxury or raw material or manufactured, or whether produced or manufactured more or less in Europe or America?
>
> After discriminating to acquire this information do we shut our eyes to the effect the duty we impose will have upon the wants of our country in times of war, or the industries or pursuits of our people in times of peace? If revenue "only" was our sole aim, without regard to any other effect the duty would produce, our work would be short and simple in passing tariff laws. Ten articles imported that enter into general and necessary use would carry by compulsion a duty sufficient to raise all the revenue needed for the support of the Government. Then it is untrue and misleading to assert that there is any political party in this country, or any considerable number of people who have any favor for tariff laws passed to have no other effect than to raise revenue enough to support the Government. The power to tax is a revenue power only.
>
> But in exercising this power we, as law-makers, must open our eyes and sur-

vey with care and judgment the circumstances, conditions, wants, necessities, pursuits, and interests of the people to be affected by our tariff legislation.

It must be admitted as beyond successful contradiction that no law imposing duties on foreign imports has ever been enacted in this country solely and exclusively for revenue without the exercise of any discrimination in adjusting the rates of duty for the purpose of affording protection and encouragement to American industries.

The incidental protection which inevitably follows a tariff for revenue levied on any article of import coming in competition with any other article manufactured or produced in this country has never been, and in reason never will be, disregarded or left to haphazard in the framing of a tariff bill for revenue. It has always been considered, estimated, and regulated with reference to the real or alleged protection or encouragement needed by the particular industry to be affected by it. Often, no doubt, and perhaps in most instances, as in the proposed bill, in violation of the true principle, "within a revenue standard." It is a noted fact that in all of the tariff discussions in Congress, including the present, the condition and needs of our industries to be affected by the tariff have been considered. No one has openly advocated the reduction or levying of duties in such manner or at such low rates as would seriously injure or destroy any important American industry, at least admittingly knowing such would be the result. On the contrary, all of the advocates of a tariff for revenue, and those favoring or inclined toward the doctrine of free trade, have acknowledged the great importance of American manufactures and industries, and expressed the strongest desire to do them no harm by tariff legislation, but to aid their prosperity by all legitimate means within the limits of a tariff for revenue. In no instance has the effect of the tariff, aside from the raising of revenue, been admittedly ignored or lost sight of.

Both theories of "high protection" and "free trade" are at war with the best interest of the whole country, and the adoption of either, if carried out to the fullest extent, would be destructive of the general welfare and prosperity of the whole people. One would build up vast monopolists of home manufactures, unrestrained in their greed of gain and unconscionable exactions to oppress and impoverish the people; the other would give a monopoly of our markets to foreigners, to eat out our substance and absorb the untold wealth springing from the endless products of our hard labor and rich fields, and create at our seaboards a moneyed aristocracy of a few princely import merchants to manipulate a nation's commerce, and fatten upon a nation's riches.

The advocates of a tariff for revenue, adjusted with a wise and moderate discrimination, strictly within the limits of that standard, insist that that is the only protection warranted; that it will afford all of the protection needed or required to give American labor constant employment, with fair remunerative and saving wages far exceeding those of any other country; that it will foster and maintain, fairly prosperous and profitable, every important or desirable American industry, as against the competition of the world, and will likewise distribute the burdens of taxation more equally and fairly, and make them more easily borne, more certain of collection, and less annoying and harassing to the people than any other system.

FREE TRADE.

Those favoring free trade should remember that upon the adoption of free trade direct taxation must be resorted to, which, under the Federal Constitution, would require the taxes to be apportioned among the several States according to their respective populations. This would be a most unjust system of taxation, as each State would be forced to pay its apportioned share of the taxes to support the General Government according to the number and not according to the value of the taxable property, of its people. Hence, under free trade, the people of one State might be required to pay a 10 per cent. tax on all of their taxable property, while the people of another State having double the wealth according to population would only pay a 5 per cent. tax.

Furthermore, the millions of our people having no taxable property, such as spendthrifts, gamblers, sports, allowanced extravagants, and the "spend as you go" class, who squander their entire means in fine clothes, high living, gewgaws, costly trappings, debauchery, and articles of luxury or fancy, who thereby under our present system pay indirectly many millions of dollars for the support of the Government, under free trade would not pay one cent toward that object. In which case additional burdens of taxation would be thrown upon the thrifty and saving property-holders.

ADJUSTMENT THE PROBLEM—LABOR THE KEY.

As stated by Senator CALL, of Florida:

I regard the present question as one of adjustment and not of the adoption of a system.

Labor, in my judgment, is the key to the solution of that question. Labor, the greatest source of all wealth, constitutes about 90 per cent. of the cost of the great body of all products; hence the equalization of the difference in the cost of American and foreign labor is the principal and controlling factor to be considered in adjusting the tariff as to the articles to be taxed and the rates of duty to be levied within a revenue standard. As was very forcibly stated by the distinguished gentleman from Pennsylvania, Mr. RANDALL, when he said—

I recognize the fact that there can be no free trade between nations where the wages of labor vary. And in so far as this tariff is concerned, I desire to say that I wish to make it so that it will cover the gap between the foreign labor and the labor of the United States. * * * Having taken care of our own labor which comes into competition with foreign labor, we can then remit the manufacturer to the advantages of distance, freight, and the inconveniences of transportation.

That the cost of labor in this country exceeds that of foreign countries from 50 to 100 per cent., after taking into account the differences in the cost of living, the advantages of machinery I believe can not be successfully denied. Hence American manufacturers depending on the higher wage-labor for the operation of their works must either have the cost of their fabrics equalized through the adjustment of the tariff to enable them to fairly compete with foreign imports, or the wages of labor in this country must be brought down to a level with the debased labor of Europe. A misfortune I earnestly hope may never befall American laborers. Beyond that point of equalization within the limits of a tariff for revenue I would not go and see no necessity of going.

MY PURPOSE.

I purpose to review at some length and with some particularity the history of our tariff legislation and to present what I understand to be the position of the Democratic party on the tariff question, as declared in national and State Democratic conventions and as expressed by some of the most eminent Democratic statesmen and leaders of the past and present, confidently believing that I shall thereby fully sustain the correctness of the views I have heretofore expressed on this subject.

To the oft-garnered field of the past and contemporaneous history of this vexed and much-controverted question I invite the careful study and candid judgment of all fair-minded men in vindication of the consistency of my course and the Democratic orthodoxy of my principles.

In this connection a word more personal to myself may not be out of place, as I have been charged with being a protectionist.

My position upon the tariff has been positive and outspoken, is spread upon the public records of the country, and admits of no misunderstanding. While I have favored and do now favor the fostering of such domestic industries as will profit the whole country by a wise and just discrimination under and within the limits of a tariff for revenue, I never have been a protectionist or favored the doctrine of protectionists.

TARIFF HISTORY.

Since the adoption of the Federal Constitution in 1789 there have been passed eighty tariff laws, including general, special, and amendatory laws, under all of which more or less protection has been given to American industries, and the protective features or principle of the same, in some form, have been recognized by all political parties; although as to the rate of duty to be levied and the amount of revenue to be collected there has been at all times a great diversity of opinion.

Nineteen of these laws have been general tariff laws, intended to cover the entire list of articles to be subjected to import duties, of which nine only are usually referred to as of special interest and importance in the disputations upon the tariff policy of this country. These were passed in the years 1789, 1816, 1824, 1828, 1832, 1842, 1846, 1857, and 1861; four of which were passed under the administrations of Democratic Presidents, three under Whig Presidents, and one under a Republican President; in the latter, however, should be included several general acts passed during and since the war under Republican administrations.

ORIGIN OF THE WORD.

The term tariff is said to have been derived from a town by the name of Tarifa, on the Barbary coast, where imports on goods passing were exacted. It is also said that the royal house of Hohenzollern, or "upper toll-takers," takes its name from the tariff system, as the ancient lords of that house kept the upper toll on the Rhine, from which they derived their revenue.

TARIFF DISCUSSION.

After the adoption of the present Constitution in 1789, as has been said, "the necessity of providing a national revenue was the first consideration with the new Congress."

The questions of "free trade" and "protection" are no new topics in this country; the discussion upon them opened within seventy hours of the organization of the First Congress, and has been continued down to the present time. With but few exceptions all of our public men have favored a system of raising a revenue by duties on imports necessary for the support of the Government and to discharge the national debts. Although some of the members of the First Congress desired the system to be temporary, no doubt favoring the idea as soon as practicable of free commerce with all nations, others at that time openly advocated a permanent system of laying discriminating duties for revenue so as to give encouragement and protection to American manufactures.

The power of the Government to give such protection was not, I believe, at that time questioned by any.

In the discussion on the first tariff bill under the Constitution, Mr. Madison, one of the fathers of Democracy, who drafted the bill, said:

I own myself the friend of a very free system of commerce. * * * If my general principle is a good one—that commerce ought to be free, and labor and industry left at large to find its proper object—the only thing which remains will be to discover the exceptions that do come within the rule I have laid down. I agree * * * that there are exceptions important to themselves, and which claim the particular attention of the committee. Duties laid on imported articles may have an effect which comes within the idea of national prudence. It

may happen that materials for manufactures may grow up without any encouragement for this purpose. It has been the case in some of the States, but in others regulations have been provided, and have succeeded in producing some establishments which ought not to be allowed to perish from the alteration which has taken place; it would be cruel to neglect them and divert their industry to other channels. * * * There may be some manufactures which being once formed can advance toward perfection without any adventitious aid, while others, for want of the fostering hand of government, will be unable to go on at all. Legislative attention will therefore be necessary to collect the proper objects for this purpose, and this will form another exception to my general principle. * * * The import laid on trade for the purpose of obtaining revenue may likewise be considered as an exception. So far, therefore, as revenue can be more conveniently and certainly raised by this than any other method, without injury to the community, * * * I think sound policy dictates to use this means. * * * So far as we can enumerate the proper objects and apply specific duties to them we conform to the practice prevalent in many of the States, and adopt the most laudable method of collecting revenue, at least preferable to laying a general tax * * * upon the whole, as I think some of the propositions may be productive of revenue and some may protect our domestic manufactures, though the latter subject ought not to be too confusedly blended with the former.

Mr. Madison also said:

The States that are most advanced in population are ripe for manufactures, and ought to have their particular interests attended to in some degree. While these States retained the power of making regulations of trade they had the power to protect and cherish such institutions; by adopting the present constitution they have thrown this power into other hands; they must have done this with an expectation that those interests would not be neglected here.

It would not be unreasonable to construe this language of Mr. Madison as an admission that the power of protective legislation was granted in the Federal Constitution, or at least that it was so understood by its framers. But subsequently, in 1828, in his celebrated letter to Mr. Cabell, he left no doubt as to his views on this subject when he said:

The Constitution vests in Congress expressly "the power to lay and collect taxes, duties, imposts, and excises," and "the power to regulate trade."

* * * * * * *

It is a simple question under the Constitution of the United States whether "the power to regulate trade with foreign nations" as a distinct and substantive item in the enumerated powers embraces the object of encouraging by duties, restrictions, and prohibitions the manufactures and products of the country? And the affirmative must be inferred from the following considerations:

1. The meaning of the phrase "to regulate trade" must be sought in the general use of it; in other words, in the objects to which the power was generally understood to be applicable when the phrase was inserted in the Constitution.

2. The power has been understood and used by all commercial and manufacturing nations as embracing the object of encouraging manufactures. It is believed that not a single exception can be named.

3. This has been particularly the case with Great Britain, whose commercial vocabulary is the parent of our own. A primary object of her commercial regulations is well known to have been the protection and encouragement of her manufactures.

4. Such was understood to be a proper use of the power by the States most prepared for manufacturing industry, while retaining the power over their foreign trade.

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But ample evidence may be found elsewhere that regulations of trade for the encouragement of manufactures were considered as within the power to be granted to the new Congress, as well as within the scope of the national policy.

* * * * * * *

If Congress has not the power it is annihilated for the nation; a policy without example in any other nation, and not within the reason of the solitary one in our own. * * *

If revenue be the sole object of a legitimate impost, and the encouragement of domestic articles be not within the power of regulating trade, it would follow that no monopolizing or unequal regulations of foreign nations could be counteracted; that neither the staple articles of subsistence nor the essential implements for the public safety could under any circumstances be insured or fostered at home by regulations of commerce, the usual and most convenient mode of providing for both. * * * That the encouragement of manufactures was an object of the power to regulate trade is proved by the use made of the power for that object in the first session of the First Congress under the Constitution, when among the members present were so many who had been members of the Federal convention which framed the Constitution and of the State conventions which ratified it. * * * It does not appear from the printed proceedings of Congress on that occasion that the power was denied by any of them.

A further evidence in support of the constitutional power to protect and foster manufactures by regulations of trade, an evidence that ought of itself to settle the question, is the uniform and practical sanction given to the power by the General Government for nearly forty years with a concurrence or acquiescence of every State government throughout the same period, and it may be added through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised, or however reputable or patriotic its patrons, can withstand the weight of such authorities or the unbroken current of so long and universal a practice. And well it is that this can not be done without the intervention of the same authority which made the Constitution. If it could be so done there would be an end to that stability in government and in laws which is essential to good government and good laws. * * *

If Mr. Madison intended to lay down the doctrine of a tariff for the protection of private interests independent of the raising of revenue, in my judgment he went beyond the admitted doctrine of the Democratic party. In ascertaining the powers granted to the Federal Government on this subject, we should bear in mind as a very important fact that previous to the adoption of the Constitution, when the several States had the sovereign power to regulate commerce, prohibit importations, protect trade and industries, as concerned themselves, respectively, important manufactures in the States had grown up. Can it be believed that the States would have knowingly surrendered all legislative power to encourage, foster, and protect their home industries and at the same time have withheld that power from the General Government, thereby leaving them helpless in this respect?

WASHINGTON'S ADMINISTRATION.

The first tariff act was approved July 4, 1789. It contained the following preamble:

Whereas it is necessary for the support of the Government, for the discharge of the debt of the United States, and the encouragement and protection of manufactures, that duties be laid, &c.

Under this act duties were laid on some seventy-five different articles, among them boots, shoes and slippers, tallow candles, wool and cotton cards, cheese, cider, coffee, tea, fish, hemp, iron chains, nails, spikes, salt, soap, steel, sugar, tobacco, snuff, twine, carriages, buckles, glass-ware, stone-ware, buttons, clothing, hats, iron, leather, saddlery, &c.

The second tariff act, passed in 1790, added some articles to the dutiable list and increased the rate about 2½ per cent. It passed the House by a vote of 39 to 13, all of the members from the Southern States, excepting two from Maryland and one from South Carolina, voting in the affirmative. The chief opposition was from Massachusetts.

The third tariff act, March 3, 1791, was mainly a modification or change in the mode of levying the duty on distilled spirits. Average rate of duty on dutiable imports for consumption in 1791 was 15.34 per cent.

Mr. Hamilton, then Secretary of the Treasury, in his report said:

The expediency of encouraging manufactures in the United States, which was not long since deemed very questionable, appears at this time to be pretty generally admitted.

From 1791 to 1809 some seven tariff acts of minor importance were passed, but somewhat increasing the rates of duty.

President Washington, in his last annual address, December 7, 1796, said:

Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts in every way which shall appear eligible.

THOMAS JEFFERSON.

The great founder of Democracy, Mr. Jefferson, recognized the doctrine of protecting manufactures. In his message of 1802 he said:

To cultivate peace, maintain commerce and navigation, to foster our fisheries, and protect manufactures adapted to our circumstances, are the landmarks to guide ourselves in all our relations.

In his message of 1808, speaking of manufactures, Mr. Jefferson said:

And little doubt remains that establishments formed and forming will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and protecting duties and prohibitions, become permanent.

The tariff act of July 1, 1812, under

JAMES MADISON'S ADMINISTRATION,

increased previous duties 100 per cent. It passed the House by a vote of 76 to 48. Of the 48 nays, 32 were from New England States, 9 from Pennsylvania, and 15 from the South. It was passed in consequence of the pending declaration of war against Great Britain. From 1812 to 1816 there were three tariff acts passed, but temporary in their charter.

The tariff act of April 1816, was a general tariff law. It was advocated by Mr. Calhoun and Clay, and passed as a protective tariff and considerably increased the average rates of duty. It passed the House by a vote of 88 yeas to 54 nays.

JAMES MONROE'S ADMINISTRATION.

The tariff acts of 1818 and 1819 were modifications of the then existing laws as to a few articles only. Mr. Monroe said:

It is deemed of importance to encourage our domestic manufactures. * * * There are strong reasons applicable to our situation and relations with other countries which impose on us the obligation to cherish and sustain our manufactures.

Mr. Monroe, in his message of December, 1823, recommended—

A revision of the tariff for the purpose of *affording* such *additional protection* to those articles which we are prepared to manufacture or which are immediately connected with the defense and independence of the country.

The tariff act of 1824 was a general revison of the tariff, increasing the duties to about 38.5 per cent. on dutiable goods and about 33.1 per cent. total imports. The Committee on Manufactures, to whom "had been referred sundry petitions and memorials praying for the adoption of measures calculated to afford encouragement and protection to the manufacturing interests of the country," reported a "bill to amend the several acts for imposing duties on imports."

Mr. Buchanan, in support of the bill, contended that the duties proposed were not prohibitory but protective and would at the same time increase the revenue. The bill was also supported by Mr. Clay. But Mr. Webster opposed the bill. While he contended that "commerce between nations has the same character as commerce between individuals and between parts of the same nation," and that the only object of commerce was to produce that exchange of commodities "between individuals and between nations which would conduce to the advantage and to the happiness of both," he admitted that protection and encouragement may be and doubtless are sometimes wise and beneficial if kept within proper limits. It will be remembered at this time Mr. Webster was a strong advocate of free trade.

After a determined opposition the bill passed the House by a vote of 107 to 102. It was afterward modified somewhat and became a law.

JOHN QUINCY ADAMS'S ADMINISTRATION.

The tariff of May, 1828, raised the duties on dutiable goods for consumption to an average of about 42 per cent., the highest before or since that time, until the Morrill tariff of 1861 and the other war tariffs which followed. From this and the act of 1824 in a great measure originated the doctrine of "nullification."

The "high protective tariff system" may be regarded as having been

inaugurated under the tariff of 1816, and although under a Democratic President, Mr. Madison, it never was the declared or recognized doctrine of the Democratic party.

From 1816 to 1828, by the respective tariff acts during that time, the tariff duties continued to augment and increase, until the popular and bitter outcry against it resulted in the election of Old Hickory, General Andrew Jackson, as a triumph over the "high protective system."

The Southern States as a section and the Democrats generally were arrayed against the system, although some prominent Democrats favored the tariff bill of 1828, such as Silas Wright, of New York, one of the most eminent Democratic statesmen of that day, who in advocacy of the bill said:

It has been the object of the majority of the committee to frame a bill which should have in view the protection of the leading interests of the country. They believe that in all laws having reference to the protection of the domestic interests of the country agriculture should be considered the paramount and leading interest. This was the basis upon which the other great interests rest and to which they are to be considered as subservient. Still this is not to be considered as entitled to protection, exclusive of the manufacturing interest. I do not believe that a law which would be injurious to manufactures would be beneficial to agriculture; but I do believe that protection to manufactures should be given with express reference to the effect upon agriculture.

If that was sound Democratic doctrine in 1828, is it not equally sound and orthodox in 1883?

Mr. Buchanan, of Pennsylvania, in supporting the same bill, said:

The American system consists in affording an equal and just legislative protection to all the great interests of the country. It is no respecter of persons. It does not distinguish between the farmer who plows the soil in Pennsylvania and the manufacturer of wool in New England.

Mr. Webster also supported the bill. A radical change had come over him; from a "free-trader" he had become an open advocate of high protection. In the debate on the bill he said:

New England has not been a leader in this policy. * * * She felt a reluctance to trust great interests on the foundation of Government patronage. But the act of 1824 settled the policy of the country. What, then, was New England to do? Was she to deny herself the use of her advantages, natural and acquired? Was she to resist what she could no longer prevent, or, seeing the policy of the Government thus settled and fixed, to accommodate to it as well as she could her own pursuits and her own industries?

And may it not be asked with equal force, "The policy of a tariff for revenue, adjusted to give fair protection to American industries and labor having been settled, what are the Southern States to do?"

Mr. Mallary, of Vermont, chairman of the Committee on Manufactures, from which the bill was reported, in his advocacy of it stated some significant conclusions, to which I call special attention, as solemn truths which should be heeded by the people living in the great interior of this country, not only in considering this important question but in the consideration of other great questions now agitating the public. He said:

I maintain that the tendency of protecting domestic manufactures is to prevent a most dangerous and powerful monopoly—a moneyed aristocracy—that would be resistless, overwhelming. I mean distinctly the mercantile interests on the seaboard. If this nation, great and extensive as it is and will be, were composed of farmers and merchants alone, what would be the consequence? The seaboard would be the place of exchange for domestic and foreign productions. This would be effected at a few points favorable by nature. Profits and gain would from necessity be confined to a few. * * * On the seaboard, therefore, all the moneyed capital of the nation would concentrate. The interior would be in dependence, debt, and bondage. * * * It is therefore sound policy to adopt such measures as will divide the moneyed capital of the nation. Instead of its remaining confined to a few places on the seaboard the good of the nation requires that it should be distributed.

JACKSON'S ADMINISTRATION.

Andrew Jackson, in his message to Congress on the 7th of December, 1830, said:

The object of the tariff is objected to by some as unconstitutional and it is considered by almost all as defective in many of its parts. The power to impose duties on imports originally belonged to the several States. The right to adjust these duties with a view to the encouragement of domestic branches of industry is so completely identical with that power that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government without limitation or restriction saving the very inconsiderable reservation relating to their inspection laws. This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them and consequently if it be not possessed by the General Government it must be extinct.

Our political system would thus present the anomaly of a people stripped of the right to foster their own industry and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely can not be the case; this indispensable power thus surrendered by the States must be within the scope of the authority on the subject expressly delegated to Congress. In this conclusion I am confirmed as well by the opinions of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the Constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people.

Mr. Clay's tariff resolution, submitted in the Senate December, 1831, was adopted after full discussion, namely:

Resolved, That the existing duties upon articles imported from foreign countries and not coming in competition with similar articles made or produced within the United States ought to be forthwith abolished, except the duties upon wines and silks, and that those ought to be reduced; and that the Committee on Finance be instructed to report a bill accordingly.

In discussing the resolution Mr. Clay said:

Free trade! Free trade! Gentlemen deceive themselves; it is not free trade that they are recommending to our acceptance; it is in effect the British colonial system that we are invited to adopt.

ENGLAND'S COLONIAL SYSTEM.

What was the colonial system to which Mr. Clay referred? Let the destructive commercial warfare waged by England through her chartered "East India Company" upon her Indian colonies and the acts of the British Parliament toward her American colonies answer. Mr. Clay's question was very forcibly answered by Mr. Peter Cooper in a speech delivered as well as in a letter written by him a few years since, from which I take the liberty of submitting in a summary way a few important facts bearing upon England's commercial policy.

It has been said, and with too much truth to add to the glory of Old England, "that the wars of commercial interests carried on by England alone have led to and have caused a greater destruction of life and property during the last eighty years than has been occasioned by all the wars of conquest that have taken place in the civilized world during that period of time."

When the East India Company, "chartered and sustained by all the power of Great Britain," began its wild schemes of amassing fabulous fortunes through its commercial adventurers, by force, trickery, fraud, and deception in Hindostan, that country with its then 150,000,000 inhabitants was famed as the storehouse of the untold riches of the East and for its beautiful fabrics of the finest quality. "Though often overtaxed and plundered by invading armies, the country continued rich and prosperous," until invaded by English adventurers under the British policy, as Fox, in a speech on the East India bill, declared, "the country was laid waste with fire and sword, and the land once distinguished most above others by the cheerful face of fraternal government and protected labor, the chosen seat of cultivation and plenty, is now a dreary desert, covered with rushes and briers, jungles and wild beasts."

Macaulay says:

The misgovernment was carried on to such an extent as seemed hardly compatible with the existence of society. They forced the natives to buy dear and sell cheap.

The English Government became as oppressive as the most oppressive form of barbarian despotism.

It is said that—

The poor Hindoo was not allowed to make salt from the waters of the ocean. Every form of taxation and exaction was forced on that people in order to drive them to send all their cotton and wool to England (the great workshop of the world) to be converted and returned.

The great city of Dacca, that only seventy years since contained 90,000 houses and exported millions of pieces of the finest quality of goods, is now a mass of ruins.

The same authority says:

For the accomplishment of this work of destruction, the children of Lancashire, England, were employed fifteen to seventeen hours per day during the week and until 12 o'clock on Sunday, cleaning and oiling machinery, for which they received 2s. 9d. per week. The object was to underwork the poor Hindoo and drive him from the markets of the world.

Sir Robert Peel says:

The effects in India exhibit themselves in such ruin and distress that no parallel can be found in the annals of commerce.

Of all the 1,700,000 slaves imported into the British West India Islands only 660,000 were found living on the day of emancipation. This was the result of a war of commerce. The planters on those islands had been deprived by law of all right to "refine their own sugar, or to introduce a spindle or a loom, or to mine coal, or to smelt their own copper."

On the island of Jamaica, with a population of 320,000 black laborers, and with inexhaustible supplies of timber, that island has been without a saw-mill up to 1860.

Her policy toward the American colonies would have proved no less destructive of their commercial interests and general prosperity had they not timely resisted and achieved their independence of British oppression and rule.

The first attempt on the part of the American Colonies to establish manufactories was followed by prohibitory acts on the part of the British Parliament.

In 1710 the House of Commons declared that the erecting manufactories in the Colonies tended to lessen their dependence on Great Britain.

In 1732 the exportation of hats from province to province and the number of apprentices was limited.

In 1750 the erection of any mill or engine for slitting or rolling iron was prohibited.

In 1765 the exportation of artisans from Great Britain was prohibited, under a heavy penalty.

In 1781 utensils required for the manufacture of wool and silk were prohibited.

In 1782 the prohibition was extended to artificers in printing calicoes, muslins, or linens, or in making implements used in their manufacture.

In 1785 the prohibition was extended to tools used in iron and steel manufacture, and to workmen so employed.

In 1799 it was so extended as to embrace even colliers.

England, now so boastful of her pretended free trade, which is only in part free trade, her import duties amounting annually to about $100,000,000, never hesitated to pass protective or prohibitory laws as to commerce when to her interest to do so.

Englishmen freely admit that protection is necessary to the existence of our iron industry. At a meeting of the National Miners' Conference held at the Old Town Hall, in King street, in Manchester, England, in January, 1881, Mr. Macdonald, a member of the British Parliament,

encouraged the British miners by the declaration that "if America would remove her tariff of 29*s.* 4*d.* on our iron we should be able to close every iron-works east of Pittsburgh within three months."

English advice and solicitude, through her Cobden Club and press, for our commercial welfare should be received with some grains of allowance, when we remember her long list of unjust wars, acts of oppression, and deeply laid schemes to extend her trade and control the commerce of the world.

The tariff act of July 14, 1832, which went into operation March 3, 1833, put tea and coffee when imported in American vessels on the free-list, and made a reduction of duties from 20 to 25 per cent. ad valorem on a number of articles. This bill, as all former tariff bills had done, retained the protective principle. It was discussed at great length, with great ability and much sectional feeling, being the last tariff act prior to the ordinance of nullification passed by the convention of South Carolina, by which it was declared "that the tariff law of 1828 and the amendment to the same of 1832 are null and void, and no law, nor binding upon this State, its officers or citizens." The bill passed the House by a vote of 132 to 65, and the Senate by a vote of 32 to 16.

MR. CLAY'S COMPROMISE BILL.

February 12, 1833, Mr. Clay introduced a bill to modify the various acts imposing duties on imports. It passed the Senate by a vote of 29 to 16, Mr. Calhoun voting in the affirmative. A bill was afterward introduced and passed in the House by a vote of 119 to 85. It is known as the compromise tariff act of 1833, which included "Mr. Clay's compromise bill," and was intended to gradually reduce the duties on imports and to serve as a compromise measure. It provided a sliding scale of reduction on all duties above 20 per cent., the excess over 20 per cent. to be entirely taken off by June 30, 1842. The average duties on imports for consumption by this act and the act of 1836 were reduced from about 42 to 31 per cent. ad valorem, and on the whole imports from about 35 to 16 per cent. ad valorem. Whether or not this reduction of tariff duties, in whole or in part, produced or contributed to the great financial crisis which swept over the United States in 1837, I leave to the disputation of the protection and free-trade theorists.

JOHN TYLER'S ADMINISTRATION.

The tariff act of September 11, 1841, provided that free articles and those at a duty of less than 20 per cent. ad valorem should pay 20 per cent. ad valorem, excepting certain specified articles; it fixed the duty on unenumerated articles the same as on enumerated which they most resembled, and reduced duty on railroad-iron to 20 per cent. ad valorem.

The tariff act of August 30, 1842, increased the average of duties to about 32½ per cent. The bill passed the House by 116 to 112, and the Senate by 25 to 23.

Mr. Polk in his inaugural address of March 4, 1845, said:

> I have heretofore declared to my fellow-citizens that in my judgment it is the duty of the Government to extend as far as it may be practicable to do so by its revenue laws and all other means within its power fair and just protection to all the great interests of the whole Union, embracing agriculture, manufactures, the mechanic arts, commerce, and navigation. I have also declared my opinion to be in favor of a tariff for revenue; and that in adjusting the details of such a tariff I have sanctioned such moderate discriminating duties as would produce the amount of revenue needed and at the same time afford reasonable incidental protection to our home industry; and that I was "opposed to a tariff for protection merely and not for revenue." * * * The raising of revenue should be the object and protection the incident. * * * Within the revenue limit there is a discretion to discriminate; beyond that limit the rightful exercise of the power is not conceded.
>
> The incidental protection afforded to our home interests by discriminations within the revenue range is believed to be ample. In making discriminations all our home interests should, as far as practicable, be equally and fairly favored.

The tariff of July 30, 1846, under James K. Polk's administration, is claimed as the model of a tariff for revenue. It was styled "An act reducing the duties on imports, and for other purposes."

It was conceded by all that the revenue receipts were too large in amount for the good of the country and that the tariff should be modified so as to reduce the same. Hence by the act of 1857 tariff duties were reduced generally, from 20 to 25 per cent. ad valorem.

It passed the Senate by a vote of 27 to 27, the President of the Senate, Mr. Dallas, giving the casting vote in the affirmative. The vote in the House was 115 for to 92 against. The general average rate of duties upon the total imports under the act of 1846 as compared with the rates under the act of 1842 was decreased only about 2½ per cent. As to the duties on imports for consumption the decrease was about 8.4 per cent. Yet as a revenue tariff it not only surpassed all expectations but astonished its authors. It produced in revenue from customs duties, in the ten years from 1847 to 1856, inclusive, $459,981,967, while the receipts from customs duties for the ten preceding years, from 1837 to 1846, inclusive, were only $212,185,961, being an increase in the latter decade of $247,796,006; but this is to be accounted for mainly, if not entirely, from the great increase in imports, which from 1847 to 1856, inclusive, amounted to $2,205,160,187, and from 1837 to 1846 to only $1,164,183,732, an increase of $1,040,976,455.

A glance at the classification of articles bearing the same rate of duty under the law of 1846 may cause some doubt as to its perfection. A mere recital of some of the many diversified articles grouped together under the same schedule, as well as a lower rate of duty on some luxuries than on necessaries, will carry with it its own argument without comment.

Schedule C.—Beer, German silver, articles embroidered with gold or silver, asses skins, perfumes, bologna sausage, bracelets, ringlets, mosaics, pickles, hats, shell boxes, souvenirs, carpets, carriages, pepper, cheese, clothing, coal, confectionery, cutlery; diamonds, gems, rubies, pearls, &c., set in gold or other metals; dolls, toys; earthen, china, and stone ware; epaulets, bonnets, hemp, honey, iron, jellies; manufactures of cotton, silk, linen, and wool, if embroidered; medicines, guns, fire-arms, nuts, plated and gilt ware, potatoes, silver-plated metals, tobacco, wool, &c., duty 30 per cent. ad valorem.

Schedule E.—Acids and other chemicals, bacon, blankets, vegetables, books, socks; ebony, mahogany, and other precious woods; copper articles, hats of silk and cotton, Indian corn, jalap, coral, manufactures of flax, drugs, bronze metals, whipgut or catgut, needles, oranges, lemons, paints, pork, slate-pencils, steel, velvet of cotton or silk, 20 per cent. ad valorem.

The Morrill tariff, as to classification of articles, was certainly a great improvement over the tariff act of 1846.

TARIFF ISSUE.

The issue between the high protectionists and the so-called free-traders may be said to have been fairly tendered upon the adoption of the tariff of 1816, but not fairly joined until after the tariffs of 1824 and 1828.

The issue may be stated on the side of the protectionists as succinctly put by Mr. Ingham, when, in the discussion of the tariff bill of 1816, he said "the revenue was only an incidental consideration," and upon the other side as afterward in 1845 formulated by Robert J. Walker, then Secretary of the Treasury under President Polk, in his celebrated report on the tariff, wherein he laid down six propositions, among them the following:

> First. That no more money should be collected than is necessary for the wants of the Government, economically administered.
>
> Second. That no duty be imposed on any article above the lowest rate which will yield the largest amount of revenue.
>
> * * * * * * *
>
> Sixth. That the duty should be so imposed as to operate as equally as possible throughout the Union, discriminating neither for nor against any class or section.

Which propositions, it may be claimed, have been summarized in the Democratic platform of 1876 as "that all custom-house taxation shall be only for revenue," and in the Democratic platform of 1880 as "a tariff for revenue only."

THE TARIFF OF 1857 UNDER JAMES BUCHANAN'S ADMINISTRATION.

This reduced the duties on the greater number of imported articles from 20 to 25 per cent. ad valorem to an average rate on dutiable articles for consumption of about 19 per cent., almost as low as the average rate of duties from 1789 to 1811.

The principal object sought to be accomplished by the tariff of 1857 was the reduction of the revenue from duties on imports, and thereby prevent the accumulation of a large surplus in the Treasury exceeding the wants of the Government.

In advocating a reduction of the tariff Mr. Hunter, of Virginia, when referring to the tariff of 1846, said:

> Interests and investments have grown up under it, and it is our duty to proceed in modifying it as to respect those interests. * * * Independently of considerations of justice, the dictates of policy should prevent us from doing anything to prostrate those interests by a sudden blow, as their ruin would lead to a great commercial revulsion and bring disaster upon all.

As to whether the tariff under the reduction proposed would produce the required quantity Mr. Hunter said that "the danger is, not that it will produce too little but too much. For it is obvious that when we come to reduce the duties the consumption will be increased, and this again will have the effect to add to the revenue." While this did not prove to be true under the tariff of 1857, there is no question but that the reduction of a tariff below the point affording fair protection will ordinarily greatly increase the amount of revenue over a tariff so high as to be prohibitory in its effect.

In the four years, 1858, 1859, 1860, and 1861, the revenue from customs fell off a little over $60,000,000 as compared with the four preceding years, leaving a deficit of some $20,000,000 annually as to the expenditures of the Government. This deficit showed the necessity of a revision of the tariff for the purpose of increasing the revenue, and resulted in the Morrill tariff of March 2, 1861, which considerably increased the duties on imports. This tariff remained in operation but a few months, when in consequence of the late war the tariff duties were raised about 100 per cent. by the acts of August 5, 1861, December 24, 1861, July 14, 1862, March 3, 1863, and of April and June, 1864, to an average rate exceeding on dutiable goods for consumption by about 1 per cent. only the average rate from 1829 to 1832, inclusive.

Whether or not the reduction produced, or in any manner contributed to, the financial disasters of 1857, I again leave to be disputed by the advocates of high protection upon the one side and by free-trade theorists upon the other.

The act of March 2, 1867, was entitled "A bill to provide increased revenue from imported wool, and for other purposes."

The act of July 14, 1870, was entitled "An act to reduce internal taxes, and for other purposes." It reduced the rate of duty all along

from 12 to 75 per cent. on some forty different articles, among them tea, coffee, sugar, spirits, wine, brandy, and iron.

The act of May 1, 1872, put tea and coffee on the free-list, reduced salt to 12 cents per one hundred pounds, and made a general reduction of 10 per cent., principally upon cotton and woolen manufactures, iron, and steel. Whether this reduction produced or contributed toward the great financial crisis which followed in 1873 I will again leave to be disputed pro and con by the contending theorists.

By the act of March 3, 1875, the 10 per cent. reduction provision of the act of May 1, 1872, was repealed. Whether or not the prosperous times which gradually followed the act of 1875 were in whole or in part brought about by that act I again leave to be disputed by the extreme theorists of "high protection and free trade." In my judgment the effects of a tariff, whether high or low, are too apt to be magnified, and are often greatly exaggerated.

Average percentage of customs duties.

Administrations.	Rates of duty on total imports.	Rates of duty on imports for consumption.
	Cents.	*Cents.*
Washington and John Adams, 1791 to 1804, inclusive	11.5	17.5
Jefferson and Madison, 1805 to 1812, inclusive	15.12	22.4
Madison, 1813 to 1816, inclusive	34.37	37.6
Monroe, 1817 to 1820, inclusive	21.02	26.5
Monroe, 1821 to 1824, inclusive	22.17	32.1
J. Q. Adams, 1825 to 1828, inclusive	33.1	38.5
Jackson, 1829 to 1832, inclusive	35.37	41.9
Jackson, Van Buren, and Harrison and Tyler, 1833 to 1842, inclusive	16.26	31.
Harrison, Tyler, and Polk, 1843 to 1846, inclusive	22.75	32.4
Polk, Taylor, and Fillmore, 1847 to 1857, inclusive	20.43	24.
Buchanan, 1858 to 1861, inclusive	14.	19.
1862 to 1871, inclusive	36.47	42.8
1872 to 1881, inclusive	29.27	42.

DEMOCRATIC PLATFORMS.

The first national Democratic platform of which I have obtained any knowledge, adopted at a ratification meeting at Washington city, May 11, 1832, contained the following resolution:

Resolved, That an adequate protection to American industry is indispensable to the prosperity of the country, and that an abandonment of the policy at this period would be attended with consequences ruinous to the best interests of the nation.

The second Democratic platform, which was adopted at Baltimore, May 5, 1840, contained the following resolutions:

4. *Resolved*, That justice and sound policy forbid the Federal Government to foster one branch of industry to the detriment of another, or to cherish the interests of one portion to the injury of another portion of our common country; that every citizen and every section of the country has a right to demand and insist upon an equality of rights and privileges; and to complete an ample protection of person and property from domestic violence or foreign aggression.

5. *Resolved*, That it is the duty of every branch of the Government to enforce and practice the most rigid economy in conducting our public affairs, and that no more revenue ought to be raised than is required to defray the necessary expenses of the Government.

In the Democratic platform adopted at Baltimore, May 27, 1844, the above-recited resolutions 4 and 5 were reaffirmed.

In the Democratic platform adopted at Baltimore, May 22, 1848, said resolution 4 was reaffirmed, and for the eighth resolution of said platform the fifth resolution above quoted with this language added, namely, "and for the gradual but certain extinction of the debt created by the prosecution of a just and necessary war," was adopted. The twenty-first resolution of the platform of 1848 included the following as among the enumerations of the fruits of the election of Mr. Polk, namely:

In the noble impulse given to the cause of free trade by the repeal of the tariff of 1842, and the creation of the more equal, honest, and productive tariff of 1846.

The Democratic platform of 1852, adopted at Baltimore, reaffirmed said resolutions 4 and 5, and declared against "exclusive legislation for the benefit of the few at the expense of the many."

In the Democratic platform of June 6, 1856, adopted at Cincinnati, said resolution No. 4 was readopted, and as bearing upon the tariff the following was embraced in an additional resolution, namely:

The time has come for the people of the United States to declare themselves in favor of free seas and progressive free trade throughout the world.

The Douglas and Breckinridge Democratic platforms adopted at Charleston, April 23, and Baltimore, June 18, 1860, reaffirmed the Cincinnati platform.

The national Democratic platform adopted at New York, July 4, 1868, declared—

A tariff for revenue upon foreign imports, and such equal taxation under the internal-revenue laws as will afford incidental protection to domestic manufactures and as will, without impairing the revenue, impose the least burden upon and best promote and encourage the great industrial interests of the country.

The Democratic platform adopted at Baltimore, July 9, 1872, contained the following:

Recognizing that there are in our midst honest but irreconcilable differences of opinion with regard to the respective systems of protection and free trade, we remit the discussion of the subject to the people in their Congressional districts and the decision of Congress thereon, wholly free from executive interference or dictation.

The Democratic platform adopted at Louisville, Kentucky, September 3, 1872, repudiated the Baltimore platform last referred to and passed among other resolutions the following:

Resolved, That the interests of labor and capital should not be permitted to conflict, but should be harmonized by judicious legislation.

It was silent on the tariff.

The Democratic platform adopted at Saint Louis, June 27, 1876, contained the following:

We demand that all custom-house taxation shall be only for revenue.

The Democratic platform adopted at Cincinnati, June 22, 1880, declared for "a tariff for revenue only."

I believe the foregoing are all of the declarations relating to the tariff of the Democratic party contained in national platforms.

A far greater variety of declarations may be found in the platforms of the Democratic party of the different States.

In the Virginia Democratic platform of August, 1881, may be found:

That special efforts be made to foster and encourage the agricultural, mechanical, mining, manufacturing, and other industrial interests of the State.

In the North Carolina State platform, adopted in July, 1882, it is declared:

Resolved, That we are in favor of the entire and immediate abolition of the internal-revenue system, with its attendant corruptions, and that we denounce the present tariff laws as grossly unequal, unjust, and vicious. We favor such a revision of the tariff as will produce a revenue sufficient for the economical support of the Government, with such incidental protection as will give to domestic manufactures a fair competition with those of foreign production. That there should be an immediate repeal of all laws imposing a direct tax for the support of the Government of the United States.

The Democratic platform of Georgia for 1882 contained the following:

1. *Resolved*, That the Democratic party of Georgia, through its accredited representatives assembled, reaffirm with all emphasis and fervor the time-honored principles expounded by the sages, Jefferson and Madison, and illustrated and enforced by the pure and able men who have by their teachings and practical enforcement of their political faith advanced the glory and promoted the prosperity of this Union.

The Democracy of Georgia reaffirm with all emphasis and fervor the principles expounded by Madison and Jefferson as their political faith.

The present Democratic governor of Georgia, the distinguished Alexander H. Stephens, in a speech delivered by him in the House at the last session (1882), thus stated his views on the tariff, in which I fully concur:

I think we ought to abolish the internal-revenue system of taxation entirely. I would extirpate it root and branch. Allow me to say to both sides of the House that except in time of war these internal-revenue taxes, excise and stamp duties, are in my judgment in principle anti-Republican, anti-Democratic, and anti-American. They are in opposition to the general principles or policy of this Government as taught by the fathers of the Republic.

The best way to raise revenue is by duties on imports. They bear less heavily on the tax-payers, and as legislators that is what we should look to. In levying duties on imports you can at the same time make foreign producers pay for the use of your markets, and in that way incidentally and properly give aid and protection to American industry. It is not true, as a general proposition, that the consumer pays all the duty imposed upon commodities brought from other countries. This is a question that I can not now argue. In most instances where the duties are judiciously laid they are borne partly by the importer and partly by the consumer.

To allow Congress thus to raise revenue by duties upon imports was one of the main objects in establishing the Federal Constitution of 1789.

The tariff plank adopted by the Vermont Democrats in 1882 was "a tariff for revenue with just discriminations favoring the agricultural, industrial, and commercial interests of the whole country."

The Democratic platform of Indiana for 1882 contained the following:

We demand a revision of the present unjust tariff. The Constitution of the United States confers upon Congress the power to establish a tariff for revenue, and as a just and proper exercise of that power we favor such an adjustment of its provisions, within the revenue standard, as will promote the industries of the country and the interests of labor, without creating monopolies.

Ex-Senator Joseph E. McDonald, one of the most prominent and distinguished Democrats of the day, was reported by the committee which framed the platform containing the above quotation as having participated in the deliberations of the committee.

The Ohio Democracy at their State convention, July 20, 1882, adopted the following:

Resolved, That we favor a tariff levied to meet actual needs and so adjusted in its details with the view to equality in the public burdens, so as to encourage productive industries and afford labor just compensation without creating monopolies.

In support of the views I maintain I again refer to the declarations of eminent Democrats:

Thomas Benton in United States Senate in 1842:

A cry was got up to alarm the manufacturers with the chimera of total destruction if it had not been for the compromise. But no such thing. In abolishing and reducing duties and bringing down the revenue to the economical wants of the Government, General Jackson and his friends meant to stand upon the ground on which Jefferson and Madison had stood, and to make discrimination and incidental protection the basis of their policy. In that way they

would have settled the question then; in that way only can it be settled now; and in that way the most sagacious of our public men have looked for it to be settled at this time.

John C. Calhoun:

Every instance which has been cited may fairly be referred to the legitimate power of Congress to impose duties on imports for revenue. It is a necessary incident of such duties to act as an encouragement to manufacturers, whenever imposed on articles which may be manufactured in our own country. In this incidental manner Congress has the power of encouraging manufactures; and the committee readily concede that in the passage of an impost bill that body may, in modifying the details, so arrange the provisions of the bill as far as it may be done consistently with its proper object as to aid manufactures. To this extent Congress may constitutionally go, and have gone from the commencement of the Government, which will fully explain the precedents cited from the early stages of its operation.

Free-trade convention held in Philadelphia in 1831:

A numerous and intelligent portion of the American people believe that this view is applicable to the tariff of 1828. They admit the power of Congress to lay and collect such duties as they may deem necessary for the purposes of revenue, and within these limits, so to arrange those duties as incidentally and to that extent to give protection to the manufacturer.

Andrew Jackson, letter to Dr. L. H. Coleman, of North Carolina, August 26, 1824:

Heaven smiled upon and gave us liberty and independence. The same Providence has blessed us with the means of national independence and national defense. If we omit or refuse to use the gifts which He has extended to us we deserve not the continuance of His blessings. He has filled our mountains and our plains with minerals—with lead, iron, and copper—and given us a climate and soil for the growing of hemp and wool. These being the great materials of our national defense, they ought to have extended to them adequate and fair protection, that our manufacturers and laborers may be placed in a fair competition with those of Europe, and that we may have within our country a supply of these leading and important articles so essential to war. * * *

In short, sir, we have been too long subject to the policy of British merchants. It is time we should become a little more Americanized, and, instead of feeding paupers and laborers of England, feed our own; or else, in a short time, by continuing our present policy, we shall be paupers ourselves.

Senator BECK, of Kentucky, in 1882:

In adjusting taxation on imports with a view only to obtain revenue, or "for revenue only," we never thought of discriminating against American industries, or of depriving them of the incidental benefits or protection a proper revenue tariff would afford. I would adjust the revenue tax as far as possible to aid all of them in the proportion in which they could least bear foreign competition, especially as past legislation has been of a character to induce our citizens to embark in enterprises under the belief that they would be fostered by Congress.

Senator BECK, of Kentucky, February 19, 1883:

I have shown no malice against any manufacturing establishment or against the manufacturers of this country. I voted, when the Senator from Massachusetts sought to reduce the tax on Russia iron from 2½ to 2 cents, against him, because I thought it was too low. When Senators sought to bring in machinery at 10 per cent. or lower rates, I voted against it, thinking that too low. I have sought to bring down no tax below the point where I believed the manufacturers of this country could live and manufacture their goods.

Senator BAYARD, of Delaware:

The power to tax by laying duties upon imports may be so exercised as to do what it has done ever since the foundation of the Government, and that is, to give an advantage equivalent to the amount of the tax to the American producer or manufacturer over his foreign competitors in the same line of production or manufacture, and this becomes his "protection." That is all that is justifiable; it is all that ever was claimed until these later days. It is all that is warranted by the exercise of the taxing power of the Government. Its justification and prime object must be, in thus compelling the payment of private moneys for public use, to pay the expenses of the Government, or, in the language of the Constitution, "To pay the debts and provide for the common defense and general welfare of the United States." The incidental results of such public measures, in fostering the industries of our own people, may be legitimately, wisely, and properly considered, not as the chief object or controlling motive in laying such a tax or duty, but as one of its incidental, inevitable, and proper results. * * * We should consider the uniformity of the law, and its justice to all interests alike.

Senator SAULSBURY, of Delaware, said:

I am certainly in favor of giving to our own industries any advantage which such incidental protection can afford.

Senator GEORGE G. VEST, of Missouri, in the Senate of the United States, Saturday, July 22, 1882, said:

Within the scope of a tariff for revenue I shall vote to foster and protect by just discrimination in tariff duties the iron interests of Missouri. That is not only my duty, but one of paramount obligation, and I shall earnestly discharge it, but always and without exception I must adhere to the great principle that a tariff for protection to any interest over and above the limit of a tariff for revenue is in violation of the Constitution. The Government has no constitutional power to tax one class of its citizens simply to protect another. Congress has the power to impose tariff duties to raise sufficient revenue to carry on the Government, and within this limit can so impose these duties as to protect American industries and at the same time equalize the burdens of taxation; but the instant that duties are imposed beyond the necessity I have named, and only to protect certain class interests, the imposition is outside of the Constitution and antagonistic to the spirit of our institutions.

Senator GARLAND, of Arkansas:

What I am after is a fair and open investigation into the operations of the tariff upon all conceivable plans and upon every particular branch of the industries of the country, so that when we come to make a tariff, having in view the revenue standard, we may make it advisedly; we may know just exactly what amount of tariff we need, and what requires protection and what not, because there is no concealing the fact that as every tax is discriminating in its nature, which can not be helped, so every tariff effort is to a certain extent protection, and it is the extent of that protection that it is as important to recognize and is to be ascertained in this investigation as anything else connected with the tariff.

Senator BROWN, of Georgia, says:

I confess I take a medium position here. I am neither a free-trade man, willing to collect all the money we have to raise by direct tax upon the people, nor am I willing to lay a tax simply for protection when the Government does not need the money. But if I had it in my power I would raise all the money necessary to support the Government by tariff, and I would so adjust the tariff which we have to raise to meet the necessary expenses of the Government as to afford as far as possible an incidental protection to home industry and to American productions. It seems to me that is common sense, and that patriotism and statesmanship alike require it.

Senator VANCE, of North Carolina, says:

A tariff for revenue can be rightfully laid; the exigencies of the public service require this. I am willing to aid in framing such a tariff. Such protection as this would afford to the industries of the country all they are fairly entitled to have. Let them learn to be therewith content and to know that "whatsoever is more than this cometh of evil."

Senator RICHARD COKE, of Texas:

No citizen can object to a tax on imported goods judiciously levied with an eye single to the raising and collection of revenue for the support of the Government. The Government must have revenue for its support, and the Constitution expressly grants to Congress the power to levy and collect such tax for that purpose. A tariff revenue, constructed in good faith only for the purpose of raising revenue, and which does raise revenue and place it in the National Treasury, is a legitimate and constitutional and necessary exercise of power. As an inevitable consequence domestic manufacturers or producers of the articles upon which such revenue-impost duties are laid are to that extent protected against foreign competition. This species or extent of protection is necessarily an incident, a corollary to every law which raises revenue through impost duties, but revenue should be the object and purpose in view and protection *pro tanto* only the incident.

Governor Hendricks, of Indiana:

All parties agree that the best way for us to raise revenue is largely by the tariff. So far as we are concerned, therefore, all talk about free trade is folly. Congress can not look to revenue only, but must exercise judgment and discretion, and that in the exercise thereof regard must be had to the interests and welfare of each particular object of taxation and to its comparative importance in the country. The rates can not be uniform. A horizontal tariff is impossible.

Senator VOORHEES, of Indiana:

It is not within the range of human skill to so frame a tariff as to result in nothing but the collection of revenue, nor can human wisdom separate its direct and tremendous effects upon the industries and prosperity of the country from the bare, naked existence of a tariff. It is at this point that the extreme and contrary views now before the country begin to assert themselves. On the one hand there are those who declare their readiness to enact a system of tariff not so much with a view to revenue as to the promotion and protection of certain great pursuits in our midst; while on the other we hear a loud and persistent cry that nothing but revenue, revenue only, can possibly enter into the consideration of a subject, which in fact, however, embraces directly and indirectly, in addition to the collection of revenue, nearly all the myriad interests of the laboring and business classes of the United States. Between these two extremes and against them both I take my stand on that sure and safe middle ground which has for its defense the wisest interpretations of the Constitution, the practices of the Government when it was administered by those who framed it, the clear and explicit teachings of the fathers, the history of the great party to which I belong, the independence and strength of the country, and the welfare and happiness of its people.

Senator LAMAR, of Mississippi, February 7, 1883, said:

If we could on the one hand have a bill which would bring the duties down to a revenue standard, arrangements in the details looking to protection as an incident would find, I apprehend, but few opponents.

Senator JAMES Z. GEORGE, of Mississippi, July 17, 1882, said:

We have fostered manufactories. I make no complaint now of that. We are certain to continue this policy for many years. The amount necessary to be raised to pay the national debt and for carrying on the Government is so large that it would be almost impossible to levy duties and imposts without protection to manufactures.

Senator MORGAN, of Alabama:

I am not in favor of the destruction of American industries or American products. I am in favor of assisting them to the extent we are compelled to raise a tariff for revenue.

Hon. J. D. C. ATKINS, of Tennessee, May 5, 1882:

The Democracy freely admit, too, that in adjusting the details of any tariff law it must perforce afford incidental protection to many industries, but the purposes of the tariff laws are to obtain revenue, while, as they incidentally must afford protection to some industries, those details should be so adjusted, if practicable, as to apply to those industries which obviously most equitably require it.

Hon. RICHARD P. BLAND, of Missouri, January 7, 1883:

We recognize the fact that under a system of protection capital has been invested—capital probably that might not have been invested under other circumstances. And governing ourselves by the circumstances, all that we demand is that this tariff shall be adjusted upon a system of raising revenues sufficient to support the Government and pay the debt, and in so adjusting that system to have due regard to the incidental protection that it will give.

Hon. JAMES H. MCLEAN, of Maryland, January 27, 1883:

We can do everything this Government requires to have done on less than three hundred millions, and we can get that without going to the revenue standard. But below that you can discriminate in the interest and to protect the industries of the country. That is the doctrine I have been taught. I go back over my life, and I have said it several times before, and I never knew a day when I would lay a duty above the revenue standard. I have never known a day when it required a maximum rate for revenue. I have never known a day you could not go below the maximum and discriminate for protection below that—that you could not go below and select the articles you mean to protect and give them sufficient protection; * * * in tariff controversies between political parties in this country this was the policy of the Democratic party. * * * I go to the country in opposition to the bill because it does not reduce taxes. I go there because in my judgment it accomplishes only the minimum of what it ought to accomplish. I go to the country in opposition because I believe in the future I have the hope of seeing a more complete revision, and I have indicated what character of a revision I think should be had. I have left that in no doubt. It is a revision which while constitutional—while strictly constitutional—will give the manufacturer protection and in a political sense will unite this great body of men who have one-half of the voters of the country now.

General WILLIAM STARKE ROSECRANS, of California, chairman of the Democratic Congressional executive committee, January 27, 1883:

We believe that government exists in order to substitute the rule of reason and justice for the rule of the strongest, and that its duty is to afford all the protection to person and property which reason and justice demand. To that rule applied to our condition we appeal against the tyrannical theories of protection, the instrument of capitalists and monopolies on the one hand, and of arbitrary and regulated free trade on the other. * * * I think the present tariff should be thoroughly revised, simplified, and reduced to the smallest rates of duties which will produce the revenue required for an economical administration of the Government, and so laid as to give just and reasonable protection to labor.

Hon. J. RANDOLPH TUCKER, January 26, 1883, in the House of Representatives:

Suppose there were no tariff, would the protective-tariff man demand a tariff? Yes. Why? Because under free trade, as labor here would be so much higher than it is abroad, capitalists in certain branches of industry could not afford to carry them on, could not go into these manufactures without a protection which would enable them to pay the wages demanded. Thus it will be seen that so far from the tariff being the cause of the high wages, it is the fact of high wages that makes the occasion and creates the need for a tariff. Men want protection because, as they say, the laborer demands higher wages here than he does in England, and they can not afford to carry on manufactures unless they get enough protection to give such price to the products as will leave a profit after paying the wages demanded by labor. Yet the protectionist turns the argument right around, and holds that the tariff is the cause of high wages, when in fact the high rates of wages in this country is the cause of manufacturers wanting and demanding a tariff for protection.

But, Mr. Chairman, there is no man on the committee—and I speak not only for gentlemen on the other side, but for myself and I think for the distinguished friends who act with me on this question—there is no man on the committee who is not willing in the present condition of things to accord such a duty upon all these manufactured articles as will enable the manufacturing interests to pay the full measure of wages that the American laborer has a right to demand. But what we desire is that after we have made the tariff high enough to enable you to protect the laboring man in his wages you shall not under the color of getting a high tariff to protect the laboring man get a tariff which will enormously increase profits of manufacturing capital.

Winfield S. Hancock, in letter to Theo. Randolph, Morristown, New Jersey, October 12, 1880:

I am too sound an American to advocate any departure from the general features of a policy that has been largely instrumental in building up our industries and keeping Americans from the competition of the underpaid labor of Europe. All parties agree that the best way for us to raise revenue is largely by the tariff. So far as we are concerned, therefore, all talk about free trade is folly. But the tariff question will probably be treated with justice to all our interests and people by some such bill as Eaton's. I believe that a commission of intelligent experts, representing both the Government and American industries, will suggest tariff measures that will relieve us of any crudities and inconsistencies existing in our present laws, and confirm to us a system which will be judicious, just, harmonious, and incidentally protective as well as staple in its effect.

CONCLUSION.

I feel confident that my views on the tariff, as I have endeavored to clearly and distinctly set forth, are fully and overwhelmingly sustained by the highest Democratic authorities.

The true Democratic doctrine on the tariff may be thus formulated:

Revenue should be the object and protection the incident. Under and within the limits of a tariff for revenue it is within the power and should be the policy of the General Government to foster and protect American industries and labor by a wise and moderate discrimination in the levying of tariff duties. The constitutional exercise of this power should not go beyond, but should be confined always within the limits of a tariff for revenue.

NO SUBSTANTIAL DIFFERENCE AMONG DEMOCRATS.

Stripped of the speculative and impracticable theory of "free trade," I can not see and do not believe that there is any substantial differences of opinion among Democrats as to what should be the true objects of, and the correct principles which should govern, the tariff system. Any seeming differences it appears to me to be more imaginary than real and may be wholly reconciled without the sacrifice of a single principle or of an honest conviction. I speak not of abstract and mere theoretical differences but of practical and substantial differences.

But, if it be true that the differences referred to are real and irreconcilable, will true Democrats upon that ground alone disintegrate and disrupt the great Democratic party and seek new alliances with their political enemies as new converts and companions, or attempt the establishment of a new party with but one plank and one idea? Immortal spirits of the departed "fathers of Democracy" rebuke such folly and madness!

OTHER ISSUES.

I have yet to learn that the tariff constitutes the only or the controlling issue between the two great political parties of this country. I have believed that there were, and I do now believe that there are, other greater and vastly more vital and important issues which have divided and which do now divide the Democratic and Republican parties; issues broad and distinct underlying and constituting the very foundation of our system of free government; issues which involve the liberty of the individual, the right of local self-government—constitutional law itself—the Magna Charta of American freemen.

However important the tariff may be as an economic question which concerns the price of the clothes that cover the individual's shivering back or the food that feeds his hungry stomach, it dwarfs and debases into insignificant selfishness when contrasted with the great fundamental questions of civil government, which concern the personal liberty of the citizen and his rights as a freeman to a voice in its establishment and administration.

The highest economic questions, necessarily temporary and varying, in consequence of the constantly changing circumstances of a great and growing people, should not be forced into the lead and made to overshadow great cardinal principles of government which should be inflexable and preserved inviolate; nor should a lifelong devotion to, and the faithful services rendered in perilous times in the defense of, those great principles be swept away by a passing popular breeze, forgotten or despised amid the party struggles and selfish prejudices of the hour.

While it is the undoubted, and should be the unquestioned, right of every freeman in this country to speak, vote, and act against any public wrong or that which he may honestly believe to be an unwise or an unjust public policy, yet such opposition certainly should be limited by a due regard for the peace and good order of society and the general welfare.

SECTIONAL LINES AND OFFENSIVE EPITHETS.

In view of past sectional differences in this country, it is to be regretted that in the discussion of important questions, exciting great public interest, by the press, on the hustings, or in the forum, new party alliances, circumscribed by State or geographical lines, should be suggested or thought of.

It is likewise to be deplored that in angry or deliberate debate upon national, party, or local measures irritating and taunting expressions, odious and offensive epithets, unpleasant reminders, criminations and recriminations, which tend to revive and keep alive old hatreds and animosities, or create new and irreconcilable differences and antagonisms among the people, should be indulged in or encouraged.

The cry of "rebel brigadiers," "traitors and treason," and boastful pretensions to superior intelligence, virtue, and wisdom will no more restore "brotherly love" and cement the Union, than the jeers "ironmongers," "Pig-Iron Kelley," "nabobs of the East," and the wholesale charges of "robbery" and "legalized plunder" will settle the tariff question.

We can not be too strongly impressed with the necessity of a fair, candid, indulgent, and unimpassioned discussion of the tariff, when we remember that from the very adoption of the Federal Constitution it was the subject of much earnest and anxious debate, and has been the source of much bitter sectional feeling, which at a very memorable period in the history of this country almost culminated in an open rupture and actual armed hostility between a State and the General Government, and that it performed no insignificant part in bringing about the "fratricidal war of secession."

It is a question, without any other exciting cause than the personal pecuniary interests involved and directly concerning every individual in the country, that naturally arouses the deepest public attention and stirs up the feelings of the whole people.

I must and would not otherwise believe that it is the settled determination of the great mass of our people in every section, State, and locality of this broad land that our past sectional controversies and the bloody "war between the States" whose "wager of battle" was the Union, which for near four long years tremulously oscillated amid the contending armies of the North men and the South men upon a thousand fields of combat, shall be forgotten and left undisturbed in the "trackless past."

But let us step gently over the graves of the soldier dead, still too fresh to bear the heavy tread without leaving its impress; let us not expose too roughly the battle scars fast growing old, lest they might gape and bleed afresh; let us not blindly and foolishly nurse the delusion that human pride is less sensitive, human passions less strong, human prejudices less bitter, or human ambition less dangerous and daring than they were before our late conflict in arms began. No people on earth have greater cause or stronger inducements to be forbearing, charitable, respectful, and less intolerant, one to the other, than the American people. These have become injunctions enjoined by bitter lessons in the past, and an inspiration begotten by the brightest and grandest hopes in the future. Far be it from me to draw aside the somber curtain draped in a nation's mourning; let it hang motionless and sacred from human touch, concealing from a fallen and a victorious people reunited the agonizing view of the rivulet and river crimsoned by brothers' blood, and the valley and plain, the hillside and mountain, dotted by the rude graves of a nation's sons. But we can not guard too closely against the errors and irritations of the past. If we would preserve the Union inviolate, we must have substantial, *bona fide*, and heartfelt reconciliation; deal with each other fairly and frankly, in a spirit of compromise and mutual concession, yielding due respect and consideration to the opinions and feelings of one another; sectional lines must be blotted out forever and left traceless in the hearts of the whole American people; sectional issues and sectional parties must be abandoned; sectional creeds and dispensations must no longer bar the way to the "holy communion" and the church altar; the servants of God must preach "Christ crucified," and not sectional politics; stirring up strife and hatred among men; sectional idolatry and sectional adoration must no longer be emulated among us.

I would that the fervid patriotism expressed by Mr. Webster, in his celebrated compromise speech of 1850, might sink deep and lastingly

into the heart of every son and daughter of America, native and foreign born, when he said:

Sir, my object is peace. My object is reconciliation. My purpose is not to make up a case for the North or to make a case for the South. My object is not to continue useless and irritating controversies. I am against agitators, North and South. I am against local ideas, North and South, and against all narrow and local contests. I am an American, and I know no locality in America; that is, my country, my heart, my sentiments, my judgment, demand of me that I shall pursue such a course as shall promote the good and the harmony and the union of the whole country. This I shall do, God willing, to the end of the chapter.

Yes, reconciliation! I would inscribe that hallowed word, big with meaning and freighted with every hope for the preservation of the Union, over the entrance, within and without, of every mansion, cottage, hamlet, and habitation in the land; I would stamp it upon every school-book, motto it upon the walls of every school-room and institution of learning in the land; I would letter it in every language upon every temple of justice and over every altar of worship in the land; with it I would encircle "in characters of living light" every star in the galaxy of States on every ensign, flag, and banner in the land; I would chisel it upon the tombstone and plant it in letters of flowers upon the grave of every dead soldier in the land; I would sink it deep into every living heart and proclaim it by every human tongue in the land; I would send it forth to every quarter of the world upon every outward-borne breeze, and bear it back upon every homeward-bound wind, gale, and storm; I would swear it in every oath, pronounce it in every benediction, and supplicate it in every prayer!

I have not made these reflections as an alarmist or as a prophet of evil, but being mindful of a growing tendency to divide our people into antagonistic classes, and of a disposition to encourage the formation of parties upon sectional lines, with the people of the Western, Pacific, and Southern States upon the one side, and the Northern, Middle, and Eastern States upon the other, on the ground of supposed irreconcilable differences as to local interests, I have made them from a deep sense of public duty as words of friendly caution and timely warning. To the scoffers at these utterances I have but to say, in the language of Job: "Hear diligently my speech, and let this be your consolation: suffer me that I may speak, and after that I have spoken, mock on."

The Tariff.

SPEECH

OF

HON. MARK L. DE MOTTE,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the report of the committee of conference on the bill (H. R. 5538) to reduce internal-revenue taxation.

Mr. DE MOTTE said:

Mr. SPEAKER: I believe in the principle of protection, so far as it tends to develop our natural resources and build up our industries, that we may be independent of other nations for the necessaries of life. I believe in it when it tends to give us control of the markets. There are some things in this bill which, in my judgment, do not contribute to either of these ends. The duty on sugar is one of them. I am not satisfied with the reduction on sugar, but would willingly stand for a tariff for revenue only upon that great necessity. The duty on lumber is another which does not contribute to either of those ends, and ought to be stricken off entirely.

The seventy millions of reduction is not enough; it should be double that. To reach that amount a reduction is made on tobacco, which, in my judgment, ought not to have been reduced. I would vote willingly to take everything in the nature of a license from the laborer in tobacco, and to relieve the producer as provided in this bill, but no further. If I could have moulded this bill, I would have made much larger reductions upon iron and steel and their manufactures—from sugar, and from woolen manufactures. But individual preferences must give way.

While the great State which I in part represent is interested in everything affected by this bill, I am glad she has no pet industry for which she demands the sacrifice of every other industry, as do some of the States.

I vote freely for this bill, because it reduces the revenues seventy millions of dollars. I wish it were twice as much, but because it is not I will not, with the other side of the House, say that no reduction shall be made.

It is apparent to the members of this House that but for factious opposition from the Democratic members a better bill, securing a much greater reduction than that made by the present bill, would have been matured and passed, and I doubt not it is apparent also to the people.

The Tariff.

SPEECH

OF

HON. NATHANIEL J. HAMMOND,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes.

Mr. HAMMOND said:

Mr. SPEAKER: The constant sessions of the House day and night have allowed no time for quiet investigation, yet I wish to present a few thoughts upon a question of constitutional law which has arisen in the debate on this tariff bill.

On the 27th of January the gentleman from Maryland [Mr. MCLANE] made a speech upon the pending tariff bill in which he made the following remarks:

While my first and warmest sympathy is for the laborer, I have never anticipated the contingency in which I would be willing to injure, much less to destroy, those industries. And my opposition to this bill I base upon the fact that they are not protected in pursuance of and in conformity with the Constitution, or in a spirit of permanent and conservative equity. There is no difficulty about protecting them. There never has been any from the foundation of the Government to our day. They always have been protected, and they always will be. The question is how they are to be protected. Shall the Government avail itself of its constitutional right to levy a particular kind of tax, that being the tax on imports; shall it confine itself strictly to the revenue standard and the revenue object, or shall it avail itself of that privilege in order to raise more money than the Government wants, and to raise it from a particular class of objects in order that it may protect a certain class of the community without raising revenue? My objection to this bill is that it does that, and I shall not vote for it. I prefer the original law, and when I say I prefer the original law it is but another form of expressing to the committee how odious the law is.

Soon after he ceased, Mr. BLAND, of Missouri, and Mr. RUSSELL, of Massachusetts, followed as to the policy of the bill proposed. The latter yielded to Mr. CONVERSE, of Ohio. He declined discussing the policy, but joined issue with the gentleman from Maryland [Mr. MCLANE] as to the source of constitutional power to legislate for "protection."

His speech was published on the 6th of February. He said that he understood Mr. MCLANE to find the power only in section 8 of article 1 of the Constitution, namely:

The Congress shall have power 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; but all duties, imposts, and excises shall be uniform throughout the United States.

Commenting thereon, he said:

Power is there given to Congress to lay and collect taxes, duties, and imposts. What for? The clause itself furnishes the answer in plain and explicit language, "to pay the debts and provide for the common defense and general welfare of the United States." If the power to protect American manufactures is conferred on Congress by that provision it must be embraced in the words, "provide * * * for the general welfare of the United States." It would require a forced and unnatural construction to place such a meaning on such language.

Denying that such authority can be found there, he proceeded thus:

The only other clause relating to this subject is the power to regulate commerce. The language of the Constitution is as follows:

"The Congress shall have power * * * to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

In my humble judgment, the power and authority to enact such laws discriminating against foreign imports in favor of our own industries, whether commercial, agricultural, manufacturing, or mining, and thus indirectly protecting our own similar industries from foreign competition, is conferred by the language "to regulate commerce with foreign nations."

He was asked, Why raise a constitutional question at this time? He had answered that in his introductory remarks by this language:

There can be no question of greater importance than the settlement of differences in regard to the constitutional powers of the government under which we live. Erroneous opinions on that subject entertained and promulgated by the leading men of the country mislead the public judgment. The evils increase and multiply with the lapse of time, and are liable, as in our own recent history, to culminate in political convulsions, the consequences of which may last for generations.

Differing with him as to source of the power, but agreeing with him in the importance of "the settlement of differences in regard to the constitutional powers of the government under which we live," I wish to review his argument. First, by "power" we do not mean here capacity to do a thing by abuse or brute force. In that sense the commerce clause is broad enough for the purpose. But so also are others broad enough. Congress has the power "to coin money, regulate the value thereof," &c. Under that it might make gold or silver the sole standard of value to the exclusion of the other, and thereby affect the values of the gold mines of California or the silver mines of Nevada.

Under the power "to establish post-offices and post-roads," postal facilities may be given to one place and denied to another without regard to the needs of either. "Tribunals inferior to the Supreme

Court" may be so located as to prove conveniences or burdens to the people. In all regulations of the Army and Navy favoritism might be practiced. For instance, the soldiers might be required to be clothed only in wool or only in linen, or in cotton, and fed only with bacon and corn bread, or only with beef and wheat bread. In either case some special industry would be helped and others injured. But by "power" we mean capacity to do according to the scheme of equality and justice set forth in our Constitution. I will not repeat the well-known argument as to the power *incidentally* to protect, under article 1, section 7, as contended for by the gentleman from Maryland [Mr. McLane]. My purpose is not to show where the power lies nor its extent, but to show that it does not lie in the commerce clause as contended for by the gentleman from Ohio [Mr. Converse].

That under the commerce clause Congress has power to pass navigation laws, and the like, may not be denied. But I submit that extracts from the opinion of Marshall, C. J., in Gibson *vs.* Ogden, 9 Wheaton's Reports, can have no relevancy here. That decision was simply that New York could not grant to Fulton and Livingston the right to navigate the Hudson and other rivers (over which New York claimed jurisdiction) with steam-vessels to the exclusion of other steam-vessels licensed by the United States. The question here is, where is the constitutional power to pass this bill "to impose duties upon foreign imports?"

Nor should any weight be given to the inquiry why none has invoked the decisions of courts against protective statutes. It was answered by the suggestion of the gentleman from Kentucky [Mr. Carlisle], namely, "but the courts cannot inquire into the purposes of Congress." The gentleman from Ohio [Mr. Converse] replied: "Certainly not." But he cited one or more statutes in the last century, in the preambles of which it was stated that the statutes were to impose duties and to encourage manufactures, and his contention was that here was in the law an avowed purpose to protect, and therefore courts might be asked to enioin their enforcement. If courts could inquire into the purposes of Congress how could they say what part of such acts were for legitimate, and what parts for illegitimate purposes? Such an effort by a court would be absurd.

Even could the matter be gotten before a court, there would be the rule that no act of Congress can be declared unconstitutional unless it is so beyond a doubt. And to that obstacle would be added the other grave difficulty of courts undertaking to control the taxing power of the Government. It may be true that the First and Second Congresses each passed an act in the preamble of which it was recited that such protection was "one of the objects of its enactment." But that fact throws no light upon the issue as to whether this power of protection is found in the taxing clause or only in the commerce clause, and citing the long list of names of eminent men who participated in passing those statutes has no relevancy to that issue; it dazzles, but does not enlighten.

The gentleman from Ohio [Mr. Converse] invoked the aid of Judge Story. I will show how carelessly he had read that eminent commentator; that he has attributed to Mr. Story words which he not only did not use as an expression of his own opinion but was guarded, before and after those quoted words, to say he was not giving them as his opinion on the subject, but only as the arguments of others.

Mr. Story, after reviewing the history of the contention about the granting the taxing power to Congress, began the criticism upon its meaning in his first volume at section 949. Having shown the distinctions between direct and indirect taxes, and that "duties, imposts, and excises" were indirect taxes, he proceeded to discuss why the Constitution required these to be "uniform throughout the United States." He said, "It was to cut off undue preferences of one State over another in the regulation of subjects affecting their common interests. Unless duties, imposts, and excises were uniform, the grossest and most oppressive inequalities, vitally affecting the pursuits and employments of the people of different States, might exist. The agriculture, commerce, or manufactures of one State might be built up on the ruins of those of another; and the combination of a few States in Congress might secure a monopoly of certain branches of trade and business to themselves, to the injury if not to the destruction of their less-favored neighbors," &c. (*Ib.*, § 957.)

In section 958 he first mentioned the question "whether Congress can lay taxes to protect and encourage domestic manufactures." In section 959 he said, "This subject has been already touched in considering what is the true reading and interpretation of the clause conferring the power to lay taxes. If the reading and interpretation there insisted on be correct, it furnishes additional means to resolve the question under consideration."

He continued, giving the alleged reasons pro and con, but no opinion of his own, down to section 974, and then said, "Such is a general summary of the reasoning on each side, so far as it refers to the power of laying taxes. It will be hereafter resumed in examining the nature and extent of the power to regulate commerce."

He then proceeded to discuss the powers as to the appropriation of money from the Treasury, questions as to internal improvements, &c., to the end of the first volume of his Commentaries on the Constitution.

His second volume began with the power of borrowing money (§ 1055), and considered regulating commerce, &c. (§ 1056, &c.), until he reached § 1076, on page 23, quoted in full by the gentleman from Ohio [Mr. Converse]. Its pertinent point was, "Many of the like powers have been applied in the regulation of foreign commerce. The commercial system of the United States has also been employed for the purpose of revenue," &c. I will not stop to contend that Mr. Story was simply reciting history, nor that he did not then embrace the commerce clause as the basis of the commercial system of the United States. But surely he was not then discussing which of those clauses gave the right of protection. That had not been mentioned by them. But in the very next section he said:

> A question has been recently made whether Congress have a *constitutional authority to apply to the power to regulate commerce* for the purpose of encouraging and protecting domestic manufactures.

Why did he say "recently made?" Sergeant, on the Constitution, published in 1822, had suggested no such thought. Rawle's work on the Constitution was published in 1825. There no such thought was suggested. He located the power in the taxing clause, and his language is pertinent to this bill:

> Indirect taxes affect expenses or consumption. Those who reduce their consumption of an article so taxed reduce the amount of their taxes. (Page 80.)

Mr. Story presented the arguments contained in the protest of South Carolina in the winter of 1828 against the acts of Congress of May, 182-, the address of the free-trade convention at Philadelphia, in the winter of 1831, and Mr. Drayton's oration of July, 1831. That took him to § 1079. To that section was a note citing those documents, and this language, namely:

> The above arguments and reasoning have been gathered as far as could be from documents admitted to be of high authority by those who maintain the restrictive doctrine.

The § 1080 began thus:

> The reasoning of those who maintain the doctrine that Congress has the authority to apply the power to regulate commerce to the purpose of protecting and encouraging domestic manufactures is to the following effect &c.

Then came § 1081, in these words:

> Indeed, the advocates of the opposite doctrine admit that the power may be applied so as incidentally to give protection to manufactures when revenue is the principal design, and that it may also be applied to countervail the injurious regulations of foreign powers when there is no design of revenue. These concessions admit, then, that the regulations of commerce are not wholly for purposes of revenue, or wholly confined to the purposes of commerce considered *per se*. If this be true, then other objects may enter into commercial regulations; and if so what restraint is there as to the nature or extent of the objects to which they may reach, which does resolve itself into a question of expediency and policy? It may be admitted that a power given for one purpose can not be perverted to purposes wholly opposite or beside its legitimate scope. But what perversion is there in applying a power to the very purposes to which it has been usually applied? Under such circumstances does not the grant of the power without restriction concede that it may be legitimately applied to such purposes? If a different intent had existed, would not that intent be manifested by some corresponding limitation?

Mr. Story proceeded with the argument of those on the other side, citing Madison's letter of 28th September, 1828, to Mr. Cabell, Verplanck's reply to Drayton, and the address of the New York convention for the encouragement of domestic industries of 1831, &c. This history shows that Mr. Story meant that then "recently" a party had begun to contend for the Federal ideas of Hamilton in 1791. But when he had concluded giving their views, he ended with § 1095 as follows:

> Such is a summary (necessarily imperfect) of the reasoning on each side of this contested doctrine. The reader will draw his own conclusions, and these commentaries have no further aim than to put him in possession of the materials for a proper exercise of his judgment.

The gentleman from Ohio [Mr. Converse] paraded § 1081 thus:

> On this point Story on the Constitution, volume 2, page 26, says.

It is plain that not only did not Story say that, but that in advance he announced he would give no opinion of his own, cited those whose opinions he gave, and when done reminded his readers that he declined any opinion on the subject.

Mr. Converse's quotation from the message of President Jackson to Congress, on the 7th of December, 1830, serves no valuable purpose in this discussion. Jackson said, "The object of the tariff is objected to by some as unconstitutional, and it is considered by almost all as defective in many of its parts. The power to impose duties on imports originally belonged to the several States. The right to adjust these duties with a view to the encouragement of domestic branches of industry is so completely identical with that power that it is difficult to suppose the existence of the one without the other." He proceeded to say it was surrendered to the General Government; that Washington, Jefferson, Madison, and Monroe had "repeatedly recommended the exercise of the power under the Constitution," &c. But how does that show under which clause of the Constitution they thought the power must be formed? The gentleman from Maryland [Mr. McLane] admitted the power, and the only question is as to its source.

Nor does the letter of 28th September, 1828, from Mr. Madison to Mr. Cabell help the gentleman from Ohio. Mr. Madison used there the language quoted by the gentlemen from Ohio. But he began that letter by stating that he and Mr. Cabell had conversed "on the constitutionality of the power in Congress to impose a tariff for the encouragement of manufactures." He said, "The Constitution vests in Congress expressly" the power to lay and collect taxes, duties, imposts, and excises, and "the power to regulate trade," said the

latter *included the former*, and then used the language quoted. Later in that letter he said: "If revenue be the sole object of a legitimate impost, and the encouragement of domestic articles be not within the power to regulate trade, it would follow," &c. It is plain that he derived the power from both, and did not, as does the gentleman from Ohio, insist that it stood upon the commerce clause only. (3 Madison's Letters, 636.)

I wish to notice this correspondence of Mr. Madison a little further. Mr. Cabell asked to publish that letter. Mr. Madison, on the 15th of October, 1828, declined because of the pending Presidential election, intimating that it was written for Mr. Cabell's private benefit, and concluding thus:

> Arguments and evidence which after that event might be heard with patience and even candor by those appealed to, would in their existing excitement be received with a prejudice and with perhaps hasty commitments very unfavorable to the result wished for.—*Ib.*, 647.

He wrote another letter to Mr. Cabell on the 30th of October, 1828. Professor Davis, professor of law in the University of Virginia, dedelivered a lecture which was afterwards published in 1832. It was a masterly review of Mr. Madison's letters to Cabell. To that Mr. Madison wrote a reply which has no date and was never sent off. In this last letter he discussed the relative status of citizens of the United States to their representatives and the duty of the latter in taxing the former. That letter had this language:

> The Constitution must have had this in view when vesting in the representatives of the people, in exclusion of the representatives of the States, the right to originate bills of revenue.—4 *Madison's Letters*, 241.

Had he, like the gentleman from Ohio, claimed that this power to protect home industries came from the commerce clause, and not from the taxing clause, such language would have been absurd. And this last was a careful and exhaustive letter.

I will not say that no other commentator on the Constitution of the United States except Timothy Farrar, of Massachusetts, has contended for the doctrine of the gentleman from Ohio. I do not know. But I remember none other.

He does agree with the gentleman from Ohio. He says that Congress may regulate "under the commercial power of Congress what has been called the strictly *internal traffic* of the inhabitants of a State among themselves (Farrar on the Constitution, § 355)," and he cited the opinion of Hamilton on the United States Bank. The same author, by way of showing the absolute power of Congressional power to tax, quoted, "The power to tax involves the power to destroy," and cited Marshall, Chief-Justice, 4 Wheat., 431. The quotation is correct from McCullough *vs.* Maryland, but is made to mean exactly the opposite of what Mr. Marshall meant. Mr. Marshall added what the author suppressed:

> To carry it to the excess of destruction would be *an abuse* to presume which would banish that confidence which is essential to all government.

I will say nothing more against this book than these two specimens convey. I may remark that it was published in 1867, when madness ruled the country. So far I have been answering the views of the gentleman from Ohio. A word or two more upon the issue between us. He says that the sole authority for this "protective policy" is in the power "to regulate commerce with foreign nations and among the several States and with the Indian tribes." If under that this doctrine may be supported, how far may Congress go in protecting the industries of one State or section in our Union against those of another State or section in that Union?

But, again, if this bill to levy imposts on foreign merchandise rests upon the commerce clause and not upon the taxing clause, the Senate may originate such bills. A little history on that point will be valuable here.

In 1787 the House refused to report in favor of having the Secretary of the Treasury propose plans for raising revenue because they would keep that power intact in the hands of the representatives of the people.

In 1833 Mr. Clay offered in the Senate a bill changing the tariff. Some sought to sustain the jurisdiction of the Senate to originate that bill because it *reduced* rather than "*raised*" revenue. Some said it was not "for raising revenue," but *for* protection. But Forsyth, Dickinson, and Webster brushed away such quibbling and the claimed jurisdiction was surrendered.

Senator McDuffie, by a bill in the Senate in 1843, sought to revive the tariff of 1833, but its own Finance Committee refused to sustain it, because such bills must originate in the House. In 1871 the House, for the same reason, refused to consider a Senate bill to repeal so much of the act of 1870 "to reduce internal taxes, and for other purposes," as continued beyond 1869 the income tax. In April, 1872 the Senate substituted for a House bill to repeal the existing duties on tea and coffee a bill to reduce other taxes. And when this came to the House Mr. DAWES (now Senator) moved a resolution that it violated the spirit of the clause giving the House exclusive right to originate such bills. It was carried by 153 to 9 votes. And of those voting in the affirmative seven are now in the United States Senate. (See Record, April 2, 1872.)

On one of these occasions Mr. Garfield prepared an elaborate speech, in which he used this language:

> The whole history of the subject leads to the inevitable conclusion that this clause of the Constitution [the taxing clause] confers absolutely and exclusively the right to inaugurate all measures for the imposition, regulation, increase, diminution, or repeal of taxes.

In 1880 Mr. KELLEY, of Pennsylvania, moved to suspend the rules and pass the following resolution:

> *Resolved*, That it is the sense of the House that the negotiation by the executive department of the Government of a commercial treaty whereby the rates of duty to be imposed on foreign commodities entering the United States for consumption should be fixed, would, in view of the provisions of section 7 of article 1 of the Constitution of the United States, be an infraction of the Constitution and an invasion of one of the highest prerogatives of the House of Representatives.

It was agreed to by yeas 175, nays 62. And the gentleman from Ohio [Mr. CONVERSE] voted in the affirmative. I mention this last to show how jealous the House has been of the Senate in these matters, and that, too, on the sole ground that such legislation invades "one of the highest prerogatives of the House of Representatives." And see the debate on this question, in the RECORD, on February 27, 1882.

None will have failed to see the importance of this issue. If the gentleman from Ohio [Mr. CONVERSE] is right, there is no constitutional limit to the power of protection, for the Constitution puts no limit upon the power "to regulate commerce." But if the source of power is the taxing clause, there is the limit of uniformity, equality of burdens, and that the imposition shall be for "the general welfare," and not for particular persons or sections.

I make no apology for this tedious review. As plain as it seems to be that the power to pass a bill to "impose duties upon foreign imports" comes from the power to lay and collect taxes, *imposts, duties*, and excises" and from no other part of the Constitution, honorable gentlemen have contended otherwise.

With the issue between myself and the gentleman from Ohio [Mr. CONVERSE] I am done.

But the gentleman from Ohio [Mr. CONVERSE], though disavowing any purpose of advocating the policy of protection, made this closing remark:

> Not only has this power been exercised for a hundred years, but George Washington, Thomas Jefferson, James Madison, James Monroe, and Andrew Jackson all of them, recommended to Congress the propriety of nourishing, fostering, and protecting the domestic industries of the United States. They were not guilty of bad reasoning in weighty matters affecting the powers of the Government and the welfare of the American people, and can not be accused of a desire to wrong any section of this Union or any class of their fellow-citizens.

There is nothing in that to decide the source of the power to make tariff legislation. That is what he professed to be hunting for. That sentence (without his intention, I suppose) simply put the weight of those names in the scales to overcome the opposition to this policy. I venture a word of comment: Washington leaned strongly to Federalism, yet he went not to the extent of the present protectionists.

In his message of 1796 he did recommend to Congress the encouragement of manufactures; but why? His language was:

> Ought our country to remain dependent on foreign supply, precarious because liable to be interrupted? If the necessary article should in this mode cost more in time of peace, will *not* the security and independence thence arising form an ample compensation?

This admitted that protection increased the prices to consumers, and it applied only to articles "necessary" in case of war; and that was the spirit if not the letter of the advocacy of protection by Jefferson, Madison, and Monroe in their messages, so far as I am informed.

Mr. Jefferson's opinions are fully set forth in "Views of the President of the United States on the subject of internal improvements," published in 1822. In 1825 he denounced the supporters of the tariff of 1824 in a letter to Mr. Giles. One sentence is quite apt in this discussion:

> Under the power to regulate commerce they assumed indefinitely that also over agriculture and manufacture; and called it regulation, too, *to take the earnings of one of those branches of industry, and that, too, the most depressed, and put them into the pockets of others, the most flourishing of them all.*

Protectionists are entitled to all the comfort which can be taken from Mr. Jefferson's name.

I submit, that what might have been the views of those men as to a policy in the infancy of the country, when we were isolated by distance and in constant danger of war, might not be their views now (had they lived), when our normal condition is peace, and when steam and lightning have annihilated distances and made the nations of earth familiar neighbors. General Jackson would doubtless express himself now with less warmth than in 1832, when he was opposing South Carolina's nullification.

In Madison's letter to Professor Davis, he said:

> For myself, although my name has been seen on the ultra tariff list, I have adhered to the doctrine stated in my letters to Mr. Cabell, *which concurred in that of free trade as a theoretic rule and subject to exceptions only not inconsistent with the principle of it.* And I cannot but say that I have not met with any disproof of the *correctness of such exceptions.* Those who admit *no exceptions to the rule and those who multiply exceptions into the rule*, equally forget the prudent rule of avoiding extremes.

How like this were the remarks of Mr. Webster, in his speech of the 2d of October, 1820, at Faneuil Hall:

> He certainly thought it might be doubted whether Congress would not be acting somewhat against the spirit and intention of the Constitution, in exercising a power to control essentially the pursuits and occupations of individuals in their private concerns, a power to force great and sudden changes both of occupation

and property upon individuals not as *incidental to the exercise of any other power, but as a substantive and direct power.* If such changes were wrought *incidentally* only, and were the necessary consequence of such impost as Congress for the *leading purpose of revenue* should enact, then they could not be complained of. But he doubted whether Congress fairly possessed the powers of *turning the incident into the principal*, and, instead of leaving manufactures to the protection of such laws as should be passed with a primary regard to revenue, of enacting laws with the avowed object of giving a preference to particular manufactures, with an entire disregard to all considerations of revenue; and instead of laying such imposts as would best answer the purpose of raising revenue with the least burden on the public, carrying the impost on certain articles to a burdensome excess *with a full knowledge that the increase of duty will diminish the amount of revenue raised.*

And how nearly does that express the opposition to the present bill. No man in the country advocates direct taxes. None advocate free trade. Most Democrats would greatly reduce internal taxation, and many would have it wholly repealed. All Democrats agree that protection will come under the taxing clause by duties and imposts. They only ask that the purpose shall be to raise revenue, and the *incident* be encouragement of domestic industries.

Rivers and Harbors.

SPEECH

OF

HON. HORACE F. PAGE,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. PAGE said:

Mr. SPEAKER: Called by your partiality, and without solicitation on my part, to the chairmanship of the Committee on Commerce at the opening of this Congress, I accepted the trust with a determination to discharge its duties according to my best abilities, in such a manner as to protect and forward the great public interests placed in that committee's charge. Animated by a like determination and zeal for the best interests of the Government, the committee met, and after four months of hard and incessant and studious labor, gave to the House a river and harbor bill aggregating $17,342,875 in amount.

For the first time in the history of the nation the Committee on Commerce had taken up and grappled with the various plans for the improvement of the Mississippi River, and had unanimously adopted the plan of the Mississippi River Improvement Commission, as indorsed by a previous Congress, which, however, failed to make sufficient appropriations to carry on that plan or even for the purchase of the "plant" needed for the work. The committee was now confronted on the one hand by the fact that any appropriation to carry out the plans of the Mississippi River Commission would be the inauguration of a system of improvement on that great river involving an expenditure of from $37,000,000 to $38,000,000. On the other hand they had to face the facts that this great enterprise had been sanctioned and approved by a previous Congress; that it had been most emphatically indorsed by the President in his special message of April, 1882, to the Senate; that the Senate had indorsed it with such unusual emphasis as to pass a Senate bill appropriating some $6,000,000 for the Mississippi and Missouri Rivers; that the entire Mississippi Valley, through petitions referred to this committee, demanded liberal appropriations for the work, and that delegations representing almost every commercial interest, as well as all parts of the nation, appeared before the committee and passed resolutions urging immediate, favorable, and generous action.

Under this pressure, and in accordance with their own conscientious judgment of what was just and right and proper, the committee appropriated for the improvement of these two great arteries of commerce nearly $7,000,000, which, added to the amounts appropriated for the usual river and harbor improvements through the Eastern, Middle, Southern, Northwestern, and Pacific coast States, and which were not proportionately greater than in the river and harbor act of 1881, made the bill an exceptionally large one. This bill having passed both Houses of Congress, was vetoed by the President, and subsequently, by a two-thirds vote of both Houses, became a law notwithstanding that veto. On its passage a howl went up from the metropolitan press of New York, Chicago, Cincinnati, and other great railroad centers, denouncing the river and harbor act as a "huge steal;" but, in my judgment, it evoked no responsive condemnation of that act by the people, although everything that malignant perversion of facts could do to mislead and inflame the public mind was done by that press.

When, therefore, the Committee on Commerce again met at this session they considered it none the less their duty, under the constitutional prerogative of this House, to originate all bills carrying appropriations, notwithstanding the assaults of the press and of those in power, to meet in some degree the demands of commerce for the proper improvement of its great natural highways, and to prepare a river and harbor bill which, while it fell very far short of the requirements of the growth of the country and its fast increasing water commerce, was sufficient at least to protect what had already been accomplished, besides affording some little aid to the future improvement of our harbors and some of our navigable water ways.

This bill, aggregating only $8,000,000, after one of the severest struggles ever witnessed on the floor of the House of Representatives, was at last passed and sent to the Senate within three days of the time fixed by the Constitution for final adjournment. Owing to the obstructions of its enemies it thus reached that body too late to receive the consideration it required. As a direct consequence of this failure there will be scarcely any money to go on with on July 1, 1883, when the next fiscal year commences. Whatever there is of responsibility for this condition of things must fall upon those who obstructed the passage of the bill, and upon the Executive, who proclaimed that no more money was necessary for river and harbor improvements.

The time will come, Mr. Speaker, and at no far distant day, when the people of this country engaged in agricultural pursuits and productive industries of all sorts, whether in the great valleys of the Mississippi and Missouri, in the fertile regions of the Northern lakes and rivers, on the Pacific coast, around the Gulf of Mexico, and through all the Southern States of this Union, will, with no uncertain sound, demand of future Congresses improvements of the rivers and harbors of this country in the interest of cheap transportation, and of protection from the undue exactions of railroad monopolists.

For that time I for one can wait with patience, in the full conviction that the Committee on Commerce of this House, and all those who supported them, will yet receive a triumphant vindication which neither the clamor of a portion of the press nor the interference of others can prevent. Nothing can deprive them even now of the consciousness of duty well done, nor can any one rob them now or hereafter of the knowledge that in the last river and harbor act, as also in the bill of this session, they embodied provisions so restrictive upon proposed surveys for new works that the effect was immediately felt to a most marked degree, obviating in fact the necessity of undertaking at this time more than one new work—and that a most important one to the general commerce of the Columbia River—instead of the scores and scores of new works that had hitherto been pressed upon the committee. Had the committee done nothing further than this they would still be entitled to the lasting credit of inaugurating this great reform which will save to the Government the unnecessary expenditure of millions of dollars every year.

Rivers and Harbors.

SPEECH

OF

HON. JOHN R. LYNCH,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. LYNCH said:

Mr. SPEAKER: Before the vote is taken upon the final passage of this bill I desire to make a few remarks in behalf of the section from which I come and in behalf of the constituency I have the honor to represent upon this floor. I desire to speak especially in behalf of the proposed appropriation for the improvement of the channel of the Mississippi River. This is a measure which deserves and should receive the united support of representatives of all parties and from all sections. Is it claimed that this appropriation is not warranted by the Constitution? My answer is that it is supported by some of the ablest constitutional lawyers in the country; but even if it is a doubtful question the people should be given the benefit of the doubt. Is it claimed that the appropriation should not be made for the reason that the owners of private property will be incidentally the beneficiaries thereof? My answer is that the owners of private property along the lines of the great Pacific railroads were no doubt the incidental beneficiaries of the construction of said roads, and yet no one, I presume, claimed that the Government should not aid the construction of these roads for that reason. This work, Mr. Speaker, is not local but national; not sectional, but general.

To the Democratic members of the House I feel that it is my duty to address a few remarks. You have no doubt accepted the result of the late elections as an expression of confidence in your party, if not an indorsement of your principles. So thoroughly convinced are you of this that you will be sadly and seriously disappointed if the country is not turned over to your care and keeping at the next national election. Whether your expectations in this respect will be realized or not, all

must admit that important trusts have been confided to your keeping and grave responsibilities have been placed upon you. So far as the colored people at the South are concerned, perhaps it is well that I should frankly tell you that nothing you may do or fail to do will be to them a serious disappointment. But with a large majority of the white people of that section it is different. They have supported you with a self-sacrificing devotion which entitles them to your gratitude, your friendship, and your support. They have supported you when they believed you deserved it, and they have stood by you when they believed it to be to their interest to do otherwise. They have been true and faithful to you even when you were false and faithless to them. They have rejoiced with you in the hour of your victory and they have sympathized with you in the hour of your adversity.

If it is possible for any people to have a claim upon a party which ought not, can not, and must not be ignored, it must be admitted by all that the Southern white people have that claim upon the Democratic party of this country. Will you ignore their wishes, disregard their claims, and reject their demands? If so, my prediction is that they will refuse to smile at the witticisms and facetious jokes of my friend from New York [Mr. COX], nor will they be satisfied with the masterly eloquence of the gentleman from Kentucky [Mr. CARLISLE], nor will they follow the sagacious leadership of the gentleman from Pennsylvania [Mr. RANDALL]. Already the murmuring sounds of discontent are distinctly heard and perceptibly felt throughout the Mississippi Valley. Southern white men did not receive the news of Democratic victories at the North at the late elections with the same satisfaction and delight as at previous elections. Why? Because they saw that prominent men in both parties at the North had been defeated because they voted at the last session of Congress for the passage of the river and harbor bill, which bill, in their opinion, contained a just, fair, and equitable recognition of the claims of their section. When they saw that their friends in both parties had been slaughtered they received the news with many misgivings, with serious apprehensions, and in many instances with deep regret. The impression was created upon their minds that the result was due in a great measure to hostility to and a war upon their section and its interests, not by Northern Republicans alone, but by Northern Democrats as well.

But again, they do not believe that the late election was an indorsement of the principles of the Democratic party, but that it was, in addition to a feeling of hostility to their action, a condemnation of the methods and practices of one party rather than an indorsement of the purposes and tendencies of the other. There are thousands of white men at the South who have voted the Democratic ticket at every election since the war, not because they love Democracy but because they distrusted Republicanism. There are thousands of others who have voted the same way during the same time not because they are Democrats but because they believed, as between the two parties, the Democratic was more friendly to their section and to their interests. I speak whereof I know when I say that this state of affairs is being rapidly changed; and it must be admitted by all that in proportion as these things change the white as well as the colored man will become more independent and the attachment of either to any political party will depend more upon the attitude of parties to the questions and issues of the day than upon the passions and prejudices of the past.

To the Republican members, and especially those who through the partiality of your respective constituents will occupy seats in the Forty-eighth Congress, I feel that I should make a few parting admonitory remarks. Race prejudice and sectional hatred are not only on the wane throughout the South, but in spite of the fact that many grave frauds are committed in the management and conduct of elections in some localities there is a strong sentiment, which is growing in strength every year, in favor of fair and honest elections and in opposition to political intolerance and proscription. Do you ask me for evidences of the growth of this sentiment? I have only to point to the late election in the district where I had the honor of being the candidate of the Republican party. The registration books of the various counties in this district show that there are about 1,500 more white than colored voters, and previous elections show that the usual Democratic majority in the district is between 1,500 and 2,000; and yet at the late election one of the strongest and ablest Democrats in the district was elected by a majority of about 600. As the candidate of the Republican party, I am proud to be able to say that I was the recipient of the cordial and hearty support of some of the most substantial and respectable white men in Southern Mississippi.

Let the leaders of the Republican party pursue such a course as will satisfy these men that, while the Republican party will defend and protect all citizens in the exercise and enjoyment of their rights as far as it has the power to do so, and while it will not under any circumstances countenance or encourage the commission of election frauds, yet under its administration justice will be done to all sections of our country and to all classes of our people—that the Republican party is national and not sectional, that it is as much the party of the South as it is the party of the North, that every man, without regard to race or color, who believes in the National Union, the equal rights of men, the purity of elections, and an economical government, will find in the Republican party his friend, his advocate, and his protector.

Southern Pacific Railroad.

SPEECH

OF

HON. GEORGE W. CASSIDY,

OF NEVADA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 2, 1883,

On the Southern Pacific Railroad.

Mr. CASSIDY said:

Mr. SPEAKER: No right of the people is affected by this bill. It simply seeks to extend to these corporations certain conveniences in the administration of their business. If it has a tendency at all it is in the direction of cheaper commerce between the Atlantic and Pacific Oceans. Seven or eight useless organizations and sets of officers are dispensed with in the event of the passage of the bill. These several organizations, I admit, are not highly expensive, but it costs something to maintain them. The question of monopoly or anti-monopoly has no proper place in this discussion. That question is not directly involved. These railroads are practically consolidated now. The bill merely authorizes an existing fact. It is to bestow upon an existing consolidation a name and nothing more. Shorn of all outside issues, this is the case. The several links or roads recited in the bill now form integral portions of a continuous and operated line, practically under the same ownership and management. Manifestly when this line is consolidated it can not be a greater monopoly than it is to-day. Not a single power is conferred by this bill that these several roads do not enjoy to-day as to the matter of freight and passenger rates. In some of the States, and particularly the Territories, through which the line passes extraordinary rates are allowed by law.

Mr. Speaker, it has always been my aim in my capacity as a legislator to be exactly just to corporations as well as individuals. We can all afford to be fair. None of us, I hope, can afford to be unfair. This bill, considered, therefore, independent of prejudice as to the grasping tendencies of all great railway corporations, contains nothing that should alarm any one. As I have already said, the rights of the people are well guarded in every particular. By the express terms of the bill the land grant is left intact. Competing or parallel lines are forbidden to enter the consolidation. As amended the right is reserved to the States and Territories to regulate transportation charges within their respective borders. On through or interstate commerce Congress may exercise its undoubted power to regulate charges. The right to sue and be sued in all State courts is also specifically provided for. What more, then, can be required? In what sense are the rights of the people invaded or infringed? In my judgment the best interests of the people both East and West will be promoted by this consolidation.

The Southern Pacific has many advantages over other transcontinental lines. The climate of the section through which it passes is unsurpassed. It can never be obstructed by the deep snows of winter. And in this connection it is pertinent to say that if generally accredited rumor be correct it is in contemplation by its managers to make this the great cheap route from ocean to ocean. California's great wheat and wine products are to be moved by this route to the Atlantic seaboard, and thence to Europe. It means cheaper freights than have hitherto obtained across the Continent; at least this is what the managers assert through the newspaper press.

The sole object, Mr. Speaker, of this bill is one of convenience to the companies in question. They care not how many limitations you place upon the bill. Congress has certain powers over the Territories through which this line passes. The companies simply want to get under one name without injury or prejudice to anybody or any existing legal right held by any State or Territory. This is all they ask; and their object in desiring to form this consolidation is that they may stock and bond the whole route as one property. There is positively nothing else in the bill; and I submit that the request may be reasonably granted without injury of any character to any individual or section. The stocking of the road in eight sections under different names is not desirable, nor can its bonds be made as readily available in the markets of the world. To surmount these difficulties is why the consolidation is sought, and no other power whatever is carried by the bill.

Mr. Speaker, if this were a proposition to regulate interstate commerce, that would be quite a different thing. Nothing would afford me greater pleasure than to give my voice and vote to the support of a measure having for its object the lowering of rates on the great trunk lines of this country. I stand pledged, sir, before the people of my State to vote for the Reagan bill or any kindred measure whenever the same shall be presented, and I shall ever hold myself in readiness to redeem that pledge. But the measure under consideration has nothing whatever to do with freight and passenger rates. It is in the direction of lower rates, if anything. It is the experience of the people of

my State that a divided ownership in the great through lines is not in the interest of cheap freights.

The Union Pacific and Central Pacific may be cited in illustration of this idea. Whenever we in Nevada have arraigned the Central Pacific for high rates the answer has always been that the fault rested with the Union Pacific. We want no room for pretexts. Hence I am strongly of the opinion that all interests will be best subserved by permitting this consolidation to take place. The Northern Pacific is a single company spanning the continent to the northward. Why not with equal propriety allow the Southern Pacific to become a continuous route in name as it is in fact between the Atlantic and Pacific along to the southward and then hold it to a strict accountability for the exercise of the extraordinary powers with which all of these corporations are clothed? I shall vote for the bill, Mr. Speaker, believing that there are no hidden dangers in its provisions.

The Mississippi River.

SPEECH
OF
HON. WILLIAM R. MOORE,
OF TENNESSEE,
IN THE HOUSE OF REPRESENTATIVES,
Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain rivers and harbors, and for other purposes.

Mr. MOORE said:

Mr. SPEAKER: At this late and very peculiar stage of the session I deem it unwise to occupy needlessly the time of the House; and yet, as a citizen, living directly on the banks of the great river, I can not resist the impulse, amounting to a duty, to say at least something. In treating of the Mississippi River we can not safely apply the ordinary rules which fit other rivers. It drains an area of country larger than half a dozen of the nations of Europe; and every drop of water that falls between the Alleghanies and the Rocky Mountains—the richest, the largest, and the grandest valley beneath the sun—finds its way to the Gulf of Mexico only through this most wonderful of all the wonderful rivers of the earth. If its course and current were through a gravelly or stony soil, like the Hudson, the Susquehanna, the Potomac, or some of the other ordinary rivers that run through the States farther to the north, then we might find an easy solution to the problem which is and has long been taxing the study and ingenuity of scientific men and engineers both of Europe and America; but such is not the case. Its whole length of thousands of miles, particularly the lower half, is through a rich, loamy, ashen soil, with not a stone or pebble the size of a pea for a thousand miles, and here comes in the difficulty which confronts those who would curb and control its gigantic currents.

I know not, I am free to confess, although living on its banks and making it a study for twenty-five years, the best thing to do for it; and, indeed, I think there are few men, if any, who do precisely know. I am persuaded, however, with great deference for the ability and attainments of those who differ from me, that a residence upon its banks and a daily study and observance of its phenomena for the past twenty-five years are calculated to fit at least as well for the formation of a correct theory concerning it as an accidental trip or two of certain gentlemen upon its waters under circumstances so hurried as to make it impossible for them to do more than make at most even a cursory observation concerning its local peculiarities, and especially when much of said trip was made during the darkness of the night.

Now, Mr. Speaker, this brings me to the point where I started for, viz, that inasmuch as no living man can solve this perplexing problem, we only know that there is an urgent public demand for a remedy of some kind, and that whatever may be done must be done largely, if not solely, as an experiment—an experiment that is likely to cost, indeed is certain to cost, very considerable sums of money. If this proposition be accepted, *what* is the experiment to be adopted? Some theorists insist upon a system of "levees;" others urge another theory, known as the "outlet" plan. I am not clear as to which one is the correct or likely to be the more successful theory; but am irresistibly inclined to the view that a *combination* of the two is to be the ultimate solution to this great national problem.

If it were possible to so build levees that there could be even a reasonable probability of their permanency, that they can be held firmly in their places, then I would have no doubt of the success of this generally-adopted plan; but when I know, as I do, from familiar personal observation, that a levee, no matter how well built upon the banks of its ashy, sugary soil, put up to-day, may, in a comparatively short time, have crumbled or fallen into the ever-changing river, and disappeared completely and forever from sight, I am forced to set to work to hunt up another theory to relieve my ever-inquiring anxieties. Besides, if we hold to the theories of levees only, we must apply the system not only to the entire Mississippi River, but also to the numerous and large rivers emptying into it from both the east and west banks, else, these rivers, remaining unleveed, the water always seeking its own level must necessarily dam up back of and behind the Mississippi, and thereby produce the precise effect upon the adjacent territory as if the main river had never been leveed.

Discarding for the time being, therefore, the levee theory, let us for a moment speculate upon the "outlet" plan. Suppose it be practicable—and I do not assert it—that one, two, or more openings could be made at convenient points along the lower river, through which can run only such surplus waters as are now overflowing, and last year devastated the country from Cairo southward for a distance a thousand miles long and thirty miles wide, would or would not this be a means of relieving many thousand square miles of overflowed territory; and, if adopted, would it not greatly lessen the dangers of these annually recurring disastrous overflows?

The questions are so momentous, and the answer so difficult, that I do no more than suggest them, leaving the subject to the wisdom of Congress, and feeling sure of my position upon only one proposition, namely, that every commercial interest of this nation and the outer world demands the free and unobstructed navigability of the Mississippi River, and that to certainly achieve and permanently maintain such navigability, large appropriations by Congress are now, and will continue to be, absolutely necessary in order to accomplish the grand and eminently national work, and, finally, that there can be no such thing as rounding up this question by a single legislative act or appropriation. The Mississippi River question is to be with the nation for all time. Congresses may come and Congresses may go, but it will abide with the American people forever.

Oleomargarine and Imitation Butter.

REMARKS
OF
HON. A. X. PARKER,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
Saturday March 3, 1883,

On the bills (H. R. 4909 and 6685) in relation to oleomargarine, &c.

Mr. PARKER said:

Mr. SPEAKER: I wish in the only manner now left me so to do, to call attention to two bills relating to oleomargarine and imitation butter. I have no question of their passage if by the rules of the House they could be reached. But as our work is hampered by these restrictive obstructions to legislation the friends of these bills are compelled to wait until another Congress can give that adequate protection which from the nature of the case can only be secured by national legislation.

The two bills to which I refer are among the seven hundred and sixty bills favorably reported upon by committees and standing unreached upon the Calendars of the House.

The first bill (H. R. 4909) was introduced by Mr. JACOBS, of New York, March 6, and reported favorably July 26, 1882, from the Committee on Commerce.

It provides for the marking, stamping, and branding of all imitation dairy products shipped to foreign countries, and also provides for the inspection and consequently for the obtaining of full statistics of this commodity made in the semblance of dairy product and shipped abroad.

The second bill (H. R. 6685) was reported by Mr. DUNNELL, of Wisconsin, from the Committee on Ways and Means, and provides for a tax upon the manufacturers of oleomargarine and other imitation, so-called butters, and also a tax upon the dealers therein, and also a tax upon the commodity itself to be evidenced by a stamp to remain affixed to the package from which the thing is sold. Section 3 is as follows:

SEC. 3. That oleomargarine, or any other article or compound made in imitation of butter, shall be sold or offered for sale only in parcels or packages bearing the special stamp denoting the payment of the tax thereon; and the absence of the proper internal-revenue stamp from any parcel or package of the said article when sold or offered for sale shall be *prima facie* evidence of the non-payment of the tax thereon, and in addition to the other penalties herein provided the said article so sold or offered for sale unstamped shall be forfeited to the United States: *Provided*, That nothing herein contained shall be held to prevent the sale of the article aforesaid at retail from a duly stamped firkin or other wholesale package.

The principal elements of the fraud of palming off upon innocent dealers and upon consumers at home and abroad as genuine dairy product the vegetable oils and the grease of animals, are the studied secrecy and false pretenses of those handling the spurious article as to the amount manufactured and put upon the market, and as to the identity of the spurious article which the general consumer buys at retail as butter, not knowing the cheat to which he is subjected.

The enactment of these two bills will provide for full statistical information to the trade and the producer and honest notice to the con-

sumer. This legislation will establish a system giving the public full information of the amount of the spurious goods manufactured and the proportion shipped to foreign countries and that consumed at home.

It will notify all consumers what dealers sell the false butter, and furnish such proof in the stamp upon the package that every purchaser will know what he is buying.

The census of 1880 (preliminary statement) gives the number of oleomargarine establishments and the value of their products, as follows:

Cities.	Number.	Value.
New York	3	$4,526,207
Philadelphia	1	298,386
Brooklyn	1	123,260
Chicago	3	437,800
Boston	1	65,000
Baltimore	1	85,000
Cincinnati	1	250,000
Louisville	1	250,000
Total	12	6,035,753

Mr. F. B. Thurber, in an address at Cortland, New York, in December last, in trying to show the farmers that oleomargarine was not injuring the sale of butter, says:

Thinking that figures showing how much oleomargarine is really manufactured might prove interesting to your association, and also feeling curious to know myself, I applied a few days since to Mr. Deen, the superintendent of the company owning Mége patents, under which most of the oleomargarine butter is made, for an estimate showing the quantity of this article manufactured in 1881, and was kindly furnished with a statement as follows:

Estimate of the manufacture of oleomargarine butter under the Mége patent for the year 1881.

	Pounds.
Maryland	1,231,543
Massachusetts	1,864,319
Connecticut	2,892,683
Kentucky	*1,100,000
Louisiana	788,091
Ohio	*550,000
New York	4,646,063
Total	13,072,699

*Estimate.

To this should be added the oleomargarine butter manufactured outside of the Mége process which, from inquiries I have made, amounts to perhaps 4,000,000 pounds, or say a grand total of 17,000,000 pounds of this form of artificial butter.

Yet the Treasury Bureau of Statistics discovered that in 1881 over 26,000,000 pounds "of this form of artificial butter" was exported, saying nothing about the immense home consumption.

Upon my suggestion a clause was placed in the agricultural appropriation act of 1882 calling upon the Department to procure imitation-butter statistics.

The following communication shows the results reached.

The Department has been as powerless to measure the depth or volume of this polluted stream as individuals have been.

UNITED STATES DEPARTMENT OF AGRICULTURE,
Division of Statistics, Washington, D. C., February 1, 1883.

SIR: The letter of Hon. A. X. PARKER, inquiring for the statistics of production of oleomargarine, required under the appropriation for statistics in August last, having been referred to this division, I hasten to make reply.

Soon after the passage of the provision above mentioned, an effort was made to ascertain the place of business and address of proprietors of factories producing oleomargarine oil or butter. It was found difficult to obtain such necessary data, yet the effort was continued with some success, and is still in progress.

As fast as addresses were obtained, circulars were sent inquiring for the extent of production. Up to this date the sum of reported products of the year, in the places named below, are as follows:

	Pounds.
Boston	5,660,033
Pawtucket, Rhode Island	1,090,200
New York	10,647,767
Philadelphia	1,083,837
Baltimore	1,100,130
Louisville	1,656,433

It is certain that this is but a small part of the product manufactured, as the export of oleomargarine oil for the year ended June 30, 1882, was 19,714,338 pounds, valued at $2,703,038, of which 19,440,873 pounds were shipped for New York.

The effort will be continued. If Congress would follow the demand with a penalty for refusal, as in the special work of the census, there might be a hope of ultimately hunting up the details of a sort of surreptitious manufacture, though there would still be an immense quantity of butterine, suine, and other forms of fats of beeves and swine, including the deodorized products of animals that have died of disease, that would fail to answer to the official call for "oleomargarine."

With a determination to do all that is possible to obtain the data required,
I am, yours, respectfully,

J. R. DODGE, *Statistician.*

Hon. GEO. B. LORING, *Commissioner.*

These statements should be studied by the light they reflect on each other.

It will be noticed that Mr. Thurber omits Rhode Island and Pennsylvania, and the Department has evidently no reports from Connecticut or Louisiana, while both fail to name Illinois or Ohio, shown to be large manufacturers by the foregoing census report in 1880, and they make much more now.

Other cities and States producing large amounts are entirely omitted. For instance, in California is now going on a sharp contest with the Pacific Mége Commercial Company and they are charged by dairymen and consumers with fraud in selling spurious butter. They "hurl back" in the following language:

It is true, however, that there are frauds in oleomargarine; but they are committed by the very commission houses who are crying out loudest against the home manufactured oleomargarine. It consists in bringing out carloads of Eastern oleomargarine to this city branded "butter," and selling it as Eastern butter.

We really get only samples of the manufacture. The great mass is made and moved silently and surreptitiously, and our watchful statisticians can give no approximate statement of the actual amount, its transit, or consumption. Like other counterfeits, it shuns publicity.

The practical, skilled men in the trade, as well informed upon the subject as it is possible for men to be, are as little able to give us the facts and figures of this "semblance butter" as the dairymen and governmental statisticians.

As an example take the following letter from the New York Produce Exchange:

NEW YORK, *February* 26, 1883.

DEAR SIR: Your communication of the 5th instant has been placed before the committee on information and statistics, and I have been requested to reply thereto.

It is impossible to furnish any reliable estimate of the amount of oleomargarine, butterine, and other imitations of (so called) butters, manufactured in the United States within any period.

That the manufacture thereof is largely increasing can not be questioned.

The manufacture, transportation, and to a large extent, the handling of it by dealers and retailers, are so secret and misleading that the dairy section throughout the United States, with traders in this and other cities in pure butters, are suffering severely.

In fact the decreased export trade in butter may be largely laid at the door of imitation butters.

It would seem that nothing short of national legislation thereon, with severe penalties for the unlawful and fraudulent issuance and representations, intended or otherwise, of these manufactured imitation butters, would suffice for the protection of producers and dealers in pure butters.

A communication has been sent to Mr. Loring by the butter committee of this exchange covering to some extent your queries in this matter, and to which you may have access.

Very truly, yours,

JNO. H. HODGSON,
Secretary Committee on Information and Statistics.

Hon. A. X. PARKER,
House of Representatives, Washington, D. C.

Now here are some figures as to exports of this remarkable commodity. The American Dairyman, which seems to have a tender regard for the interests of the oleo-manufacturers, gives in March, 1882, the following statement of exports from New York:

EXPORTS OF OLEOMARGARINE.

The following are the exports of oleomargarine from New York to the undermentioned ports since May 1, 1881, and for the week ending March 16, 1882, and for the same time last year:

	This week.	Total.	Same time last year.
	Pounds.	Pounds.	Pounds.
Liverpool	.....	451,774	790,250
London	.....	13,165	64,180
Glasgow	.....	1,641,553	1,380,500
Bristol	.....	47,080	179,744
Rotterdam	25,000	5,856,667	5,360,180
Antwerp	.....	1,447,665	490,875
Hamburg	.....	25,430	75,007
Bremen	.....	45,850	81,712
Other ports	9,500	1,135,585	561,250
Total	34,500	10,464,769	8,982,668

Compare this with the report of Chief Nimmo, of the Bureau of Statistics, as follows:

Statement showing the quantity and value of butterine and oleomargarine exported from the United States during the fiscal year 1882, *by customs districts.*

Customs districts.	Fiscal year ended June 30, 1882.			
	Butterine.		Oleomargarine.	
	Pounds.	Dollars.	Pounds.	Dollars.
Baltimore, Maryland	1,759	280	119,470	16,725
Boston and Charlestown, Massachusetts	26,699	4,013	126,103	17,650
New York, New York	2,128,508	308,427	19,440,873	2,666,197
Philadelphia, Pennsylvania	.....	.....	27,892	2,466
Richmond, Virginia	480	134	.....	.....
Total	2,157,446	312,854	19,714,338	2,703,038

JOSEPH NIMMO, JR.,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
January 18, 1883.

It must be apparent to any thoughtful man that the whole statistics of the country relating to the consumption and the shipment of butter are confused and unreliable by reason of being "mixed up" with the spurious imitations.

The immense amount of this spurious product can not be even guessed, but is felt in the reduced prices and meager receipts on the part of the genuine producers, while the consumer pays for butter and eats grease, the origin of which he does not suspect and is powerless to ascertain. If any wish to make or use oleomargarine composed of wholesome materials, no one has the right to object.

But the great industry of the United States which furnishes the pure dairy product and the great mass of consumers who desire to use that product must be protected from the tricks of sharpers and the frauds of swindlers. This can be accomplished only by national legislation.

Alabama Mineral Lands.

SPEECH

OF

HON. CHARLES H. VAN WYCK,

OF NEBRASKA,

IN THE SENATE OF THE UNITED STATES,

Friday, March 2, 1883.

The Senate having under consideration the bill (H. R. 4757) to exclude the public lands in Alabama from the operation of the laws relating to mineral lands—

Mr. VAN WYCK said:

Mr. PRESIDENT: I do not intend to occupy much time, and might not avail myself of the opportunity to make a few suggestions except for the fact that it seemed incidentally to grow out of something that was suggested by the Senator from Alabama [Mr. MORGAN], probably more argumentatively than in regard to the merits of the pending bill.

The Senator was suggesting very properly that there were certain frauds connected with the administration either of the public surveys or the location of public lands. I agree with the Senator, and might suggest that not only there but also other matters connected with the Government are subject to the same criticism. I would say incidentally that during the last session of Congress I was very much inclined to present a resolution looking to what were alleged to be some frauds in other Departments but desisted, fearing if I did an unjust motive might be attributed. Therefore it was that I delayed until this session and until nearly its expiration before introducing a resolution calling upon the Secretary of the Treasury to inform the Senate how special district attorneys were appointed, by what authority appointed, and by what authority paid. From reports already printed it appeared that there was more money paid to special assistants than to regular assistant district attorneys.

While about $95,000 was paid for regular assistants, over $100,000 was paid for special attorneys, and then, strange as it may seem, of the $100,000 for specials $85,000 was in the District of Columbia. Hence it became an important question to know by what authority permission should be given them to put their hands in the Treasury of the United States. That was one aspect of the case.

There was another. The newspapers had been proclaiming throughout the land, and charging impropriety on the part of the Department of Justice, as it was said the Department of Justice allowed special assistants in some cases to receive $100 per day. I did not believe the charges to be true. I believed that the Attorney-General did not have time to answer all the injurious aspersions cast upon him, and therefore, as a friend to the Department I felt it my duty to ascertain the truth of that matter. True, it might have been obtained by a personal application to the Attorney-General, but I had learned that it was not often his duties allowed him to spend much time in his office, and it would be impossible probably to get information there. The only manner left was to apply by resolution, not to the Attorney-General, but to the Secretary of the Treasury, who audited the accounts, and yesterday the information was furnished. I desired it for the further purpose of removing aspersion which had been cast, from what motive I know not, upon the Department of Justice, and any aspersion cast upon him necessarily would reflect upon the administration with which he is connected, and also upon the great party of which he is a representative and to which I also belong. Therefore there was a double interest in this matter: first, to relieve the Attorney-General, next, to save these reflections from in any way attaching to the administration, and also to relieve the party, which would be injured thereby. I did not desire that every newspaper reporter should catch at it all over the land and that on every street-corner to hear made the statement that there was extravagance, that there was improvidence, that there was wastefulness in the management of public affairs.

I desire this much in justice to myself. The information has been given by the Secretary of the Treasury. I do not propose to read the whole; only enough to show its nature. The few vouchers referred to are samples merely of the large number on file in the Department.

One point was by what authority the special assistants were appointed. The law authorizes the Attorney-General to appoint deputies to assist the district attorneys. That law really gave no power to the Attorney-General to appoint special assistants, but by the Department was construed as authorizing that to be done. In 1870, however, Congress enacted:

SEC. 365. No compensation shall hereafter be allowed to any person, besides the respective district attorneys and assistant district attorneys, for services as an attorney or counselor to the United States, or to any branch or Department of the Government thereof, except in cases specially authorized by law, and then only on the certificate of the Attorney-General that such services were actually rendered, and that the same could not be performed by the Attorney-General or Solicitor-General, or the officers of the Department of Justice, or by the district attorneys.

That was the law of 1870, passed to correct the abuse which had grown out of the construction of law of 1861 and 1869, to prevent this very thing which is being done now. The response was made by the Comptroller of the Treasury speaking of these two statutes, and in speaking of the one of 1861 and 1869 he says under that the appointment had been made when clearly it was not within the letter or spirit of that act.

Then in further answer to the resolution were also returned the vouchers. It had been said that attorneys were each receiving $100 per day. I sought for these vouchers with a view of refuting and contradicting that charge, so that we might say to the representatives of the press that they were mistaken and that they had either intentionally or otherwise maligned one of the principal officers of this Government; but found, to my surprise, and probably to the surprise of the Attorney-General if he had read the paper before he signed it, that even more was paid.

I do not know that he did read it; I query whether these vouchers were really read; but there is the sign-manual emphatically "Brewster." Evidently, then, the signature must be correct. It has passed under his supervision, and I say in justice to him——

Mr. DAWES. Does he not repudiate them?

Mr. VAN WYCK. No, he certifies them, approves them. I will say in justice to him that he probably had not seen or could not have read over all these documents, but probably in his haste he gathered them up and signed "Brewster." It is not to be expected that the Attorney-General—for that would be entirely too much—with the great duties of his public office and the duties of his large private practice, could devote much time to running over these papers. I say this in explanation and in a measure as an excuse for him.

Mr. LOGAN. What is this?

Mr. VAN WYCK. I will explain in a moment. The gentleman is evidently as much surprised as I was.

Mr. LOGAN. I merely ask for information.

Mr. VAN WYCK. The Senator from Alabama has a very important bill pending, and in connection with that he undertook to arraign some persons by charging fraud upon either the administration of the land laws or some practices connected therewith, and I called his attention to the fact that there were frauds in other departments of the Government, and then I proceeded to explain how my attention had been called to this matter; that I had heard a similar aspersion cast upon the Attorney-General, that he employed special assistants, and they were paid $100 per day. We denied it; we said it was mere abuse of the Attorney-General. It was the same cry the Senator from Alabama has made. In order to ascertain the facts and to know whether we were right in defending the Attorney-General, I sought this information. Now the Senator from Illinois will understand how this originated.

Here is a bill as presented by Mr. Bliss, to which the attention of the Senate is called. It may not accomplish all that we wish. I may be disappointed, not finding in it a full justification of the Attorney-General, but still we have the facts, and that is some satisfaction at least.

The United States to George Bliss: To services as counsel in United States against Brady, Dorsey, and others, including trial, involving one hundred and eight days, including Sundays, with opening and closing argument, preparation and examination of witnesses, $15,000.

So that for one hundred and eight days, including Sundays, he gets $150 a day instead of $100. That led me further to examine, and Mr. Bliss says "including Sundays." When a gentleman of his legal ability demands $150 a day, I do not exactly see the point of making out a bill including Sundays. Did he discharge labor to the Government Sundays for which he wanted a per diem? A lawyer worth $150 per day must have known that under the common law services performed on Sunday can not be recovered for. If it were an allowance for his Sunday meditations and Sunday devotions it was rather extravagant to ask the people of the United States to pay $150 per day for that.

At all events the bill is, "including Sundays," for $15,000—$150 per day. It seems, upon perusing further, that was not all. There was a charge for his expenses in coming from New York and going back and subsistence here at $10 per day. And not only that, but postage everywhere, stamps, "stamps, 10 cents," in another case 5 cents; and an amount was charged for a fee to some messenger 21 cents, which was to

show that the amount was exact and 1 cent was added. Telegraphing was charged for, whether 25 or 30 cents, as it happened. And to show further the correctness and the honesty of this claim, on various occasions there is "railroad-fare from Washington to New York, $8.50; sleeping-car fare, $2; fee to porter of sleeping-car, 50 cents."

A person large enough to be a special attorney of the United States and to receive $150 a day, to have a parlor at the Arlington Hotel worth $10 per day, of course must charge 25 cents for telegraphing and "fee to porter of the sleeping-car, 50 cents." There he suffered the dignity of this great Republic to drop. Had he given the porter a dollar it would have added respectability to the United States. [Laughter.] But he was economical there.

So it runs along; the items were made and duly passed. If the Attorney-General had the right to do this, the law said he should make a contract; but it does not anywhere appear that one was made. Strange as it may seem, the Treasury Department rendered a full indorsement of the various bills until they came so strong and heavy that it became weary and halted at some minor details. When that fact became apparent my own judgment began to falter, because I was trying, as I said, to find something in vindication, and everything pointed the other way, and the further I proceeded the more I became satisfied that it was difficult really to defend or explain or justify the Attorney-General. At last the Treasury Department paused for a moment and demanded an explanation from Mr. Bliss, as follows:

Your account is herewith returned to be sworn to by you. You are also requested to give an itemized statement of charges for traveling between Washington and New York, as in their present form they are deemed excessive.

That was the first check after the accounts had been approved by the Department of Justice and the different branches of the Treasury Department; there for the first time it was intimated that they were excessive, and so Mr. Bliss mildly proceeds to verify his accounts and to explain why they were not excessive:

George Bliss being sworn, says: * * * That the charge for expenses in traveling to and from Washington are made up as follows: Railroad fare in case, $6.50; section in sleeping-car, $4; carriage in Washington, $1; that in New York when leaving there in the evening he is compelled to pay $2 for a carriage, but on arriving there in the morning he pays only $1.50; that this makes a total of $13.50 in coming from New York and $13 in going there; that he now presumes that in the annexed account he has amply distributed the items—

No doubt about that—

but the result is not changed. Deponent, however, begs to add that on four of the excursions charged for in the annexed account he did not travel at night, and a section should not have been charged for, but only a seat in parlor-car, being $1.25 instead of $4. Against that, however, there should be on those occasions charged 50 cents each time for carriages, making a net reduction each time of $2.25. Deponent further says that he is compelled to travel at night; he can not do so unless he travels with such comfort as to be able to reach the same day; that if it is held he should not be allowed for such expenses the only result will be that he will travel in the day-time, which will render it necessary to charge for one if not for two more days in each week.

The Department realized the force of the argument and audited the account because Mr. Bliss was able as Government attorney to satisfy the Treasury Department that if he could not be made comfortable by the payment of a few dollars while traveling at night then he would have to charge one or two more days in the week and the result would be $150 for one day, or for two days $300 extra for getting this attorney from here to New York and from New York back comfortably.

This will be sufficient to illustrate this branch of the case. It is to be regretted that we have not the power to say these stories are not true; I mean the reports that the Attorney-General was paying $100 a day for special assistants.

Here was a charge of $150 a day for one hundred and eight days, including Sundays, $15,000. Whereas the facts, under the sign-manual Brewster, clearly establish that the daily compensation was $150 for one hundred and eight days including Sundays, $15,000, with the hotel and traveling expenses, including postage-stamps and fees to porter on sleeping-car, making about $170 per day.

Mr. SLATER. May I ask the Senator a question?

Mr. VAN WYCK. Certainly.

Mr. SLATER. How much per annum would that be if carried out?

Mr. VAN WYCK. From $45,000 to $50,000.

Mr. SLATER. Something over $54,000 per annum, I make it.

Mr. VAN WYCK. Very likely. I did not proceed so far as that. I thought possibly the Attorney-General might have time to aggregate the figures and give the amount in any explanation he might hereafter make.

There are other special attorneys employed; time will not permit reference to all; one is sufficient as illustration, namely, Mr. Merrick, who, fortunately for the Government, resides in Washington. Evidently his sense of justice did not allow him to charge for board, as it does not appear in the bill that follows:

To consultations as to new indictment, which was found by grand jury in case No. 14336, under title of United States vs. Brady, Dorsey, Vaile, *et al.*, preparation and trial of said case, trial concluded September 11, 1882, argument of motion for new trial, and other services in matters arising out of said case, $15,000.

The time involved in that is about one hundred days, including Sundays, so that really Mr. Merrick's per diem was a little more than Mr. Bliss's, while there was not this throwing in of expenses for board, travel back and forth, including now 5 cents, now 6, and now 10 for postage-stamps, and at sundry times 50 cents to a porter on a sleeping-car, and at another time 21 cents for service of messenger; but that was probably made equal between these gentlemen in the mind of the Attorney-General by giving Mr. Merrick a trifle more per diem.

How many more persons were engaged in these prosecutions at this rate I do not know; but now it is perfectly plain why the suits continue as long as they do—six months to try an ordinary case with such able counsel. It is an invitation, an inducement to these men to continue them six months, and it is also a temptation to hang a jury as it is said they did. I do not say they did, but there would be a temptation to do it. If justice were decently administered in the District of Columbia or any other section of this country six months could hardly be required by the trial of a criminal cause. It is an outrage which ought not to be tolerated in any country, and here the American Congress is in session; here sit the President of the United States and his Cabinet officers.

I deem it my duty to say this; the people should be protected from outrages committed here. It has always been our boast, I say to my Republican friends, that we punish our own thieves. I have not understood why it was that Howgate had the prison doors opened and invited to step out a free man. It seems Howgate is a Democrat, and as we are only under obligations to punish Republicans, Howgate was bid to depart in peace.

Washington is the best regulated city on the globe, we are told; yet a few days ago it was reported that there had been an indictment by the grand jury in that thieves and house-breakers had been invited by your police into this city, received with open arms, then escorted about in carriages, and aided to escape with their booty. Is it any wonder when those connected with the Department of Justice are robbing the Government in an equally infamous manner, incurring, however, less risk in the depredations because not exposing themselves to the hospitalities of the penitentiary?

Mr. President, without any doubt such charges as we read here are equally as infamous, and will be so considered by the American people, as the star-route methods. There was a conspiracy there to rob this nation by increasing and expediting the mail service. There is equally a conspiracy here the consequence whereof is to rob your Government in suits which ought to be forced to trial with the same energy and expedition as ordinary criminal proceedings. In one case the plunder is by expediting, in the other by delay.

A platoon of lawyers are gathered together by the head of the Department of Justice and allowed to place their hands in the Treasury to any depth they choose and to any extent of time they may prefer, with nothing to limit them in their prices and nothing to limit them in the term of their continuance in the service. It was not believed when this statement was first made, and it seems almost incredible, but unfortunately for the Treasury it is true.

The resolution further demanded by what authority these amounts were paid. I venture no lawyer in this body will pretend that a district attorney has a right to call in assistants. I question if the Attorney-General, under the present law, has that power; yet we find that this very thing was done and the name of "Brewster," I suppose, is attached to those papers. [Examining.] Yes, here it is, "Brewster." It passed the accounting officers of the Treasury, and we find what? A member of Congress serving in the other branch was called from his duties in the month of May last, and in May, June, and July, while Congress was in session, and the Attorney-General knew that his duties required him here. The district attorney employing him knew that his duties required him here; the member of Congress himself knew that his duties required him here, and yet most of his services as special assistant was rendered during the actual session of Congress, and for his services and for his expenses $6,000 were paid and the sign-manual "Brewster" appears on the voucher. That passed the accounting officers of the Treasury.

I have a right to allude to this. I ask you where is the protection of the Treasury, where is the protection of the people of this country when the head of the Department of Justice himself not only tolerates but inaugurates this outrage and this fraud upon the people?

Mr. CAMERON, of Pennsylvania. Do you mean to say that he ever got a dollar?

Mr. VAN WYCK. Oh, no.

Mr. CAMERON, of Pennsylvania. Then be careful how you talk.

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Pennsylvania?

Mr. VAN WYCK. Certainly; I am glad the Senator from Pennsylvania comes to the defense of his friend.

Mr. CAMERON, of Pennsylvania. I do not come to anybody's defense, except to say that the Attorney-General is an honest man; and to accuse him as you are doing is not proper.

Mr. VAN WYCK. I accuse no one; the facts accuse him.

Mr. CAMERON, of Pennsylvania. Now, stop here.

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Pennsylvania?

Mr. VAN WYCK. Certainly. I like to hear the Senator.

Mr. CAMERON, of Pennsylvania. Then stop.

Mr. VAN WYCK. I am glad that my friend from Pennsylania comes

to the rescue. I tried to do it, but the facts certified to by himself are against him.

Mr. CAMERON, of Pennsylvania. Oh, you are a—I will not say it.

Mr. VAN WYCK. I have not said that the Attorney-General took any of this money.

Mr. CAMERON, of Pennsylvania. You have talked too much. Do not talk any more.

Mr. VAN WYCK. I do not pretend that the Attorney-General took any of this money, but I say when he made a contract, as he did or approved it, to pay $15,000 for one hundred days' work including Sunday, that he did what he must have known to be wrong.

Mr. CAMERON, of Pennsylvania. He never did a thing in his life that he knew to be wrong, and he never did a thing in his life that any other gentleman knew to be wrong.

The PRESIDING OFFICER. The Senator from Pennsylvania will not interrupt the Senator from Nebraska without addressing the Chair and asking whether the Senator from Nebraska will consent to be interrupted.

Mr. VAN WYCK. I most cordially yield. I do not ask that the Senator from Pennsylvania shall go through the courtesy of first addressing the Chair.

The PRESIDING OFFICER. The Chair sees proper to preserve the rules of the Senate.

Mr. CAMERON, of Pennsylvania. The Senator from Pennsylvania means to make no harangue. He does not talk——

The PRESIDING OFFICER. The Senator from Pennsylvania will address the Chair, and let the Chair ask whether the Senator from Nebraska will consent to be interrupted.

Mr. VAN WYCK. I desire to be interrupted, for it is information that I am seeking. I said when the Attorney-General put his sign-manual "Brewster" on the back of a voucher which gives only an ordinary attorney, if I may be allowed the term, $150 per day, he did what he knew to be wrong. When he put his sign-manual to a voucher which in addition to $150 a day allowed $10 a day for hotel expenses; when he allowed 25 cents for telegrams and 5 and 10 cents for postage; when he allowed just 21 cents for a messenger; when he allowed him not only for his transportation to New York but his sleeping-car fare, and then 50 cents for the porter—when he does all that I say that no man in his senses does the thing that he knows to be right. I do not pretend that he obtained any of this money. He is placed there to protect the Treasury. I have said that this mode of extracting money from the Treasury is no better than the star-route methods.

Mr. CAMERON, of Pennsylvania. I am afraid you know more about it than others.

Mr. VAN WYCK. No, sir; only to communicate to the Senate and through the Senate to the country the facts in this matter approved and certified by "Brewster, Attorney-General."

Now I start another point, to which the Senator from Pennsylvania will please give equally as much attention. I was stating when he interrupted me that a member of Congress was taken from his place in the month of May and June and July into the State of New York, transported back and forth, and although a few days were employed in vacation yet most of the time was during the session of Congress, and for which about $6,000 was appropriated. I said further that he was called into the service by an assistant district attorney, and here is the proof of it, if my friend from Pennsylvania will give me his attention for a moment:

For services in 1882.

I call the attention of the Senator from Pennsylvania to the fact.

Mr. LOGAN. Call the attention of the Senate to it.

Mr. VAN WYCK. I call the attention of the Senator from Pennsylvania, who will probably reply to this part of it. He may think he would prefer to do so:

For services in the above-entitled actions, commencing May 2, 1882: In appearing before United States Commissioner Scroggs, at Buffalo, New York, in preliminary examination, at the request of Hon. Martin I. Townsend, United States attorney.

This was done at the request of Martin I. Townsend, the United States district attorney, there being no pretext that he has any right to employ a special assistant.

Mr. EDMUNDS. He may make the request.

Mr. VAN WYCK. He may make the request to the Attorney-General, but that does not appear in this case. It is stated that he was called to the examination by Martin I. Townsend, the date May, June, and July, some in October and November.

Mr. LOGAN. I do not want to enter into this discussion at all, but this is so remarkable a proceeding, without any precedent whatever, that I must ask the Senator a question. Are these the original papers of the Attorney-General's office?

Mr. VAN WYCK. These are the papers which were sent from the Department.

Mr. LOGAN. That is not the question. I merely want to ask a question or two.

Mr. VAN WYCK. I will answer. The resolution required the Department to send copies of vouchers. It was a call on the Secretary of the Treasury, and the resolution required him to send vouchers, items, and how much he paid, and the reason why he paid them, under what authority of law they were employed and paid; and he sends these papers as a reply to the resolution.

Mr. LOGAN. The Secretary of the Treasury?

Mr. VAN WYCK. Yes, sir.

Mr. LOGAN. The resolution called for these papers?

Mr. VAN WYCK. Certainly. Copies of vouchers and items.

Mr. LOGAN. The resolution was introduced by the Senator?

Mr. VAN WYCK. Yes. I will read it to the Senator.

Mr. LOGAN. No; the Senator need not read it. These papers have not been referred to any committee?

Mr. VAN WYCK. They have not been referred to any committee.

Mr. LOGAN. They come to the possession of the Senator himself. Is that the idea?

Mr. VAN WYCK. They have come to the possession of the Senate. They are in the possession of the Senate.

Mr. LOGAN. I mean in the possession of the Senate. The Senator does not move to refer them to a committee to investigate the matter?

Mr. VAN WYCK. I intend to do so.

Mr. LOGAN. But he takes the opportunity of making a general attack upon the Attorney-General's Office, without reference to or any examination by a committee, without any report, without regard to anything whatever, except to get this harangue before the country, this attack on the Attorney-General. Is that it?

Mr. VAN WYCK. I will tell you what it is.

Mr. LOGAN. I want to know.

Mr. VAN WYCK. I will explain it.

Mr. LOGAN. I want to know, because this is, I will not say so undignified, but it is so far from the course that I have ever known pursued in the Senate of the United States. Without having anything to say, for I do not propose to enter into this discussion either to attack or defend any one, I must say that for a speech of this kind to be made without any investigation whatever, while this trial is going on here for the prosecution of men for robbing the Government of the United States—if a man outdoors had made the speech, the whole country would have understood that he was the attorney for the defendants.

Mr. VAN WYCK. I will explain it to the Senator. I said before he appeared in the Senate this afternoon that on two occasions at the last session I felt it my duty to demand the same information that I have been seeking at this time, but I waited until nearly the end of this session hoping the Attorney-General himself would feel impelled to make answer to the many charges. Statements had been made as to the manner of conducting the Department of Justice in the payment of special assistants, and I desired to know the truth of these charges. If it were so that $100 was being paid daily to three or four attorneys I wished to know it; and when I called upon the Treasury Department and they sent their vouchers indorsed by the Attorney-General, it needs no report from any committee. Here are the facts under his own sign-manual, and when they show that $150 was paid daily to two or more attorneys it became my duty to make this "harangue," as the Senator chooses to term it, which I proposed to do and have done.

The Senator says that if this harangue was made outside, persons would suppose that it was made by one as an attorney for the defendant. Is it possible? Is that the way gentlemen would seek or that the Attorney-General would seek to meet the charges? If the statements I have read are true, and they are, because he signed them, if these charges which he admits the truth of affect his management of that Department, then he must submit to the consequences. He must subject himself to any arraignment, whatever that arraignment properly may be. And must we sit by and see the Treasury plundered, as plundered it is, no matter whether by the conspiracy of star-route men or in any other mode, and not raise our voice forsooth until the whole thing is ended?

I said in that connection that the payment of such a per diem was a temptation, an inducement, to protract the trial of a cause. I said further that in any country where justice was decently administered it could not possibly be that an ordinary criminal prosecution could protract itself as long as this one has done. I speak in no connection, however, with that matter. The star-route frauds were exposed by the energy of a former Postmaster-General, and not by the money taken by these fees of lawyers at $150 a day. That is my position, and I am ready and prepared to stand by it. I desire this matter of taking these extravagant charges from the Treasury to stop.

Look at it a moment. Do you suppose that the Attorney-General in his own private business would employ an attorney at $150 a day and then pay all his expenses, aggregating about $170 per day? A public officer who will not administer his trust with the same fidelity, with the same honesty, and the same diligence that he would his own private matters is subject to the charges that may follow from pursuing such a course. This is the charge to be met.

There was not time to have the papers in response to the resolution referred to a committee so as to have a report made on them at this session. The only opportunity was to make just this explanation which has been made. I took occasion when the Senator from Illinois was not here to say that it was our boast that we had punished our own thieves, that we had stopped our own plunder, stopped our own peculation. Had we remained silent until this matter had ended, and then when it became known that these outrageous charges, these wasteful

expenditures, had been made, it would have been good reason to arraign the Republican party, and men with an inquiring turn of mind would grope through dark and devious ways with a tallow dip in one hand and a microscope in the other trying to ascertain the cause of Republican defeats. As the Senators from Pennsylvania and from Illinois made some question, I desire that my position shall be understood. The Senator from Illinois says that it would be supposed I was an attorney for the defendant. Will he tell us how these facts about the management of the Department of Justice can affect the trial of any criminal prosecution? Will gentlemen tell me, will any lawyer, will any judge, will any man of common comprehension tell me how this will affect injuriously any pending suits?

How will the continuance or cessation of these frauds in the Department of Justice affect the administration of the laws in this city?

Whatever may be the result, for myself I insist such outrages as certified by "Brewster, Attorney-General," shall be ended.

When the Attorney-General is willing to have paid, from money drawn from the pockets of the people, for one year's service as much as he receives for his entire term of four years' service, to an attorney who certainly is not his superior, does not that affect disastrously the administration of justice? Under whatever exposure can it be worse by any possible means than it now is under the influences which surround it?

Without doubt when the attention of the President is directed to this subject he will at least admonish his Cabinet officer and insist that prosecutions in behalf of the Government shall be conducted with more expedition and less expense.

The Tariff.

SPEECH
OF
HON. ANDREW G. CURTIN,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the report of the conference committee on the bill (H. R. 5538) to reduce internal-revenue taxation.

Mr. CURTIN said:

Mr. SPEAKER: If it were not for the reduction of the internal-revenue taxation this bill would not receive the serious consideration of this House.

I had the honor at the last session of Congress to address myself to the House when the bill was on passage for the reduction of internal revenue $17,000,000, and to say at that time that I was the advocate of the entire abolition of internal taxation and the discharge of the public officers who are engaged in its collection, except the taxation on whisky, distilled spirits, and tobacco, and whatever revenues were necessary in that way should be collected as the ordinary taxes are and by processes to which the people of this country are accustomed, and thus be relieved of the espionage and inducement to fraud which surround all of the laws now in existence in the collection of such revenue.

This bill makes a much larger reduction, but does not in that respect approach the expectations of the people, but it is no doubt the inducement to the passage of the bill in hot haste and without the consideration due to a measure of such importance and magnitude. It is the sugar-coating to the pill more than one member has declared nauseous and hard to swallow. I will refer especially to that part of the bill which treats of iron in which charcoal is used as fuel and as found in the metal schedule, and leave the examination of other items to the people of Pennsylvania. That part of the schedule in the House bill, which was abandoned, gave comparatively just protection to that production of American industry, capital, and labor. It was provided that a duty of $22 a ton should be laid upon iron in which charcoal was used as fuel, and it fell under the clause in that bill which provided that in no event should the duty be less than 35 per cent. ad valorem. It was further provided in that bill where two or more rates of duties shall be applicable to one imported article it shall be classified for duty under the highest of such rates.

The citizens who were in Washington representing the charcoal-iron interest had repeated interviews with leading Senators during the consideration of this bill through that body. They found in the Senator from Michigan and in the senior Senator from Pennsylvania enlightened and zealous advocates of a just protection to their industry. The Senate bill as it passed that body provided that on all iron manufactured with charcoal as fuel more advanced in manufacture than pig there shall be imposed a duty of $3 a ton more than on the same manufactured with other fuel, and that all iron in slabs, blooms, loops, or other forms more advanced than pig-iron shall not pay a less duty than 35 per cent. ad valorem, and then provided that on iron in which charcoal is used as fuel further advanced than pig there shall be $3 additional to iron manufactured with other fuel. That was all that was asked, and to such moderate demand the Senate acceded.

In the report of the conference committee, the provision that there should be an additional duty of $3 per ton on iron manufactured with charcoal as fuel is stricken out of the Senate bill. In the bill as reported by the conference the provision that all irons more advanced than pig except castings were to be rated as iron without any reference to the fuel used and to pay a duty accordingly, and that none of the above shall pay a less rate of duty than 35 per cent. ad valorem precedes the duty of $22 per ton as settled upon iron manufactured with charcoal as fuel, as will be found on page 29, lines 562, 563, and 564, and can not be applicable to charcoal-iron. In line 549 iron less than one inch wide the duty is eight-tenths of 1 per cent. per pound, but in line 553 iron not less than three-fourths of one inch square, 1 cent per pound; and in line 558 iron less than seven-sixteenths of one inch in diameter or less than one inch square, 1.1 cents per pound. On the first the duty would be $17.92 per ton; on the second $22.45, and on the third $26.76. A portion of them as provided in line 562 shall pay a less rate of duty than 35 per cent. ad valorem, that saving clause not being applicable to iron where charcoal is used as fuel. The Senate bill as it passed that body gave to iron manufactured with charcoal as fuel an additional protection of $3 per ton and the benefit of the 35 per cent. ad valorem clause, which the conferees on the part of the House have abandoned.

In line number 575 it will be noticed that iron rods less than seven-sixteenths of an inch in diameter shall pay a duty 1.2 cents per pound, and the duty would therefore be $26.88 per ton. Thus it will be noticed that charcoal-iron, the most expensive to make and which commands the highest price in the market, the finest kind of iron manufactured in the United States—the pioneer iron business, and the cost of making which is nine-tenths labor, is denied the just protection which is only asked in the difference of the price of labor here and in the foreign countries where it is produced. It only asks the protection which meets the difference in the wages of labor in this country and Europe. It does not ask that there shall be duty to prohibit importation, but it does ask, and in justice, that it should have a protection adequate to the price of production and let competition lessen the price to the consumer, no matter whether that competition is in home or foreign production. This interest is largely diversified in this country. Charcoal-iron is produced in many of the States. It is not monopolized; it is not controlled by large capital centralized or shielded by incorporated privileges.

The American citizens engaged in this business only ask a just tax and a fair protection to their industry, and in this bill now pending before this House instead of protection there seems to be a disposition to leave that interest, its usefulness, its employment of labor in addition to its wealth and power in this country to the tender mercies of the interests which I fear have controlled this revenue measure in all the stages of its progress through Congress.

There are other interests of Pennsylvania which, in my judgment, are not properly protected in this bill, and it is to be hoped that inasmuch as the country has been waiting in expectation of some measure of relief, the interest I now advocate may struggle through the coming season and that the next Congress will correct the neglect of their interests in this bill and provide for them a fair and reasonable protection. In justice to my constituents, in justice to the charcoal interest of my State and of other States of this Union, I protest against the injustice this bill does them. I would be unworthy to be their Representative if I remained silent when I see, through ignorance or design, such a heavy blow struck at their interest and the prosperity of the localities in which charcoal-iron is a staple production.

The Senate bill, although the duty on charcoal-iron is reduced below the rates of the existing tariff, seemed to be just considering the general reduction, and with it those engaged in the business were satisfied; but when the conference committee reported to this House the bill under consideration and virtually place this production below the rates of protection given to the coarser and cheaper qualities of iron, it is not strange they should complain of such unjust and unwise discrimination, or that members of this body should hesitate to fall into any combination of other interests as to do a serious injury to a large and useful business. Pennsylvania is not the only State to suffer in consequence of this legislation. Nearer the markets of the country, longer and more skilled in the business, her people engaged in it may survive what in my judgment may prove a calamity in other States where the business is now more distant from markets and less understood.

I have said that nine-tenths of the production of charcoal-iron is labor. The ingenuity which has so reduced cost of production of inferior qualities of iron by machinery has not reached this production, which is a necessity. It is produced now by the same processes as it was when our raw material was utilized with scarcely a change or material reduction of the manual labor employed in it, and I only ask for this interest an equalization of the labor here and in foreign countries where it is produced. Iron is one great staple production in Pennsylvania, and as our capabilities do not approach those of other States, the skill and enterprise of our people should excite admiration and challenge to the point of competition at home, instead of provoking the manifest injustice which I attempt to demonstrate from the provisions of this bill. I stand by the truth of my statements and believe in the logic of my conclusions, and awaiting results can not but feel that my position will meet the approbation of my constituents.

French Spoliations.

SPEECH

OF

HON. WILLIAM W. GROUT,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the bill (S. 1465) to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

Mr. GROUT said:

Mr. SPEAKER: I intend to vote for this bill; but if it becomes a law it will take several millions from the Treasury, and the magnitude of the sum claimed, if not the difficulty of the questions involved in its allowance, is my excuse for a few words upon the subject.

LEGISLATIVE HISTORY OF THESE CLAIMS.

The French spoliation claims are historic. They accrued during the wars of the first French Republic under the Directory and Consulate, between the years 1792 and 1800. They are also intimately connected with our own Revolutionary period, as they grew out of an alleged breach on our part of the treaty between the French Government and the Colonies of 1778, under which France helped us in the struggle for independence.

These claims are almost one hundred years old. They have been before Congress continuously since 1801; and whatever else concerning them may be in doubt, this must be accepted as clear: it is high time they were disposed of. If just they should be paid. If unjust they should be refused by Congress and thus have an end of them in that way, though it is true if rejected by one Congress they might be presented to another. It is worthy of observation, however, that neither House has ever decided against these claims; but bills have repeatedly passed one or the other House allowing them, and on two occasions bills providing for their payment have passed both Houses concurrently, but each failed to become a law for want of the executive approval, withheld first by President Polk and then by President Pierce. These vetoes were principally upon the ground of an empty Treasury and insufficient revenues; reasons which are certainly no longer valid now that the Government receipts are just about one and one-half million dollars per day, and an overflowing Treasury is as much of an embarrassment as an empty one was under Polk and Pierce.

During the eighty years these claims have been before Congress forty-three reports have been made by committees concerning them, all favorable but three. The three unfavorable reports were all made prior to the administration of John Quincy Adams, during which a careful collection of all the facts pertaining as well to the history as to the diplomacy connected with them was for the first time presented to Congress. Since then there have been thirty-eight reports, and every one favorable. Of these Edward Everett made three, Edward Livingston three, Daniel Webster one, Caleb Cushing three, Rufus Choate three, Hannibal Hamlin one, Homer E. Royce one, and Charles Sumner three. Between the years 1832 and 1858 all the Legislatures of the original thirteen States, and some of them a second time, passed resolutions requesting their delegations in Congress to vote for the payment of these claims; but they are still here. Such in brief is the legislative history of these remarkable claims; but in itself, except so far as it shows diligence on the part of the claimants, it is of no particular consequence in deciding upon their merits now.

The opinion of the eminent public men just named, though uniformly in favor of a prompt settlement of these claims, can not be accepted by those charged with the duty of deciding upon them now as a present element in their favor. The opinion of these men, however, must always secure for them a respectful consideration both by Congress and by the country.

MUST STAND UPON THEIR MERITS.

This bill has come over from the Senate upon the unanimous vote of that body; nevertheless these claims must stand, if at all, upon their merits. What are their merits? What is their history? They had their origin amid the great events of the French revolution, but would never have existed only for one of the great events of our own revolution, namely, the treaty of alliance with the French of 1778; and this opens to one of the darkest chapters of our revolutionary history. After three years of unsuccessful war the colonial forces under Washington went into winter quarters at Valley Forge for the unusually severe winter of 1777–'78. The soldiers left blood from their bare feet upon the frozen ground as they marched thither from Whitemarsh. Here, half clad and half fed and without shelter except a rude covering of boughs, they spent the day gathering wood and the night without blankets by the great fires they built. Meanwhile the British army under Howe was wintering in the midst of plenty in the city of Philadelphia, whence the Continental Congress had fled, first to Lancaster, then to York.

The situation was indeed most dismal; Washington himself must have felt it when he wrote Congress as he did, January 10, 1778—

Unless some great and capital change takes place, the Army must inevitably be reduced to one or the other of three things—starve, dissolve, or disperse.

TREATY OF 1778.

But a "great and capital change" did take place.

Suddenly amid the gloom that everywhere prevailed, the camp at Valley Forge, the Congress at York, and the whole American people broke forth in rejoicing when they learned that Franklin, the American agent at Paris, had concluded a treaty with France by which that powerful nation bound herself to "guarantee to the United States their liberty and independence absolute and unlimited." This treaty was signed February 6, 1778.

Under it France at once sent here a strong land and naval force, which arrived in season for the campaign of the following summer. During the remaining four years of the war the French flag went resolutely into battle beside our own, and French blood ran freely.

France kept her treaty and stood by us to the last, the final surrender at Yorktown being precipitated by the timely arrival of 5,000 fresh French troops from the West Indies, and the surrender being made to the allied American and French armies under Washington and Rochambeau, and to the French navy under De Grasse. What might have been the fate of American independence had not France assisted it were idle to speculate. It is sufficient for the purposes of this discussion that France kept her guarantee and the colonies took their place among the nations of the earth. This four years' war in America cost the French Government, according to Calonne, the minister of finance under Louis XVI, $280,000,000, saying nothing of the valuable lives lost. Here the question naturally arises, what was the consideration that led France to enter into this treaty and make this heavy outlay? Neither sentiment nor traditional hatred of the English prompted her to assume these obligations and make this sacrifice. This treaty was purely a business transaction; one in which the United States assumed heavy obligations.

OBLIGATIONS ASSUMED BY UNITED STATES.

What were those obligations? In the first place the United States guaranteed to France forever her possessions in America at that time, which were the islands of St. Domingo, Martinique, Guadeloupe, St. Lucia, St. Vincent, Tobago, Deseada, Marie Galante, St. Pierre, Miquelon, Grenada, and on the mainland Cayenne. This guarantee was not only against England, but against the world, and was forever; and not only of the above, but of any future possessions which France might thereafter by treaty acquire upon this continent. Here is the language of the treaty:

The two parties guarantee, mutually, from the present time and forever, against all other powers, to wit, the United States to his most Christian Majesty, the present possessions of the crown of France in America, as well as those which it may acquire by the future treaty of peace. And his most Christian Majesty guarantees, on his part, to the United States their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions, and the additions or conquests that their confederation may obtain during the war from any of the domains now or heretofore possessed by Great Britain in North America.—*Treaty of alliance*, article 2.

But this was not the only obligation assumed by the United States at that time; not the whole consideration. The United States further agreed in the treaty of amity and commerce signed at the same time to protect and defend by their ships of war any and all French vessels "against all attacks, force, and violence in the same manner as they ought to protect and defend the vessels and citizens of the United States." (Articles 6 and 7.)

They also agreed "to open their ports to French ships of war and privateers with their prizes and to close them against any power at war with France except when driven by stress of weather; and then all proper means were to be vigorously used that they go out and retire as soon as possible."

They also agreed "to allow French privateers to fit their ships, to sell what they had taken or in any other manner whatsoever to exchange their ships' merchandise or any other lading; but privateers at enmity with France were not to be allowed to victual in ports of the United States." (Article 17.)

These in brief were the obligations which the United States assumed in these two treaties, and which constituted the consideration upon which the French army and navy mustered in the cause of American independence. So long as France remained at peace these obligations slumbered, but in less than eight years from the surrender at Yorktown the French people, instructed by the successful establishment of free institutions upon this continent to which they had largely contributed, themselves rejected the divine authority of kings and asserted the right of self-government. Louis XVI was beheaded, and the Directory and Consulate followed. Royalty was alarmed, and England, Holland, Spain, Naples, Austria, Prussia, and Sweden combined to crush the French republic. To ordinary human judgment but one fate awaited her—she must be overwhelmed.

PERPLEXING SITUATION OF UNITED STATES.

Then it was that American statesmanship was confronted with the perplexing fact that France was our ally, that the United States by solemn treaty had guaranteed forever her possessions in America. Should these possessions be attacked by some one of the powers in coalition

against France, as they very soon were by England, the United States were bound to defend them. This is clear from the terms of the treaty; but let us see what view was taken of our duty by American statesmen of that day.

Mr. Jefferson, in a letter to Mr. Madison of April 3, 1794, says:

As to the guarantee of the French islands, whatever doubts may be entertained of the moment at which we ought to interpose, yet I have no doubt but that we ought to interpose at a proper time, and declare both to England and France that these islands are to rest with France, and that we will make a common cause with the latter for that object.—*Jefferson's Works*, volume 3, page 303.

In reference to the guarantee, Mr. Morris, our minister to France, fully comprehending the difficulties that were threatening this country, thus wrote to our Secretary of State, as early as December 21, 1792:

The circumstances of a war with Britain [by France] becomes important to us in more cases than one. The question respecting the guarantee of American possessions may, perhaps, be agitated, especially if France should attempt to defend her islands. * * * I will only pray your indulgence, while I express my wish that all our treaties (however onerous) may be strictly fulfilled, according to their true intent and meaning. The honest nation is that which, like the honest man—

"Hath to its plighted faith and vow forever firmly stood,
And, tho' it promise to its loss, yet makes that promise good."
—*Senate Document*, 1826.

We have already seen what the promise was and the circumstances under which it was made. Did we "make that promise good?" Alas, that this page of our history must forever show that we shrank from the fulfillment of the guarantee! Our Government evidently felt that it would be better to meet the claim for damages than to undertake to defend the French islands, which would require our whole land and naval force and involve us in certain war with some one if not all of the great powers which had combined against France. Accordingly, on the 22d day of April, 1793, President Washington issued his celebrated proclamation of neutrality.

This must have cost Washington a severe internal struggle as recollections of our desperate condition in the winter of 1778 and of the treaty of alliance and of the arrival of La Fayette at Valley Forge under that treaty came thronging back upon him; and no wonder that afterward in his farewell address he warned his fellow-countrymen against "entangling alliances" with foreign powers.

This proclamation in the face of the treaties of 1778 of course looks bad. Much, however, could be said in extenuation of this apparent want of faith on the part of the United States toward the French, but it would be foreign to this inquiry. It is enough to know that our Government saw fit to disregard both the treaty of alliance and of amity and commerce, and maintain a neutral position.

FRANCE ENRAGED COMMENCES SPOLIATIONS.

The French people were of course filled with disappointment and rage, and on the 9th of the following May the French Directory issued a decree authorizing the seizure of provisions in the ships of neutrals, on the plea of necessity and with the assurance of compensation to the owners.

This at once let loose the French cruisers upon our defenseless merchant-ships, and, with the exception of some unintentional trespasses already committed, was the beginning of those spoliations of our commerce which, before an understanding was reached with France in the year 1801, resulted in the loss of millions of dollars to our citizens, not one dollar of which have the sufferers ever yet received. This was the beginning; but in order to a right understanding of the obligations of the Government to these claimants, it will be necessary to follow a little further the history of these spoliations and to observe particularly the attitude of the Government toward these claims at the time they accrued, and the use made of them by the Government in the treaty of 1801, when they ceased to be subsisting claims against the French.

POINTS STATED.

Now, to anticipate a little, this examination will show—

First. That the claims arose from the refusal of our Government to keep the treaties of 1778.

Second. That our Government took charge of these claims for the professed purpose of collecting them for the benefit of the claimants.

Third. That in the negotiations which followed, the United States were confronted by France with a heavy claim for damages for not keeping the treaties of 1778; and in settlement of this large claim against the United States as a nation for disregard of her treaty obligations, our Government released to the French these individual claims of her citizens; in other words, appropriated the private property of these citizens to her own use in discharge of heavy national obligations which at one time seemed to threaten national ruin.

Fourth. It will be seen that to this day the Government has never compensated the individuals whose property was thus appropriated to her own use, but that in the persons of their heirs and representatives they are still appealing to Congress for relief.

FURTHER HISTORY.

Now let us see if the further history of these claims sustains these several positions.

On the day of the proclamation of neutrality news came that Genet, the new French minister, had landed at Charleston. Charles Sumner, in his report upon this subject to the Forty-first Congress, says:

Chief-Justice Marshall, whose opportunities for information were unquestionable, has let us know that the proclamation was "intended to prevent the French minister from demanding the performance of the guarantee contained in the treaty of alliance."

As was suspected by our Government, Genet had come to look after the guarantee. His instructions, dated January 17, 1793, were:

To penetrate profoundly the sense of the treaties of 1778, * * * and to make the Americans consider engagements which might appear onerous as the just price of the independence which the French nation had secured to them, * * * and to negotiate a supplementary treaty, to fix more surely "the reciprocal guarantee of the possessions of the two powers.—*Gebhardi's American and French State Papers*, volume 1, pages 9 and 10.

Genet was astonished and perplexed by the proclamation of neutrality. It was a complete surprise and had the effect intended by our Government to close the door against all negotiation or demand touching the guarantee. All he could do was to scold, which he did most vigorously. In writing our Secretary of State he charged—

That the President, before knowing what the minister had to communicate from the French Republic, was in a hurry "to proclaim sentiments on which decency and friendship should at least have drawn a veil;" "that he took on himself to give to our treaties arbitrary interpretations absolutely contrary to their true sense, and that he left no other indemnification to France for the blood she spilt, for the treasure she dissipated, in fighting for the independence of the United States, but the illusory advantage of bringing prizes into their ports without being able to sell them."—*American State Papers, Foreign Affairs*, volume 1, page 172.

About this time the English were threatening the French West India Islands, the subject of the guarantee. The islands appealed through Genet to our Government for "divers necessary succors of provision, ammunition, and even men," and spoke of—

England coming to take possession of French colonies in the name of a king without dominions, and North America unable to lend a helping hand against the perfidy.—*American State Papers, Foreign Affairs*, volume 1, page 326.

In speaking of this application, Genet in a letter to our Secretary of State of September 18, 1793, petulantly said—

That the Secretary of War, to whom I communicated the wish of our Government of the Windward Islands, to receive promptly some fire-arms and some cannon, which might put into a state of defense possessions guaranteed by the United States, had the front to answer me, with an ironical carelessness, that the principle established by the President did not permit him to lend us so much as a pistol.—*Ibid.*, page 219.

In another letter dated June 8, 1793, he reproached the United States as follows:

The Federal Government should observe the public engagements contracted and give to the world the example of a true neutrality, which does not consist in the cowardly abandonment of friends and at the moment when danger menaces.—*French Spoliations, Executive Document*, 1826, page 193.

And again, November 14, 1793, he made this demand of Mr. Jefferson, our Secretary of State:

I beg you to lay open to the President the decree and the inclosed note, and to obtain from him the earliest decision, either as to the guarantee I have claimed the fulfillment of for our colonies, or upon the mode of negotiation of the new treaty I was charged to propose to the United States, which would make of the two nations but one family.—*Ibid.*, page 281.

Genet proved so turbulent and offensive that Washington dismissed him. But his successor, Mr. Adet, was hardly less imperative in his demands. He wrote our Secretary of State, November 15, 1796, as follows:

The undersigned, minister plenipotentiary of the French Republic, now fulfills to the Secretary of State of the United States a painful but sacred duty. He claims, in the name of American honor, in the name of the faith of treaties, the execution of that contract which assured to the United States their existence, and which France regarded as the pledge of the most sacred union between two people, the freest upon earth. In a word, he announces to the Secretary of State the resolution of a government terrible to its enemies but generous to its allies.—*American State Papers*, volume 1, page 339.

Meanwhile England had captured all the French West India Islands, almost without resistance, enabling one of her historians afterward to record:

Thus, in little more than a month, the French were entirely dispossessed of their West India possessions, with hardly any loss to the victorious nation.—*Alison's History*, volume 3, page 396, chapter 16.

JAY'S TREATY.

The neutrality of our Government and the consequent loss of their islands, coupled with the dismissal of Genet, was of course very irritating to the French; but when they learned of our treaty with Great Britain of November 19, 1794, known as Jay's treaty, their rage was ungovernable. Not to dwell upon this point, it is at least worthy of observation that the provisions of this treaty with England certainly appear quite remarkable when read in connection with the French treaty of amity and commerce of 1778 still in force at the time of the execution of the English treaty. The French treaty is as follows:

ART. 17. It shall be lawful for ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to and enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prizes of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress

of weather or the dangers of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

ART. 22. It shall not be lawful for any foreign privateers not belonging to subjects of the Most Christian King nor citizens of the said United States who have commissions from any other prince or state in enmity with either nation to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be allowed even to purchase victuals except such as shall be necessary for their going to the next port of that prince or state from which they have their commissions.

By article 17 we agreed that no shelter or refuge should be given in our ports of the enemies of France. By article 23 of the British treaty we agree that the ships of war of England, at that very time at war with France, shall at all times be hospitably received. It is as follows:

ART. 23. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and government of the country.—*Jay's Treaty.*

In article 17 of the French treaty we had agreed that French ships of war and privateers might carry whithersoever they pleased the ships and goods taken from her enemies. In article 25 of the British treaty we agreed that no shelter or refuge shall be given in our ports to the ships of war or privateers of the enemies of England; and in article 24 that no privateers of any other nation shall arm their ships or sell their prizes in our ports. These articles are as follows:

ART. 24. It shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties), who have commissions from any other prince or state in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that prince or state from whom they obtained their commissions.

ART. 25. It shall be lawful for the ships of war and privateers belonging to the said parties, respectively, to carry whithersoever they please the ships and goods taken from their enemies without being obliged to pay any fee to the officers of the admiralty, or to any judges whatever; nor shall the said prizes when they arrive at and enter the ports of the said parties be detained or seized; neither shall the searchers or other officers of those places visit such prizes (except for the purpose of preventing the carrying of any part of the cargo thereof on shore in any manner contrary to the established laws of revenue, navigation, or commerce), nor shall such officers take cognizance of the validity of such prizes, but they shall be at liberty to hoist sail and depart as speedily as may be and carry their said prizes to the place mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show. No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties; but if forced by stress of weather or the dangers of the sea to enter therein particular care shall be taken to hasten their departure and to cause them to retire as soon as possible.—*Jay's Treaty.*

From the foregoing it is perfectly clear that Jay's treaty was in plain violation of the French treaty of amity and commerce. Yet our Government acted upon Jay's treaty and closed our ports to the armed vessels of France and their prizes at a time when the stipulated use of them became of vital importance in consequence of the loss of her West India possessions. It is apparent that our Government so acted from the following direction sent by the Secretary of State to Mr. Otis, district attorney at Boston, on the 12th of July, 1796:

Orders have been issued from the Treasury Department to the collectors not to admit to an entry any prizes taken by foreign privateers commissioned by any prince or state at enmity with Great Britain.—*American State Papers*, volume 1, page 240.

Thus it appears that the privileges guaranteed to France were denied her after our treaty with her enemy.

It is a clear principle of international law that a sovereign or state can not rightfully make a treaty contrary to one by which they are already bound. Vattel says:

As the engagements of a treaty impose on the one hand a perfect obligation, they produce on the other a perfect right. To violate a treaty is then to violate a perfect right of him with whom we have contracted, and thus to do him an injury. A sovereign already bound by a treaty can not make others contrary to the first. (Book 4, chapter 3, section 9.)

But it seems our Government did make a treaty with England contrary to our existing treaty with France, whereat France was naturally enough thoroughly exasperated, the president of the French Directory, in a communication to Mr. Monroe, our minister at Paris, characterizing not only the treaty but our whole policy as "a condescension to the wishes of our ancient tyrant."

With the combined powers of Europe against her France was in no condition to seek formal redress, but took revenge upon our commerce. She talked of necessity; and it is true she was in deep distress because of the British embargo and blockade, and to what extent this may have controlled her conduct, and to what extent revenge, is not very clear. Meanwhile the capture of our vessels increased.

NEW EDICTS AND FURTHER SPOLIATIONS.

The Directory issued a new edict declaring that—

The French Republic will treat neutral vessels, either as to confiscation, searches, or capture, in the same manner as neutrals shall suffer the English to treat them—the French.—*French Spoliations, Executive Document*, No. 1826, page 434.

Our Government protested, but with no success. The French colonies caught this marauding spirit of the home government and took a hand themselves. The French agents at Cayenne reported "that having found no resource in finance, and knowing the unfriendly disposition of the Americans, and to avoid perishing in distress, they had armed for cruising, and that already eighty-seven cruisers were at sea; and that for three months preceding the administration had subsisted and individuals been enriched out of those prizes." (*Ibid.*, page 438.)

Not satisfied with the license already granted her privateers the French Government issued, March 2, 1779, still another edict, claiming as lawful prize all American ships if found without a *rôle de equipage*, or a circumstantial list of the crew. But the navigation laws of the United States did not require among a ship's papers any such list, and of course every American vessel was without it, and under this arbitrary and wanton decree liable to seizure and confiscation. The havoc that followed was fearful, but French ingenuity was not yet exhausted nor French malice satisfied, and still another of these barbarous decrees followed, January 17, 1798, which made subject to condemnation "every vessel laden in whole or in part with merchandise coming out of England or her possessions." (Executive Documents 1826, 483.)

All these edicts against neutral ships were in plain violation of the law of nations and constituted at best but a system of nationalized piracy. The great powers of Europe from the first having combined against the French Republic, expected as belligerents that their shipping would suffer from French privateering.

But our neutrality under international law should have kept inviolate our commerce and no doubt would only that the French were determined upon revenge for our disregard of the treaties of 1778; and by plundering our commerce they not only had their revenge, but helped themselves to the very things which in their beleaguered state they most needed.

AMOUNT OF LOSSES.

It should here be remarked that the losses resulting from these spoliations were very great, estimated at one time by our Government at $15,000,000. (Wait's American State Papers, volume 3, page 497.)

Our Secretary of State in 1799 estimated them higher. In a report made to Congress he spoke of them as—

Unjust and cruel depredations on American commerce, which have brought distress on multitudes and ruin on many of our citizens and occasioned a total loss of property to the United States of probably more than $20,000,000.—*French Spoliations, Executive Document* 2826, page 480.

There were eight hundred and ninety-eight vessels and cargoes captured, and probably $15,000,000 is a low estimate of the loss. It should be remembered that this loss was wholly by individuals; not a dollar of it came out of the National Treasury, but every dollar out of the pockets of individuals.

DUTY OF THE GOVERNMENT.

Now, what duty did the Government of the United States owe its citizens whose property was thus taken from them upon the high seas by order of the French Government. These suffering citizens were wholly powerless to obtain redress without the intervention of their Government. The only relief known in the practice of nations is for the government of the citizens thus despoiled to take the matter in hand and compel recompense from the government of the trespassing citizens. If restitution is not made it is just cause for war if the government of the injured citizens sees fit to carry it so far, or the government can if it so choose disregard the insult to its flag and take no notice of the robbery of its citizens; but who would want to live, and much less own ships under such a government?

Now, what did our Government do? It is true the position of the Government was a peculiar one. Here were spoliations by the French cruisers of our citizens for which, under the law of nations, the French Government were clearly liable, and to which our Government must give attention and have redressed if it would not forfeit the respect and devotion of its own people. But our public men of that day must have foreseen that the moment they made claim upon France for these individual losses France would make claim upon our Government for violation of the treaties of 1778; and so it was.

PROMISE TO OBTAIN REDRESS.

But let us first see what our Government did. As early as August 27, 1793, Mr. Jefferson, our Secretary of State, addressed the merchants of the United States the following circular letter:

GENTLEMEN: Complaint having been made to the Government of the United States of some instances of unjustifiable vexation and spoliation committed on our merchants' vessels by the privateers of the powers at war, and it being possible that other instances may have happened of which no information has been given to the Government, I have it in charge from the President (Washington) to assure the merchants of the United States concerned in foreign commerce or navigation that due attention will be paid to any injuries they may suffer on the high seas or in foreign countries contrary to the law of nations or to existing treaties; and that, on their forwarding hither well-authenticated evidence of the same, proper proceedings will be adopted for their relief.—*Senate Documents, first session Nineteenth Congress*, volume 5, page 216, document 102.

President Washington, in his message to Congress of December 5, 1793, spoke of this subject as follows:

The vexations and spoliations understood to have been committed on our vessels and commerce by the cruisers and officers of some of the belligerent powers appeared to require attention. The proof of these, however, not having been brought forward, the description of citizens supposed to have suffered were notified that, on furnishing them to the Executive, due measures would be taken to obtain redress of the past, and more effectual provisions against the future.—*French Spoliations, Executive Documents*, 1826, page 253.

Thus did our Government, in the person of Washington, recognize its duty in the premises and promise these losers that on furnishing proofs "to the Executive due measures would be taken to obtain redress" of their losses. Proofs were promptly furnished.

In the mean time our relations with the French had become painful in the extreme. President Washington had sent away Minister Genet, as we have seen, and the French Directory in turn had recalled Minister Adet from Philadelphia, and refused to receive Mr. Monroe's successor, Charles Cotesworth Pinckney.

NEGOTIATIONS WITH THE FRENCH.

Diplomatic relations between the two governments thus ceased, but the spoliation of our commerce did not cease. The French cruisers still continued their relentless reprisals. For these our Government had promised "to obtain redress," and the "well-authenticated evidence of the same" having been furnished, three special envoys extraordinary, Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, were dispatched to France and instructed specially as to these spoliations by the Secretary of State, July 15, 1797, as follows:

In respect to the depredations on our commerce, the principal object will be to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making the compensation.—*Senate Documents, first session Nineteenth Congress*, volume 5, pages 453-4, Document No. 102.

But our Government knew that when our envoys should reach Paris the subject of the reciprocal guarantee of the treaty of 1778 would be sure to arise; hence the envoys were further instructed as follows:

But if France insists on the mutual guarantee, it will be necessary to aim at some modification of it. The existing engagement is of that kind which, by writers on the law of nations, is called a general guarantee; * * * the nature of this obligation is understood to be that when a war really and truly defensive exists the engaging nation is bound to furnish an effectual and adequate defense, in co-operation with the power attacked; whence it follows that the nation may be required, in some circumstances, to bring forward its whole force.

The nature and extent of the succor demandable not being ascertained, engagements of this kind are dangerous on account of their uncertainty; there is always hazard of doing too much or too little, and of course of being involved in involuntary rupture. Specific succors have the advantage of certainty and are less liable to occasion war. On the other hand, a general guarantee allows a latitude for the exercise of judgment and discretion.

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 at 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 such wars.—*Ibid.*

The envoys reached France in September, but the Directory insolently refused to receive them.

Napoleon, at the head of the army of Italy, was threatening the Austrian capital, and the Directory were busy with those negotiations by which, at Campo Formio, October 17, Austria ceded to the French Republic the Netherlands and Lombardy. They were intoxicated with success, and had no time to listen to the American envoys.

COUNTER-CLAIMS BY FRANCE.

Our envoys were not formally received, but Tallyrand, then at the head of French foreign affairs, communicated with them unofficially, from which it will be seen that he was prompt to claim for the French Republic "indemnities." In a letter to Mr. Gerry, June 15, 1789, he said:

The French Republic desires to be restored to the rights which the treaties with your Republic confer upon it, and through these means it desires to assure yours. You claim indemnities; it equally demands them; and this disposition being as sincere on the part of the United States as it is on its part, will speedily remove all the difficulties."—*French Spoliations, Executive Document*, 1826, page 529.

Meanwhile the spoliation of our commerce continued as before, and the United States began preparations for war. This restored the reason of the Directory, and our Government was informed that another embassy would be received.

Whereupon Oliver Ellsworth, William R. Davie, and William Van Murray were sent with the following instructions, under date of October 22, 1799:

First. At the opening of the negotiation you will inform the French ministers that the United States expects 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 of authority or commissions from the French Republic or its agents.

* * * * * * *

The following points are to be considered as *ultimata*:

First. That an article be inserted for establishing a board with suitable powers to hear and determine the claims of our citizens for the causes hereinbefore expressed, and binding France to pay or secure payment of the sums which shall be awarded.

Second. 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; and whatever damages they award will be allowed by the United States and deducted from the sums awarded to be paid by France.—*Senate Documents, first session Nineteenth Congress*, volume 5, page 562.

OUR ENVOYS OFFER $8,000,000 TO BE RELIEVED OF THE TREATIES OF 1778.

The Directory had passed away and Napoleon was now First Consul. Our envoys were cordially received and negotiations commenced at once. Several propositions and counter-propositions were made by the plenipotentiaries of the two sides, and finally, August 29, 1800, the American envoys offered $8,000,000 to be relieved from the treaties of 1778, and that a commission should be established to ascertain the indemnities due from the French Government to American citizens.

FRANCE WILLING TO SQUARE ACCOUNTS.

In reply to this the French plenipotentiaries submitted the following, September 4:

The indemnities which shall be due by France to the citizens of the United States shall be paid by the United States. And in return for which France yields the exclusive privilege resulting from the seventeenth and twenty-second articles of the treaty of commerce, and from the rights of guarantee of the eleventh article of the treaty of alliance.—*Executive Document*, 1826, pages 615-629.

The French Government was willing to square accounts with the United States, and let the "indemnities which shall be due by France to the citizens of the United States be paid by the United States."

This the American envoys declared "inadmissible" under their instructions, but offered to leave the whole subject to a commission. The French plenipotentiaries urged this mutual set-off, "giving as one reason the utter inability of the republic to pay any money in the situation in which she would be left by the present war." (*Ibid.*, page 633.)

This was precisely the trouble with our Government; we were still involved on account of our war debt, and in no condition to assume the payment of the large sum of money which these spoliation claims called for. Our Government had promised "to obtain redress" for these sufferers, had taken charge of their claims for that purpose and demanded payment of the French; now, if the United States should barter these individual claims of her citizens to France in satisfaction of a claim which France had against us as a nation for the violation of treaties, then, upon the plainest principles of justice and law as well, our Government would be liable to these individual claimants for the claims thus appropriated to its own use, and in honor at least it would be obliged to pay them at once. No excuse could be offered for delay.

Our Government was not prepared to settle on this basis. Our envoys held the proposition "inadmissible," and yet we shall see that precisely this was the settlement at last.

At this juncture our envoys, seeing that no money could be obtained from France and not wishing to fasten liability upon the United States for these claims, proposed:

That the parties put off to another time the discussion of the indemnities and the treaties.—*Ibid.*, page 687.

Negotiations followed which resulted, September 30, 1800, in a new treaty—called convention—in which the difficulties between the two countries were for the time being amicably composed.

These spoliation claims were disposed of as follows:

ART. 2. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of February 6, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, 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—*Statutes at Large*, volume 8, page 178.

"Indemnities mutually due or claimed," namely, the claims of our citizens for ships and cargoes captured and the counter-claims of France for violated treaty obligations were postponed, indefinitely postponed, and until they should "be agreed upon" the old treaties were to have no operation. If never "agreed upon," then the treaties were forever abrogated. By this arrangement our commerce was relieved from further spoliations, our Government relieved from the treaties until it should free France from the claims due our citizens, and France was relieved from these claims till she should demand of our Government compensation for failure to keep the reciprocal guarantee. Thus a temporary understanding was reached which our envoys thought preferable to a final settlement by way of set-off, for then our Government could offer no excuse for not settling with these claimants. As it was the Government could pacify the claimants with the promise to reopen the matter at some more auspicious time. This convention was concluded at Morfontaine, the country seat of Joseph Bonaparte, the chairman of the French plenipotentiaries, and was made the occasion of an elegant entertainment, at which Napoleon, still First Consul, was present. La Fayette also, whose release from an Austrian prison Napoleon had just procured, was present and shared in the festivities over this initial step in the reconciliation of the two republics. The First Consul, however, it seems could not forbear reminding us of the treaty of alliance and of our early obligations. He proposed this toast:

The manes of the French and the Americans who died on the field of battle for the independence of the New World.—*Memoires due Roi Joseph*, tome 1, page 94.

This was the first convention of the consular government, and was closely followed by several others with the European powers which gave the Republic a brief day of peace. In speaking of this event, M. Thiers, as was the habit of Frenchmen of that generation, kept up in his history the reminder of Napoleon. He says:

It was natural that the reconciliation of France with the different powers of the globe should begin with that republic to which she had in a measure given birth.

Of the terms of the convention itself, he says:

The First Consul had allowed the difficulties relative to the treaty of alliance of 1778 to be adjourned; but, on the other hand, he had required the adjournment of the claims of the Americans relative to captured vessels.—*Histoire du Consulate*, tome 2, liv. 7.

FINAL SETTLEMENT BY SET-OFF.

Now, let us see what became of this convention. It was of course ratified by the First Consul and became binding upon France.

But when the convention was submitted to the United States Senate for ratification that body thought article 2 quite too indefinite, and accordingly expunged it and added a provision that the convention should "be in force only eight years." (Statutes at Large, volume 8, page 192.)

The convention as amended was returned for the concurrence of the French Government. On the 31st of July, 1801, that government ratified it in the following language:

Bonaparte, First Consul, in the name of the French people, the consuls of the republic having seen and examined the convention, * * * approves the above convention. * * * 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.—*Laws United States.*

Here was an important modification, "provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article." This was the old proposition of set-off submitted by the French plenipotentiaries September 4, 1800, which our envoys held inadmissible. What did our Government say to it now? Jefferson, then President, submitted the convention with Napoleon's proviso to the United States Senate, and it was ratified by 22 yeas to 4 nays; and December 21, 1801, the President issued proclamation enjoining observance of the same and "every clause and article thereof." (*Ibid.*)

Here was at last a settlement of this vexatious controversy which had seriously threatened the peace of our country. France released the United States from the burdensome treaties of 1778, and the United States released France from the large sums of money due our citizens for captured ships and cargoes. The Government of the United States thus appropriated to its own use in payment of a debt against itself these claims which were the private property of its citizens, and for which the Government had promised these citizens when it took possession of them "to obtain redress;" not simply "redress" of the French, but "redress" for claimants, precisely as our Government has since repeatedly "obtained redress" for our citizens from different foreign powers for similar spoliations of our commerce.

KIND OF REDRESS PROMISED.

Since this treaty with the French of 1801 we have collected of France for spoliations of our commerce, at one time, $4,687,224, for 357 vessels captured; and at another time, $3,748,928, for 361 vessels; every dollar of which was distributed to the losers. We have also collected since that time, of Denmark, $664,872 for 112 vessels; of Naples, before its annexation to the kingdom of Italy, $1,924,995 for 51 vessels; of Spain, at three different times, a total of $5,385,440 for 380 vessels; of Mexico, $1,127,112 for 64 vessels; of Colombia, $57,372 for 5 vessels; of England, in 1806, $6,314,724 for 217 vessels; and again, of England at Geneva, $15,500,000 on account of her responsibility for the insurgent cruisers which left her ports and laid waste our commerce during our recent rebellion. In all these cases the money thus collected has been distributed to those suffering the loss, except a portion of the Geneva award, which is now in the hands of a commission and will soon be distributed. This is the kind of "redress" our Government promised when it took these claims, and the kind it has obtained for all other spoliations of our commerce. And yet these losers whose claims were bartered by our Government to France to buy up the treaties of 1778 have never received a dollar of their losses; and their grandchildren and great-grandchildren are now before Congress asking for what has been due since the year 1801. What would be thought of the lawyer who should settle some claim against himself with the claim of his client left for collection, and refuse to account for it; or what of the trustee who should convert to his own use trust funds and refuse to make restitution? And yet our Government has stood in this very attitude for the last eighty-two years.

In the cases supposed the law would give the injured party prompt redress. All these claimants can do, however, is to appeal to the sovereign power of the Government as vested in Congress and the President. This is their only way to relief. The Constitution may provide, as it does, that "private property shall not be taken for public use without just compensation." International law may declare, as Vattel says in book 4, chapter 2, section 12, "that when the property of a subject is disposed of by treaty, as the sovereign has a right to do, inasmuch as it is for the public advantage that he thus disposes of it, the state is bound to indemnify the citizens who are sufferers by the transaction." And yet these sufferers are powerless to obtain what the Constitution and public law thus plainly guarantee to them unless Congress provides the relief. If we refuse this relief we disregard not only the practice of nations but a plain provision of our Constitution. We refuse to be just to our own citizens. Can we afford it?

CONCLUSION.

This whole business is anything but creditable to the American name. In the first place, our Government failed to keep its treaties, the obligations of which were solemnized by the blood and treasure of its ally and friend. And then when, as the result of this bad faith, our citizens were plundered by the privateers of the people thus outraged, our Government took the claims of these plundered citizens, promising to obtain for them indemnity, but instead of doing so used them to pay a debt of its own, and ever since has refused these citizens any satisfaction whatever, in disregard not only of our promise but of our practice in all similar cases since the foundation of the Government; in disregard also of the plain requirements of our Constitution and of public law, no less than of the plain dictates of common sense and common justice.

Here is a twofold national disgrace—first, because of our faithless conduct toward the French Republic; and, second, because of the dishonorable treatment of those of our own citizens who were the unfortunate victims of that faithless conduct.

Can we longer afford this standing scandal against our Government? Can we longer afford to keep the brief volume of our history open at this unsavory chapter? For one, sir, I am in favor of speedily and forever closing it by a prompt settlement of these claims.

The Tariff.

SPEECH

OF

HON. ROBERT KLOTZ,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the report of the committee of conference on the bill (H. R. 5538) to reduce internal-revenue taxation.

Mr. KLOTZ said:

Mr. SPEAKER: It appears by the action of the House this morning that the committee has abandoned the tariff bill. It has been discussed in this House during the two sessions of this Forty-seventh Congress, and by the business community in the States, especially the manufacturing portion thereof, who have had the Tariff Commission perambulating over the whole United States taking the opinions of manufacturers and dealers, apparently endeavoring to collect such statistical information on all subjects, with a view to make an intelligent and impartial report to Congress.

Considering the irregularities and hardships connected with our present tariff system, made years ago, and which may at that time have suited the country well enough, I state now, what everybody knows, that the country has outlived the usefulness of the provisions of that law. Distances have been shortened, space has been annihilated, machinery has been improved, and cities have been built as if by magic. The introduction of railroads, telegraphs, and the indomitable spirit of American enterprise have altered the condition of things to such an extent that what was equity then is not satisfactory now.

Tariff, after all, is only a local question, for the States of Texas and Ohio want tariff on wool; the Carolinas, Louisiana, and Mississippi want tariff on sugar, cotton, and rice; the tobacco-growing States want tariff on tobacco, while the States bordering on the lakes want protection on grain, lumber, and salt; the Eastern States on their manufactured goods of all descriptions, while Ohio, New Jersey, and Pennsylvania insist on a protective tariff on their great staples, such as iron and steel in all its branches, from the time it is taken out of the ground until it has passed through all its stages of manufacture.

Therefore I repeat that the tariff issue is a local matter, for each section or community seems to express a willingness to have a tariff on its own productions, but not on what they are obliged to purchase. This is one of the reasons why it is so difficult for this body to pass a law that will satisfy everybody, each one feeling honor-bound to advocate the interests of his own constituency. This, sir, has caused much agitation and delay, and finally disheartened the committee so as to cause them to abandon the House bill.

The necessities of a revision of the tariff are acknowledged on all sides, and we have therefore to look to the Senate bill for relief in order, if possible, to get a bill to come as near as possible satisfying the country and giving renewed confidence to the business community so that labor may be employed and prosperity may again reign in all our borders. The interests of the State which I have the honor in part to represent must not and dare not be overlooked by this great body of lawmakers.

While I am willing to concede the just claims of all interests represented in this great issue, I do insist that the schedule on iron and steel, in all its branches, is too low to permit of successful competition with foreign manufacture.

As no one within the sound of my voice is willing to bring the earnings of the laboring man and mechanic of this country on a par with that of those employed in Europe, why not, I ask, take up the Senate bill and see whether it can not be amended so as to avert the disaster which now threatens to destroy our enterprise in which millions of capital is invested and hundreds of thousands of men are employed? Although within a few days of the end of this Congress, I confidently believe we can yet be brought together to pass a satisfactory tariff bill, which will, I trust, protect both capital and labor, but which will be so framed as to prevent monopolies and other institutions which have for their object personal aggrandizement.

Anti-Monopoly Transportation.

SPEECH

OF

HON. E. W. ROBERTSON,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, February 28, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. ROBERTSON said:

Mr. CHAIRMAN: During the six years that I have been a member of this House it has been my pleasure to give special attention to the improvement of the Mississippi River—a subject of transcendent importance to the people of my State. In the performance of this pleasant duty I have favored and advocated separate consideration of the Mississippi and opposed the principle of the river and harbor bill. I still think the true theory is separate consideration of the Mississippi, for it is an exceptional river, governed by natural laws of its own and entitled to exceptional treatment.

But theory and practice are two different things, particularly when the water ways of nature and cheap transportation are antagonized by railway monopolies. The savage warfare against the river and harbor bill which the press of New York and New England inaugurated last session, and which still continues, convinces me that a new principle is involved, a conflict between monopolists and the people. I propose, therefore, to take a practical view of this question and act in harmony with the new circumstances.

Now, what are the facts? Take a recent map of the United States and you will find a network of railways spread over the length and breadth of this great country to the extent of about 110,000 miles. I make no complaint about this. On the contrary, I rejoice at the rapid advance of these agencies of development, commerce, and civilization. In themselves they are the greatest material blessing ever bestowed upon a young and ambitious nation. But I do complain at the abuse of this tremendous power by a band of grasping monopolists.

In the hands of these expert railway princes a transportation map of the United States is like a chess-board before an expert player or an army under the command of a great general; by skillful combinations they win every game in a contest with the producers and consumers. These combinations into great systems are not limited to States or sections, but are transcontinental in extent; their capital, influence, and power is so enormous as to affect the legislation of both the State and Federal Governments; at times they influence the judiciary; by subsidizing the press they even distort public opinion.

Until the people learn how to play a better game they must expect excessive burdens upon the transportation of their products. Thanks to the natural water ways of this country, the people have a transportation map of their own—a chess board on which they can successfully compete with the would-be monopolists. The Mississippi and its forty-two navigable tributaries offer facilities for cheap transportation to the extent of 16,000 miles, intersecting some twenty-one States and Territories. The other rivers of the United States are navigable to the extent of at least 10,000 miles more. To this we must add the great lakes, the coast lines, and the canals, and we have facilities for water transportation to the extent of at least 50,000 miles.

These water lines may by wise management become the regulators of the railways and check their abuses in the shape of excessive transportation rates. Herein lies the power and usefulness of the river and harbor bill. It is a combination of the people's highways against a combination of the monopolists' highways. It is nature against art, cheap lines against costly ones. The people of this country know what they want, and are not afraid to ask for it, regardless of the clamor of the press and veto messages.

The representatives of the people during last session displayed a courage and strength truly magnificent when they almost instantly passed the river and harbor bill over the President's veto. Then was unsheathed an anti-monopoly weapon more effective than interstate-commerce bills, resolutions for regulation of railways, granger societies, or anti-monopoly leagues and platforms. It was the majesty of the people publicly displayed in the Halls of the National Legislature and before the eyes of the press and public. The people thereby proclaimed to the railway monopolists that they had transportation facilities of their own; that they would improve and protect them; that their products should no longer be taxed to death on the way to the markets of the world; that thereafter they would not be slaves of common carriers.

Rejoicing as I do over this great victory of the people, I regret that the representatives of the Northern wing of the Democratic party—a party in name, theory, and long-continued practice devoted to the liberties and welfare of the people—did not participate in this victory, but with five or six exceptions blindly played into the hands of their great rival—the monopoly party. And, strange to say, many of the great leaders of the Republican or monopoly party blindly played into the hands of the people.

Had these Northern Democrats followed the teachings of their foremost and wisest leader, ex-Governor Horatio Seymour, whose earnest advocacy of free canals in New York State resulted in a wholesome restraint upon the railway monopolists of that great State, they would have seen in the river and harbor bill a similar check upon the transportation monopolists of the whole United States. If the people of a single State can regulate their local water ways, can not the General Government regulate national water ways? To ask the question is to answer it. The law upon this subject is clear and explicit, for the Supreme Court of the United States has said in unmistakable terms that the navigable rivers—

Constitute navigable waters of the United States within the meaning of the acts of Congress, in contradistinction from the navigable waters of the States, where they form, in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water.

This language is most emphatically clear and conclusive as to the law. Northern Democrats can not dispute it, hence they must justify their opposition to the river and harbor bill on questions of policy. Can they do it? Is it policy, or good statesmanship, or Democratic to vote against the interests of the producers and consumers who comprise the people? Can they afford to stab the cause of cheap transportation, and train in the ranks of the monopolists? I think not. It is undemocratic. It is a blow at the fundamental principles of their own party—a party which has always been proud to call itself the party of the people.

He has studied the history of this country to little purpose who does not see in railway monopolies a gigantic and grasping power which, if left unrestrained by wholesome legislation, will continue to be an impending danger to Democratic theories of government. It is a power far more dangerous and alarming than that of the national banks—far more insidious and unscrupulous. Nature herself has supplied us with navigable rivers to restrain this power. If we are true to the welfare of the people we will use the weapon thus given us to protect them from oppressive transportation rates upon their products and commerce.

Rates of Pensions.

SPEECH

OF

HON. CHARLES H. VAN WYCK,

OF NEBRASKA,

IN THE SENATE OF THE UNITED STATES,

Wednesday, February 28, 1883.

The Senate having under consideration the bill (H. R. 1410) to amend the pension laws by increasing the pension of soldiers who have lost an arm or a leg in the service—

Mr. VAN WYCK said:

Mr. PRESIDENT: The Senate will indulge me in stating the reason, substantially, why a portion of the Committee on Pensions reported in favor of the House bill. A majority of the committee were in favor of an increase of pension to this class, and possibly to other classes of cases, while a minority of the committee proposed an indefinite postponement.

Each of the other amendments has been fully explained. While the bill as passed by the House is so plain and simple as to need no explanation, the principal object of myself and colleague on the committee who recommended the passage was that if there was any relief in this direction, if at this session there should be any increase, it could be more certainly through the passage of the House bill.

Unfortunately this bill has been detained until the last days of the session. It should have been here earlier, and it is the fault of the majority of the committee, I admit; it is the fault of the friends of the measure on this side of the House that the bill was not promptly submitted for the consideration of this body during the last session. My friend from Delaware [Mr. SAULSBURY] says that there is not sufficient information and he wants still further delay. While not really opposing the principle of the measure, he thinks he is not sufficiently informed, whereas the committee have delayed, have sought all the information that could possibly be obtained, till we are near the end of a Congress, and no further information can be procured.

We have the facts and figures spread out in the different reports which have been presented. Then the only question that arises is, shall there be any relief of this kind, shall there be any increase of pensions? My friend from Kentucky [Mr. WILLIAMS] said very properly, and I cordially agree with him, that there is no animosity on his part; certainly not. It will not be found, because he and other gentlemen on that side of the Chamber from the South have voted with great liberality upon pension bills in special cases. I know my friend from Kentucky has been earnest in doing that; I know that he was so anxious to have special

bills passed that he was ready to vote double pension, as in the case of General Burnett, and it was impossible to restrain him any more than it was the Attorney-General of the United States. So of course he has a right to claim that and be proud of it.

The Senator says that pensions were not accorded to their soldiers. Certainly. They may be unfortunate; and I will say to my friend that had the confederate army succeeded in establishing a confederacy in the South, had they planted themselves where their brave soldiers sought to plant them, and given them an independent existence among the nations of the earth, I say to him and to his friends on that side of the Chamber that such confederate nation would never have suffered a confederate soldier to have been begging for bread upon the streets; you never would have suffered the widow or orphan children of those who fell to linger through life without shelter and subsistence. You would never have allowed a crippled soldier with a hand-organ to be seeking a precarious subsistence upon the streets of your cities. While this misfortune may attach to the soldiers to which my friend refers, yet the chances of war were taken, and unfortunately for them, unfortunately for him also; yet we have a right to refer to the fact that the portion of the United States that was successful pledged to those who entered their armies they would take care of the orphans and the widows of those who fell. That was the nation's promise. The nation promised the soldiers when they went from their homes that those who came back crippled and maimed should be protected and saved from want during the remnant of their days. That promise which the nation made was honestly made, and all we ask is that it shall be faithfully kept.

The nation which made this promise exists to-day, and we have as much right to claim this promise shall be religiously kept as the faith of this nation which was pledged to our public creditors. It will not do for gentlemen on either side of the Chamber to set down in figures, in dollars and cents, what it will cost to do justice to this class of our veteran soldiers. You did not do it when we were in the struggles of war. You stood up boldly and manfully here and in every corner of this nation, and you pledged the last man and the last dollar to carry on the war. We did it here; we did it at home. This nation understood it; the people of the South understood it; the nations of the earth understood it; and when the proposition was made looking toward a repudiation of a debt which saved our nation, which was looked upon at one time in the subjugation and defeat of the Southern army as important almost as the soldiery upon the field, and when attempt after attempt was made to repudiate that debt, even by reducing the interest or in any other way, the allegation was that the solemn faith of the nation had been pledged. The solemn faith of the nation had been no more pledged to the payment of the public debt than it had been to the care and sustenance of the families of soldiers who might have fallen on the field or those who came home crippled and disabled from the war.

We have a right now to ask this, because in the years gone by they needed not the same care as now. It is nearly twenty years from the battlefields where they lost limbs or incurred disability. Every recurring year adds to the disability and makes it still more impossible for them to sustain themselves by the drudgery of labor. We promised them honorable positions in Government service. We have not kept that faith, although we on this side of the Chamber and our administrations have had the power to do it. That pledge, that promise, has not been kept. They have been turned away from the doors of our Departments when they were seeking positions which we honestly promised them.

Take the list of the employés of your Government to-day and see how meager is the number of those who have received a part of the promise of this nation that after the war was closed they should be invited in to fill these places and occupy those seats. Now we are called on to fulfill the other part of the pledge. We can give them in money an addition to the pittance they are now receiving, so that they may be under no necessity to beg for bread. This much we can do, and in my judgment it is our duty.

Gentlemen claim it will cost a few millions. I would say to my friend from Delaware it may cost $5,000,000. This Congress has been struggling in both branches for weeks and months to see how they could relieve an overtaxed people, an overflowing Treasury, by reducing receipts from customs and internal-revenue duties.

A full Treasury has been the source of temptation for schemes of plunder, and the result was that at the last session $20,000,000 was generously appropriated in the river and harbor bill. When the people set their seal of condemnation Congress turned penitently to them and said, "We will do so no more; we will remove the temptation; we will keep money from flowing into the Treasury." We have labored week after week to stop the inflow, and have not succeeded and probably shall not. As much will be collected from impost as has been in the years gone by. Unfortunately the money still flows into the Treasury. Let us make an effort to distribute it where it should properly go, redeeming the nation's pledge, and beyond corrupting influence.

Mr. President, it will not do for us to be higgling about the few million dollars these pensions will cost. With lapse of years should not come less appreciation.

Strange, the Committee on Military Affairs lately reported denying the privilege of tents to the old veterans for reunions. The soldiers in some localities have reunions and are allowed the use of Government tents. At last these gentlemen discover it is expensive; it costs a few thousand dollars yearly for repairs. They say to the veteran soldiers, twenty years after the war, "This must be stopped; it is costing some money; tents are injured." Gentlemen fail to remember the fact that these tents are mildewing and will injure more by mildew than by a few days' use.

The Military Committee seemed to have thought this privilege, costing the Government a few thousand dollars, must be denied at a time when money in the Treasury is abundant. These tents are used principally in the frontier States, where are no large rooms for assembling. You deny the old soldiers the enjoyment to gather around their camp-fires and live over the years of war, and if the present tariff is retained on lumber it will be beyond their ability to build barracks for temporary purposes.

Why now deny this privilege? Another twenty years from the war and this vast army of veterans will answer roll-call and gather in reunions with the patriots who have gone before.

It is no answer to say that the pension laws now are unjust. Undoubtedly they are. It is no answer to say that there is improper discrimination in the pension laws; as certainly there are. That is no reason why there should be a denial of justice to those entitled. You say there have been frauds, frauds in the last pension act. Certainly, but that is no reason why there should be a denial of justice. There are frauds in the execution of all laws, and there may be in this.

The Senate will excuse me for having occupied so much time. I merely wished to call attention to the fact that this body, the House of Representatives, and the whole country should be willing that justice be done a class of soldiers in the war who have become almost totally disabled, whether from loss of limb or from any equivalent disability which renders them powerless to obtain sustenance during life.

Education.

SPEECH

OF

HON. JUDSON C. CLEMENTS,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 24, 1883.

The House having under consideration the bill (H. R. 6158) to aid in the support of common schools—

Mr. CLEMENTS said:

Mr. SPEAKER: I would be very glad if it were possible that we could act in accordance with the suggestion of the gentleman from Kentucky [Mr. WILLIS] who has just taken his seat, and that the House might take a vote this evening, if not on the bill, at least upon ordering the previous question, so as to secure final action upon the bill. It may be that we can not in good faith ask a vote to-day in view of the announcement made by the chairman of the Committee on Education and Labor [Mr. SHERWIN], who has charge of the bill. I did not hear that announcement, and do not know what it was, but unless the previous question is ordered this evening I very much fear that the measure will be antagonized by other bills having preference under the rules, and that we will not again be able to consider this bill in the few remaining days of the session.

I desire now briefly to discuss the general provisions and purposes of the proposed measure, and if it is intended that we vote this evening, I must not detain the House long. For several years past there have been measures proposed in each Congress looking to the education of the people. There has been a constant and growing public sentiment in favor of this cause, and especially in favor of providing the necessary facilities for curing the present appaling illiteracy in the Southern States. This sentiment is not confined to that section, the one more directly affected, but exists in all parts of the Union, if we may judge from the many numerously signed memorials from the people, the memorials of State Legislatures and intelligent bodies of the most efficient educators throughout the country, irrespective of political party bias, for this is a question far above political partisan considerations. It has not, therefore, become a hobby of any political party, but finds advocates among thoughtful, patriotic, and just men of all parties. The bill which has been read before the House proposes an appropriation of ten million dollars a year for five consecutive years, to be apportioned among the States and Territories and the District of Columbia on the basis of illiteracy. It provides that the share of each State shall be turned over to the proper State officials for application and disbursement by them under the State laws, wholly free from Federal supervision or interference; but requires the States to provide for the maintenance of schools for the free common-school education of all their children of school age for at least three months in each year. Then the bill requires reports to be made by the State authorities to the Commissioner of Education for the United States. These are the main provisions of the bill briefly stated. I will not now go into a more detailed statement of its provisions.

That this aid is sorely needed in the States of the South is not denied. That those States are unable to afford the necessary facilities for education to meet the necessities of the present in this respect will hardly be denied. The reasons for this inability on their part must be patent to all.

That the Federal Government is morally and equitably bound to grant assistance I think cannot be successfully denied. To establish the first proposition, as to the necessity—*pressing* necessity—of aid, I need present no other evidence than the following statistics, showing the frightful percentage of illiteracy among the voters of those States, the number of voters who cannot write, and yet upon whose votes is to depend in a great measure the welfare of those States and of the whole country:

Table showing percentage of illiteracy among the voters in the Southern States.

States.	Total number of males of twenty-one years of age and upwards.	Number of males of twenty-one years of age and upwards who cannot write.		
		White.	Colored.	Total.
Alabama	259,884	24,450	96,408	120,858
Arkansas	182,977	21,349	34,300	55,649
Delaware	38,298	2,955	3,787	6,742
Florida	61,699	4,706	19,110	23,816
Georgia	321,438	28,571	116,516	145,087
Kentucky	376,221	54,956	43,177	98,133
Louisiana	216,787	16,377	86,555	102,932
Maryland	232,106	15,152	30,873	46,025
Mississippi	238,532	12,473	99,068	111,541
Missouri	541,207	40,655	19,028	59,683
North Carolina	294,740	44,420	80,282	124,702
South Carolina	205,789	13,924	93,010	106,934
Tennessee	330,305	46,948	58,601	105,549
Texas	380,476	33,085	59,669	92,754
Virginia	334,505	31,474	100,210	131,684
West Virginia	139,161	19,055	3,830	22,885
Total	4,154,125	410,550	944,424	1,354,974

The fearful and unprecedented loss of property by the people of those States during and following the late war, I need hardly say in this presence, left them without the means to provide adequate facilities for education. It is difficult for those who were not eye-witnesses to the condition of the people of that section to realize what that condition was at the close of the late struggle. Our currency was destroyed; in many instances houses and farms destroyed. Farmers were without the ordinary farming utensils or the means to buy them. Provisions were so exhausted in many localities traversed and re-traversed by the armies at different periods during the war that there was suffering for want of the actual necessities of life.

Then followed the tortures of the reconstruction period, greatly retarding the recuperation of the States and involving them in debt and discredit. But it is not my purpose to dwell upon these points. The wreck of property by the war in those States has no parallel in the history of the country. In 1860 the aggregate value of their property, including slaves, was $5,426,041,724. In 1870, $3,553,757,000, showing a decrease of $1,872,284,724. In 1860 the assessed value of all property in Georgia, as shown by the census, was $618,232,387. In 1870 it had fallen to $227,219,519, showing a decrease of $391,012,868. This is a fair illustration of the general loss of property in those States. When we add to this the difficulties growing out of the great enhancement of the public indebtedness of those States, and the embarassments growing out of the same, as well as the embarrassed condition of the individual tax-payers, especially the debtor class, it is not strange that these States have not been able to do more for the promotion of common schools within their borders. They are making commendable progress in this respect. In nearly every one, if not in all of them, each year shows more gratifying results as to the amounts devoted to this purpose and the number of children taught.

At the close of the war nearly one-third of the population of the States referred to had been suddenly transformed from a condition of slavery to that of freedom and citizenship; almost wholly illiterate and without the necessary preparation for an intelligent and proper discharge or appreciation of the duties, responsibilities, and privileges of their new condition. The South is not alone responsible for the former slavery of the colored people; it is certainly not responsible for their emancipation and citizenship. I wish to be understood. I am not referring to these things by way of complaint, but I am speaking plainly of them because we must deal with facts as they exist. The Southern States are making a *bona fide* effort for the education of this race, but I submit that, in view of the facts of history, it is not just to those States that the whole burden should be cast upon them, nor would it be reasonable to expect them very soon, in their impoverished condition, to accomplish the work.

It is objected that this would be a new departure on the part of the government, and that it is not authorized by the Constitution, but I will not discuss that question within the short time I wish to occupy the attention of the House, except to say that this is hardly an open question in view of the many precedents donating public lands to the States for educational purposes. Where is the difference in principle between the appropriation of money for that purpose and the donation of lands which practically are equivalent to so much money, for the same purpose? We are not asking this appropriation merely as beggars, but we insist upon it on the broad ground of justice and equity.

Some of the older States which would share largely in the fund have peculiarly strong equitable grounds for asking for this appropriation. I refer to those States which have heretofore ceded large areas of territory to the general government, as many of them have, notably Virginia and Georgia. Virginia ceded the great northwestern territory from which several great States have since been formed. Georgia once owned and ceded to the government nearly all of that territory now composing the States of Alabama and Mississippi. Thus, in their generosity and devotion to the government, these States, Virginia and Georgia, ceded these immense sources of income and wealth; but they did it for certain specific purposes, to which I desire to ask the attention of the House. The act of the General Assembly of Virginia of 1783, authorizing the cession of her territory, required the following to be incorporated in her deed of cession:

That the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the Confederation, or Federal Alliance, of the said States (Virginia inclusive), according to their usual respective proportions of the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose and for no other use or purpose whatsoever.—*Act* Dec. 20, 1783.

Georgia in her deed of cession incorporated the following:

Thirdly. That all the lands ceded by this agreement to the United States shall, after satisfying the above-mentioned payment of $1,250,000 to the State of Georgia and the grants recognized by the preceding conditions, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that use and purpose, and for *no other use and purpose whatever*.

Notwithstanding the plain requirements in these clauses respectively, that in the uses and benefits of this public domain for all the States, those ceding it were to share equally (but this they have not done), large quantities of it have again and again been given by the General Government to States formed upon it for educational and internal improvement purposes.

The following statement of the disposition of much of this public domain will show how unjustly the older States, including those that have ceded to the government so much, have been discriminated against. It is true that under the act of 1862 Georgia and Virginia received their quota of the land-scrip, under a general distribution according to population in which all the States shared on equal terms, but this did not remedy the great inequality and injustice shown by these figures.

Statement of the grants to States and reservations to Territories for school purposes.

States and Territories.	Total area.	Dates of grants.
SECTION 16.	*Acres.*	
Ohio	704,488	March 3, 1803.
Indiana	650,317	April 19, 1816.
Illinois	985,066	April 18, 1818.
Missouri	1,199,139	March 6, 1820.
Alabama	902,774	March 2, 1819.
Mississippi	837,584	Mar. 3, 1803; May 19, 1852; Mar. 3, 1857.
Louisiana	786,044	April 21, 1806; February 15, 1843.
Michigan	1,067,397	June 23, 1836.
Arkansas	886,460	Do.
Florida	908,503	March 3, 1845.
Iowa	905,144	Do.
Wisconsin	958,649	August 6, 1846.
SECTIONS 16 AND 36.		
California	6,719,324	March 3, 1853.
Minnesota	2,969,990	February 26, 1857.
Oregon	3,329,706	February 14, 1859.
Kansas	2,801,306	January 29, 1861.
Nevada	3,985,428	March 21, 1864.
Nebraska	2,702,044	April 19, 1864.
Colorado	3,715,555	March 3, 1875.
Washington Territory	2,488,675	March 2, 1853.
New Mexico Territory	4,309,368	September 9, 1850; July 22, 1854.
Utah Territory	3,003,613	September 9, 1850.
Dakota Territory	5,366,451	March 2, 1861.
Montana Territory	5,112,035	February 28, 1861.
Arizona Territory	4,050,347	May 26, 1864.
Idaho Territory	3,068,231	March 3, 1863.
Wyoming Territory	3,480,281	July 25, 1868.
Total	67,803,919	

No grants to Indian and Alaska Territories.

Lands in sixteenth and thirty-sixth sections in Territories not granted, but reserved.

Lands in place and indemnity for deficiencies in sections and townships, under acts of May 20, 1826, and February 26, 1859, included in above statement.

UNIVERSITY GRANTS.

The following statement shows the number of acres granted to the States and reserved in the Territories of Washington, New Mexico,

and Utah for university purposes by acts of Congress, the dates of which are given in proper column:

Grants and reservations for universities.

States and Territories.	Total area.	Under what acts.
	Acres.	
Ohio	69,120	April 21, 1792; March 3, 1803.
Indiana	46,080	April 19, 1816; March 26, 1804.
Illinois	46,080	March 26, 1804; April 18, 1818.
Missouri	46,080	February 17, 1818; March 6, 1820.
Alabama	46,080	April 20, 1818; March 2, 1819.
Mississippi	46,080	March 3, 1803; February 20, 1819.
Louisiana	46,080	April 21, 1806; March 3, 1811; March 3, 1827.
Michigan	46,080	June 23, 1836.
Arkansas	46,080	Do.
Florida	92,160	March 3, 1845.
Iowa	46,080	Do.
Wisconsin	92,160	August 6, 1846; December 15, 1854.
California	46,080	March 3, 1853.
Minnesota	82,640	March 2, 1861; February 26, 1857; July 8, 1870.
Oregon	46,080	February 14, 1859; March 2, 1861.
Kansas	46,080	January 29, 1861.
Nevada	46,080	July 4, 1866.
Nebraska	46,080	April 19, 1864.
Colorado	46,080	March 3, 1875.
Washington Territory	46,080	July 17, 1854; March 14, 1864.
New Mexico Territory	46,080	July 22, 1854.
Utah Territory	46,080	February 21, 1855.
Total	1,165,520	

Lands in the Territories not granted, but *reserved*.

In addition to this there has been allowed from the proceeds of lands sold by the government to the States wherein they lie, what is known as the three and five per cent. fund, making in some of these new States a large revenue for educational purposes, but no equivalent has been given to the older States where there is no public land, not even to those making liberal cessions to the general government, upon express stipulations requiring a faithful disposition of the same for the equal benefit of all the States. Many millions of acres have been given to railroad companies.

Let me appeal to every gentleman's sense of justice and ask if the Federal Government has faithfully performed its trust in a just disposition of these lands for the equal benefit of all the States? When we were trying to have a day set apart for the consideration of this bill, some of the gentlemen from Illinois and perhaps Indiana objecting to it stated that their States already had magnificent school systems and that they were able to take care of their own illiterates. I doubt not this statement, nor would I detract one iota from the magnificence of their school systems. I congratulate these gentlemen. These systems are a part of the national pride; but I would remind these gentlemen that their magnificent school systems have been in a great measure founded and built up and are fostered by the generous donations of lands from the government that were generously ceded by some of the older States.

I am not going to enter further into a general discussion of this bill, but wish to say a word in regard to one question which has been raised here. Some of our friends on this side of the House particularly, or from the Southern States, have objected that under the provisions of the third section they would not perhaps be allowed to receive the amount they are entitled to, owing to the peculiar wording of that section. In order to remove any doubt upon that question, I desire to offer an amendment, which I now ask the Clerk to read.

The SPEAKER *pro tempore*. Does the gentleman offer the amendment for information or to be acted upon?

Mr. CLEMENTS. At present for information only, as a part of my remarks.

The Clerk read the proposed amendment, as follows:

In section 3, between the word "the" and the word "laws," in the sixth line, insert the following: "general municipal, county, district, and parish."

Also, between the words "expended" and "during," in the eighth line, insert the following: "under such general and local laws."

Mr. CLEMENTS. Now, Mr. Speaker, that section, after being amended, if that amendment should be adopted, will read as follows:

SEC. 3. That before any State or Territory shall be entitled to receive its share of said fund it shall have provided by law for the free common-school education of all its children of school age, without distinction of color, for at least three months in each year, from the funds provided for schools under the general, municipal, county, district, and parish laws of said State or Territory; and in no case shall any State or Territory be allowed out of said fund a greater sum than such State or Territory shall have expended under such general and local laws during the previous year for the common-school education of the children of such State or Territory, &c.

Mr. DUNN. Will the gentleman from Georgia allow me to make a suggestion there?

Mr. CLEMENTS. Yes, sir.

Mr. DUNN. I suggest to the gentleman that he add to his amendment also to strike out the words "for at least three months in each year"; for this reason: The States must under this section have provided by law for the education of their children for at least three months in each year. They must have a law requiring a three-months' school. Now, you may in fact have had schools open for six months or nine months under the local law when you have no provision of State law requiring even a three-months' school; and you may thereby be cut out, though you may have had a six-months' school in fact. West Virginia has no law requiring schools to be kept for three months or any other period. Virginia has none, and a number of other States have no law requiring three months or any length of time; while in fact they have had more than three months of school. But under that section, unless the words I have indicated are stricken out, they will be deprived of their share of this fund on that account, when in fact they do comply with the spirit of the law. I ask the gentleman to make that addition to his amendment.

Mr. DUNNELL. I desire to ask the gentleman from Georgia a question: Whether the section, as he proposes to amend it, goes to the extent that the State shall not only by law provide for a school for three months at least, but does it go to the extent of saying that the school shall have been taught that length of time? There may be a law requiring a three-months' school and a tax levied, and yet no school be kept during that time.

Mr. DUNN. Let me read:

Before any State or Territory shall be entitled to receive its share of said fund it shall have provided by law for the free common-school education of all its children of school age, without distinction of color, for at least three months in each year.

It must provide by law for that school for at least three months. It may have provided under local regulations sufficiently for such a school.

Mr. CLEMENTS. I do not yield further. I desire to say in response to the gentleman from Minnesota [Mr. DUNNELL] that the purpose of the committee was to require each State to maintain public schools free to all children of school age, without distinction of race or color, for three months, at least, as a condition. The intention of the committee was to have it done as a matter of fact, and not simply theoretically as a matter of law. Of course this does not imply mixed schools.

It is possible the language of the bill may not be strong enough to cover that. So far as I know, every member of the committee will be glad to accept an amendment which will make it sufficiently strong, so as to require that in fact public schools shall be maintained within these States for three months in each year for all children of school age.

This amendment can easily be framed at the proper time to remove the difficulty suggested by the gentleman from West Virginia [Mr. KENNA] and the gentleman from Arkansas [Mr. DUNN]. I do not think the third section ought to be entirely stricken out. The States can afford to do their part. It was the purpose of this section to require that. Schools for less than three months are not likely to accomplish much good.

Mr. RICHARDSON, of South Carolina. I would suggest to the gentleman that the words "by law" might be stricken out, and then the provision will be "shall have provided for the free common school education, &c., for at least three months in a year."

Mr. MCMILLIN. Allow me to call attention to section 5 of the bill, which expressly provides as a condition precedent that a report shall be made to the Commissioner of Education concerning the condition of the schools in the States, and the number of days actually taught in each State during the year.

Mr. DUNN. Allow me a moment to explain. Suppose that we pass this bill as it now stands. Those States not having a law to the effect that schools shall be maintained for three months in each year will be deprived of the benefit of this fund for at least one year. They may during that time change their laws and conform to the provisions of this bill, but there is no provision making compensation for their loss of this appropriation for that year.

Mr. CLEMENTS. That can all be obviated by so framing the amendment as not to require any law to maintain these public schools, but merely to require the State to furnish evidence that schools have been maintained in fact for three months of the year.

Mr. STOCKSLAGER. Will the gentleman allow me to ask him a question for information?

Mr. CLEMENTS. Certainly.

Mr. STOCKSLAGER. This bill provides—

That before any State or Territory shall be entitled to receive its share of said fund it shall have provided by law for the free common-school education of all its children of school age, without distinction of color, for at least three months in each year, from the funds provided for schools under the laws of said State or Territory, &c.

That ordinarily includes children of the ages between 6 and 21?

Mr. REAGAN. It would include children of whatever age the law of the State may declare to be school age.

Mr. STOCKSLAGER. I desire to inquire if this bill would require that all the children between these ages shall be kept at school for three months in each year?

Mr. CLEMENTS. This bill simply provides that the States shall themselves provide the means of education for children of school age for three months in each year. It is not intended to require that all such children shall attend the schools for that period. It simply requires that the States shall maintain public schools for the term of three months in each year. It does not provide for compulsory attendance, nor do I think it would be wise to do so. I submit that it would not be right for the Federal Government to give this assistance to a State which was not willing to take upon itself the burden of maintaining its public schools for three months in each year.

Mr. KENNA. Allow me to say to the gentleman that a subsequent provision in the same section limits the amount to be contributed to

a State by the Federal Government to the amount which the State itself may expend of its own funds. Now, if the amount to be contributed by the Federal Government to the State is to be measured by the amount expended by the State, then what difference will it make whether the schools are maintained in the State for three months, or any other period? I shall, at the proper time, if I get the opportunity, move to strike out the words "for at least three months in each year."

Mr. CLEMENTS. That provision simply means that no State shall receive any of this assistance unless it shall itself provide facilities for at least three months' schooling each year. If the State desires to maintain schools for a longer time, all well and good; this bill will not prohibit that. But it provides that the State shall not receive assistance from the Federal Government without being willing to maintain its schools for three months.

Mr. MACKEY. Allow me to suggest an amendment. It is to strike out the words "provided by law" and to insert in lieu thereof the words "made provision," so that it will read, "shall have made provision for the free common-school education," &c.

Mr. CLEMENTS. I have already suggested, in response to the gentleman from Minnesota [Mr. DUNNELL], that I had no doubt the committee would be perfectly willing to accept an amendment which would require that public schools, as the result of State law, shall be maintained for three months in each year in *fact*. That covers the whole question suggested; there is no difficulty about it.

The purpose of the committee is clear, the purpose of the bill is clear; and if it needs any amendment so as to more effectually carry out that purpose, there will be no objection on the part of any member of the committee or any true friend of the bill to such an amendment.

Let me now call attention to a memorial from the General Assembly of Georgia illustrative of the deep interest felt in that State in this subject:

Whereas, as a result of the late war, the colored people of the South were set free and made citizens; and

Whereas, in the State of Georgia they were very nearly equal in numbers to the whites, and at the time of their emancipation were entirely destitute of property, and in very large numbers have continued so up to this time; and

Whereas, the white people themselves were greatly reduced, many of them to a state of destitution very nearly as extreme as that of the colored people; and

Whereas, the facts herein recited have rendered it impossible, for the time being, for this State to make adequate provision for the education of our youth; and

Whereas, wide-spread illiteracy, conjoined with universal suffrage, have put the institutions of the whole country in peril: Therefore,

Be it resolved by the General Assembly of Georgia, That we hail with pleasure the movement now being made in the Congress of the United States to raise a fund for distribution for a term of years among the States in aid of popular education, the distribution to be made on the basis of illiteracy.

Resolved, That the proposition to have this fund applied under State laws, and by the regularly constituted State authorities, to the support of common schools, normal schools, and other agencies for securing an adequate corps of well qualified common school teachers, meets our hearty approval.

Resolved, That our Senators and Representatives in Congress are hereby requested to use their best endeavors to secure the passage of an educational bill, which shall be liberal in its monetary provisions, and which shall be well guarded against improper Federal interference in the educational affairs of the States.

Resolved, That as our now limited fund is applied to the education of all the children without discrimination as to race, so shall any fund which may be furnished by Congress be applied with equal impartiality.

Resolved, That his excellency, the governor, is hereby requested to have copies of these resolutions made out and forwarded to Washington at once, to be laid before both Houses of Congress as early as practicable after the commencement of the approaching session.

Approved December 13, 1882.

The following statistics, contained in the committee's report, show the illiteracy of the States and Territories:

Illiteracy in the United States—Census of 1880.

States and Territories.	Total population.	Total population who cannot read, ten years of age and over.	Percentage of total population who cannot read.	Total population who cannot write, ten years of age and over.	Percentage of total population who cannot write.	Total white population.	Total white population who cannot write, ten years of age and over.	Percentage of total white population who cannot write.	Total colored population	Total colored population who cannot write, ten years of age and over.	Percentage of total colored population who cannot write.
The United States	50,155,783	4,923,451	9.82	6,239,958	12.44	43,402,970	3,019,080	6.96	6,752,813	3,220,878	47.70
Alabama	1,262,505	370,279	29.33	433,447	34.33	662,185	111,767	16.88	600,320	321,680	53.58
Arizona	40,440	5,496	13.59	5,842	14.45	35,160	4,824	13.72	5,280	1,018	19.28
Arkansas	802,535	153,229	19.09	202,015	25.17	591,531	98,542	16.66	210,994	103,473	49.04
California	864,694	48,583	5.62	53,430	6.18	767,181	26,090	3.40	97,513	27,340	28.04
Colorado	194,327	9,321	4.80	10,474	5.39	191,126	9,906	5.18	3,201	568	17.74
Connecticut	622,700	20,986	3.37	28,424	4.56	610,769	26,763	4.38	11,931	1,661	13.92
Dakota	135,177	3,094	2.29	4,821	3.57	133,147	4,157	3.13	2,030	664	32.71
Delaware	146,608	16,912	11.54	19,414	13.24	120,160	8,346	6.95	26,448	11,068	41.85
District of Columbia	177,624	21,541	12.13	25,778	14.51	118,006	2,988	3.38	59,618	21,790	36.55
Florida	269,493	70,219	26.06	80,183	29.75	142,605	19,763	13.86	126,888	60,420	47.62
Georgia	1,542,180	446,683	28.96	520,416	33.75	816,906	128,934	15.78	725,274	391,482	53.98
Idaho	32,610	1,384	4.24	1,778	5.45	29,013	784	2.70	3,597	994	27.63
Illinois	3,077,871	96,809	3.15	145,397	4.72	3,031,151	132,426	4.37	46,720	12,971	27.76
Indiana	1,978,301	70,008	3.54	110,761	5.60	1,938,798	100,398	5.18	39,503	10,363	26.23
Iowa	1,624,615	28,117	1.73	46,609	2.87	1,614,600	44,337	2.75	10,015	2,272	22.69
Kansas	996,096	25,503	2.56	39,476	3.96	952,155	24,888	2.61	43,941	14,588	33.20
Kentucky	1,648,690	258,186	15.66	348,392	21.13	1,377,179	214,497	15.58	271,511	133,895	49.31
Louisiana	939,946	297,312	31.63	318,380	33.87	454,954	58,951	12.96	484,992	259,429	53.49
Maine	648,936	18,181	2.80	22,170	3.42	646,852	21,758	3.36	2,084	412	19.77
Maryland	934,943	111,387	11.91	134,488	14.48	724,693	44,316	6.12	210,250	90,172	42.89
Massachusetts	1,783,085	75,635	4.24	92,980	5.21	1,763,782	90,658	5.14	19,303	2,322	12.03
Michigan	1,636,937	47,112	2.88	63,723	3.89	1,614,560	58,932	3.65	22,377	4,791	21.41
Minnesota	780,773	20,551	2.63	34,546	4.42	776,884	33,506	4.31	3,889	1,040	26.74
Mississippi	1,131,597	315,612	27.89	373,201	32.98	479,398	53,448	11.15	652,199	319,753	49.03
Missouri	2,168,380	138,818	6.40	208,754	9.63	2,022,826	152,510	7.54	145,554	56,244	38.64
Montana	39,159	1,530	3.91	1,707	4.36	35,385	631	1.78	3,774	1,076	28.51
Nebraska	452,402	7,830	1.73	11,528	2.55	449,764	10,926	2.43	2,638	602	22.82
Nevada	62,266	3,703	5.95	4,069	6.53	52,556	1,915	3.58	8,710	2,154	24.73
New Hampshire	346,991	11,982	3.45	14,302	4.12	346,229	14,208	4.10	762	94	12.34
New Jersey	1,131,116	39,136	3.46	53,249	4.71	1,092,017	44,049	4.03	39,099	9,200	23.53
New Mexico	119,565	52,994	44.32	57,156	47.80	108,721	49,597	45.62	10,844	7,559	69.71
New York	5,082,871	166,625	3.28	219,600	4.32	5,016,022	208,175	4.15	66,849	11,425	17.09
North Carolina	1,399,750	367,800	26.28	463,975	33.15	867,242	192,032	22.14	532,508	271,943	51.07
Ohio	3,198,062	86,754	2.71	131,847	4.12	3,117,920	115,491	3.70	80,142	16,356	20.41
Oregon	174,768	5,376	3.08	7,423	4.25	163,075	4,343	2.66	11,693	3,080	26.34
Pennsylvania	4,282,891	146,138	3.41	228,014	5.32	4,197,016	209,981	5.00	85,875	18,033	21.00
Rhode Island	276,531	17,456	6.31	24,793	8.97	269,939	23,544	8.72	6,592	1,249	18.95
South Carolina	995,577	321,780	32.32	369,848	37.15	391,105	59,777	15.28	604,472	310,071	51.30
Tennessee	1,542,359	394,385	19.09	410,722	26.63	1,138,831	216,227	18.99	403,528	194,495	48.20
Texas	1,591,749	256,223	16.10	316,432	19.88	1,197,237	123,912	10.35	394,512	192,520	48.80
Utah	143,963	4,851	3.37	8,826	6.13	142,423	8,137	5.71	1,540	689	44.74
Vermont	332,286	12,993	3.91	15,837	4.77	331,218	15,681	4.73	1,068	156	14.61
Virginia	1,512,565	360,495	23.83	430,352	28.45	880,858	114,602	13.02	631,707	315,660	49.97
Washington	75,116	3,191	4.25	3,889	5.18	67,199	1,429	2.13	7,917	2,460	31.07
West Virginia	618,457	52,041	8.41	85,376	13.80	592,537	75,237	12.70	25,920	10,139	39.12
Wisconsin	1,315,497	38,693	2.94	55,558	4.22	1,309,618	54,233	4.14	5,879	1,325	22.54
Wyoming	20,789	427	2.05	556	2.67	19,437	374	1.92	1,352	182	13.46

The above table, prepared at the request of Hon. H. W. Blair, chairman of the Senate Committee on Education, is respectfully submitted to the Superintendent of the Census, with the statement that while its figures are believed to be in most instances correct, they are entirely preliminary, and therefore subject to such changes as may result from the final revision.

HENRY RANDALL WAITE,
Special Agent Statistics of Education, Illiteracy, Libraries, Museums, and Religious Organizations.

The several States would share in this fund, on the basis of the pending bill, as follows:

Table showing the proportion which each State and Territory would receive of $10,000,000 distributed upon the basis of illiteracy.

States and Territories.	Population.	Proportion to each.
Alabama	1,262,505	$694,631 40
Arkansas	802,525	323,744 14
California	864,694	85,625 56
Colorado	194,327	16,785 37
Connecticut	622,700	45,551 59
Delaware	146,608	31,112 39
Florida	269,493	128,499 27
Georgia	1,542,180	834,005 54
Illinois	3,077,871	233,009 57
Indiana	1,978,301	177,502 76
Iowa	1,624,615	74,694 42
Kansas	996,096	63,263 24
Kentucky	1,648,690	558,324 28
Louisiana	939,946	510,227 73
Maine	648,936	35,529 08
Maryland	934,943	215,527 09
Massachusetts	1,783,085	149,007 40
Michigan	1,636,937	102,120 87
Minnesota	780,773	55,362 55
Mississippi	1,131,597	598,082 58
Missouri	2,168,380	334,543 89
Nebraska	452,402	18,474 42
Nevada	62,266	6,520 88
New Hampshire	346,991	22,920 03
New Jersey	1,131,116	85,335 50
New York	5,082,871	351,925 45
North Carolina	1,399,750	743,554 70
Ohio	3,198,062	211,294 71
Oregon	174,768	11,895 91
Pennsylvania	4,282,891	365,409 53
Rhode Island	276,531	39,732 64
South Carolina	995,577	592,709 00
Tennessee	1,542,359	658,212 81
Texas	1,591,749	507,105 99
Vermont	332,286	25,379 98
Virginia	1,512,565	689,671 41
West Virginia	618,457	136,821 42
Wisconsin	1,315,497	89,035 85
Arizona	40,440	9,362 42
Dakota	135,177	7,726 01
District of Columbia	177,624	41,311 17
Idaho	32,610	2,849 38
Montana	39,159	2,735 59
New Mexico	119,565	91,596 77
Utah	143,936	14,144 32
Washington	75,116	6,232 41
Wyoming	20,789	891 03
Total	50,155,783	10,000,000 00

Let me here present the views of some of the fathers of the republic, as briefly expressed by them, as to the importance of popular education as a means of preserving our free institutions, and as promotive of our happiness and prosperity as a people. Mr. Madison said:

A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or tragedy, or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

Again this same statesman said:

The best service that can be rendered to a country, next to that of giving it liberty, is in diffusing the mental improvement essential to the preservation and enjoyment of the blessing.

Mr. Monroe, in his inaugural address, March 4, 1817, said:

Had the people of the United States been educated in different principles, had they been less intelligent, less independent, or less virtuous, can it be believed that we should have maintained the same steady and consistent career, or been blest with the same success? While, then, the constituent body retains its present sound and healthful state, all will be safe. It is only when the people become ignorant and corrupt, when they degenerate into a populace, that they become incapable of exercising sovereignty. Usurpation is an easy attainment, and a usurper soon found. The people themselves become the willing instruments of their own debasement and ruin. Let us look to the great cause, and endeavor to preserve it in full force. Let us, by all wise and Constitutional measures, promote intelligence among the people, as the best means of preserving our liberties.

Washington, in his farewell address, says:

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

In conclusion, let me state that it is not designed by this bill to permanently establish a system of Federal aid to the States, but the object of the measure is to meet the pressing needs of the present emergency brought about by the war. This aid is needed for the education of the white as well as the colored people. It is needed to remove the existing dangers of the appalling illiteracy that exists in some of the States, with its present and threatened evils, not to those States alone, but to all the States of the Union. Let me again repeat that we ask it, not as beggars, but as an act of sheer justice and equity.

Rivers and Harbors.

SPEECH
OF
HON. J. W. DWIGHT,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. DWIGHT said:

Mr. SPEAKER: I am opposed to this bill in its present shape and with many items in it, which are for harbors and streams too insignificant and unimportant to warrant any attempt at their improvement by the General Government. The Secretary of War, in his recent response to a resolution of the House, fitly characterized many of these streams as apparently so small that "the results of substantial benefit to general commerce" to arise from their improvement "were so obscure and apparently insignificant" as to "vindicate a doubt" whether appropriations for them were in the interest of commerce.

Appropriations for the improvement of rivers and harbors are defensible only when they are national, not local, in the benefits they afford to commerce. When an improvement is national in its character, so that the aid it affords to commerce affects such large areas or numbers of people as to distinguish it from a mere local convenience, Congress not only has the power, but a wise public policy makes it its duty, to devote a part of the public revenues to carry it out. But the cost to be incurred and the benefit to be afforded should be carefully considered. The power to regulate commerce reposed by the Constitution in Congress carries the power to regulate navigation, to protect it, and for that purpose to remove obstructions, to keep it free from dangers, and to improve facilities for carrying it on, not only on our ocean coasts but in our inland waters.

But it seems clear to me that appropriations should only be made for the improvement of rivers that are in the larger sense navigable. Unless the stream is of such importance as to be recognized as a highway of commerce it should be the policy of our Government to leave its regulation to the State. It has been the rule that the States could permit dams to be built, bridges to be constructed, piers, booming works, fish-ways, and other hinderances to a general navigation. It seems to me too plain for argument that streams too small and insignificant to be under the exclusive control of Congress are also too small to be subjects of improvement at the general expense. Why is it proper to put money into these streams while the States are permitted to undo all that the use of the money can do to aid navigation? It has been held that a river entirely in a State and not navigable in fact, by reason of dams, was not within the purview of national control; that no State could grant the exclusive navigation of the river, at least as to its upper waters, to a private company, and that such grant did not conflict with the Constitution. (Veazie *vs.* Moor, 14 Howard, 568.

It follows from this decision that the States have such control over the rivers which constitute the larger number in this bill provided for that they can render nugatory to commerce or to general public use the very streams into which this bill pours money. This is true of many of the streams liberally cared for in this bill. The States have authorized them to be obstructed, and money is lavished in this bill to clear out those obstructions; the States have granted booming privileges of an exclusive character, and the bill is auxiliary to such private monopoly. It helps to improve the rivers for the benefit of private companies which are granted the privilege of obstructing and of use of an exclusive nature.

When we consider what in the light of judicial decision is a navigable stream worthy the aid of Congress, it is manifest that the small water ways which are hardly worthy of mention in our geographies and find record only in river and harbor bills are not among them.. Chief-Justice Shaw well stated common sense as well as law when he said:

It is not every small creek in which a fishing-skiff or gunning-canoe can be made to float at high water which is deemed navigable, but in order to give it the character of a navigable stream it must be generally or commonly useful to some purpose of trade or agriculture.

A later case decided in the Supreme Court of the United States stated the rule in determining what are navigable streams. Justice Field lays down the law thus:

Those rivers must be regarded as public navigable rivers in law which are navigable in fact. They are navigable in fact when they are used or are susceptible of being used in their ordinary condition as highways for commerce over which trade and travel are or may be conducted in the customary modes of trade and travel on water. And they constitute navigable waters of the United States within the meaning of the acts of Congress, in contradistinction to the navigable waters of the States, where they form in their ordinary condition by themselves or by uniting with other waters a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water. (The Daniel Ball, 10 Wallace, 557.)

Apply this test and some of the streams of which this bill takes care are hardly deserving the name of navigable rivers, much less of large appropriations.

The Secretary of War in a recent communication to this House (Executive Document No. 34, second session Forty-seventh Congress) has let in a flood of light upon this subject. A number of streams and harbors which figured prominently in the appropriations of last session have disappeared from this. But there are several, some two dozen in all, which I shall here mention, which the Secretary of War and the engineers regard as obscure and insignificant and which the Committee on Commerce have reported in this bill for further appropriations. They are the following:

WAREHAM HARBOR, MASSACHUSETTS.

The Secretary declares it to be the object of this improvement to afford a better approach to the town of Wareham, the commerce of which seems to be dependent on a few sailing vessels of a tonnage aggregating about 4,000 tons. The sum of $6,000 was voted last session, and $4,000 more by this bill.

HURON HARBOR, OHIO.

The engineers report that the records of the custom-house show that the amount of commerce to be benefited is very small, but as a new railroad is now being built, with its terminus at this harbor, it is expected that the commerce will rapidly increase. This harbor has had $6,000 prior to 1882, wants $22,000, and was given $2,500 last session and $4,000 by this bill. Its local character and object are too manifest for discussion. It is not to aid commerce, but to put out a lure to call it where it would not otherwise go.

PORT CLINTON, OHIO.

This harbor has a commerce that yielded in 1881 the sum of $23.25 revenue to the Government. Thereupon the Government, grateful for this contribution, gave $6,000 at the last session and $4,000 are put into the pending bill. To nourish this commerce of twenty-eight small vessels clearing this port in one year, $40,000 had been used prior to 1882 and $45,000 are needed. Congress deems this majestic commerce of twenty-eight vessels of such vast interest to the nation that $214 per vessel per year is not too much to pay to encourage it. And how unselfishly benign is the government which can cheerfully pay out $6,000 and $4,000 per year to aid a commerce that returns a revenue of $23.25. Let it not be said that republics are ungrateful.

WAUKEGAN, ILLINOIS.

"Very little commerce is carried on by water here." There are now no harbor facilities, and the sums put in here are spent to create a harbor, so that there may a commerce be won from rail to water transportation. In this work $20,000 were voted last session, and $15,000 goes by this bill to develop a business that does not now exist owing to the absence of a harbor. There are four places on the shores of our great lakes which can not claim to have a harbor built for them out of whole cloth, as it were, for precisely the same reason. Give them a good harbor and possibly a commerce will be developed thereby. Fifteen thousand seven hundred and forty-three dollars and eighty-two cents have been spent here prior to the appropriations of 1882, and $45,000 more are needed.

PORT WASHINGTON, WISCONSIN.

The Secretary tells us that this port has as small a commerce as Two Rivers. The benefits to be derived from expenditures here have only a local bearing. It has had, prior to 1882, $134,768.25, got at the last session $15,000, and wants $27,000 more. To get at the vast immensity of its commerce we must refer to Two Rivers.

TWO RIVERS, WISCONSIN.

Of this place the engineer says: "Its harbor is of no importance to the commerce of the lakes, its value being entirely local. The commercial statistics show a great falling off in the tonnage entering this harbor. Since 1879 steamers have not run to or called at this place." The commerce here and at Port Washington seem to dwindle under the nourishment of appropriations, and if $174,982.64 given and expended prior to 1882, $15,000 per last bill, and $3,000 by this bill, can only serve to drive steamers away, how much will it require to drive off sailing vessels and fishing smacks?

CHEESEQUAKE'S CREEK.

The last session gave to this creek a prominence which neither geography nor commercial statistics could give it. Prior to last session it had had $25,000 and $15,000 was voted last summer; $7,000 more are given by this bill. It is estimated that $13,279 more will make the Cheesequake's one of the navigable highways of the country. At present it is about one foot deep at mean stages of low water for about three-fourths of its improvable length. The course of the creek is very crooked, but when it is straightened and a foot depth increased to four feet there will be afforded a navigable way for some 15,000 or 20,000 tons of clay and molding sand, and possibly a resulting increase of trade. But when we reflect how many millions of cubic feet of dredging must be done before this sand and clay can be floated sound economy would dictate that the Government could save money by hauling this clay and sand by land. This stream has had much publicity. It is one of those glaring cases which illustrate the vicious system of loading down a bill with items for streams too ridiculously small to even approximate the name of navigable stream.

MATTAWAN CREEK, NEW JERSEY.

Six thousand dollars last year, $4,000 by this bill, making in all for Mattawan $25,000, with an estimate that $12,120 or more will be needed. "The present commerce is small." The object of the improvement is to increase local developments. The engineer says: "By the proposed enlargement of the present way and increased facility for shipping goods it is computed that there would be a growth in the commerce of from one-third to one-half," its present small dimensions. It is thought that "manufacturers would locate there" if the navigation were improved.

SOUTH RIVER, NEW JERSEY.

has had $56,000, of which $10,000 was given last summer, and $10,000 is given by this bill. It will cost in all $200,000 to help this little local trade in brick and molding-sand.

WOODBRIDGE CREEK, NEW JERSEY.

got $5,000 at last session, and $1,000 more by this bill, in a little stream floating clay and sand. It has had $19,000 and wants $4,000 more to complete the improvements.

BRETON BAY, LEONARDTOWN, MARYLAND.

with a population of 1,200 souls, a tributary country of eighteen square miles. This town got for its harbor $5,000 in 1882 to add to the $15,000 previously appropriated, and is continued in the pending bill for $3,000 more. The statistics of its trade for the year prior to last engineer's report show that the entire trade of this town, in all kinds of merchandise, amounted to only $176,100. (See Engineer's Report for 1882, part 1, page 1011). Seven thousand dollars more are needed to complete the work on this little harbor.

OCONEE RIVER, GEORGIA.

Five thousand dollars were given in the act of 1882, and $3,000 more are proposed in this bill to help out the little trade of the town of Dublin and vicinity. Fifteen thousand five hundred dollars have been given before, and the estimates to finish it are $42,000 more.

CHOCTAWHATCHEE RIVER.

The Choctawhatchee River, in Florida and Alabama, received $20,000 last year, and is given $10,000 in this bill. The Secretary says that "there are from 1,500 to 2,000 bales of cotton sold at Newton, which would probably represent the local product seeking transportation down the Choctawhatchee River were it improved." The appropriations to keep a river of that kind in good order must of necessity be continuing, and if they average $15,000 per year for the future, as by this bill and the last, it will cost the Government only $10 a bale to furnish navigation for the cotton supply of Newton. Prior to the act of last session $36,571.07 had been expended and $16,400 are needed. The engineer says the river is not susceptible of a permanent and complete improvement owing to the continued washing of the banks.

ESCAMBIA AND CONECUH RIVERS.

Escambia and Conecuh Rivers, in Florida and Alabama, got $1,200 last year and $2,000 by this bill. The commerce to be benefited by these appropriations consists of the floating of about 5,000,000 feet of lumber yearly. The Government pays fully 10 per cent. of the value of this product in two years for the purpose of aiding it to get into the commerce of the country. There are trout brooks in the States of Wisconsin, Michigan, and Maine which float a larger crop of logs by means of flooding dams, which the loggers build at their own cost.

FOURCHE LE FEVRE RIVER IN ARKANSAS.

We gave $4,000 last year, and $3,000 are put in this bill for this stream. The Secretary says: "Official reports state that this stream seems to be little more than a mountain torrent, and that it is not susceptible of an improvement admitting of a communication for stages approximating low water. There is not sufficient water in the river to justify any attempt to improve its navigability at the low stages." It will need an unusual appropriation and a freshet to utilize this mountain torrent.

FOR IMPROVING THE MOUTH OF THE COQUILLE RIVER, OREGON.

Seven thousand dollars for the Coquille River; $10,000 last year. The Secretary tells us that "the present commerce of this river appears to be insignificant. In the year 1881 it is reported that there were no exports or imports. Two small coasting schooners engage in the trade of that harbor. Heretofore the surplus produce of the valley has found a market through the neighboring harbor of Coos Bay. It is believed that if an entrance to the river can be made in the channel over the bar the valley of the Coquille will develop a valuable trade with southern ports, which will invite settlers from other parts of the country." The residents of Coquille Valley no doubt feel that it is the duty of the people of the United States to assist their local development by large appropriation. They reason that if they had a harbor they might have a trade and some immigration. Twenty thousand dollars have been appropriated to date, and $144,200 are needed and $60,000 asked for this year.

SACRAMENTO RIVER, CALIFORNIA.

For the improvement of this river and the protection of its channel we gave a quarter of a million last year, and $60,000 more are given by this bill. This, as the Secretary of War reports, is in part used in

preventing the injury caused by the downflow of about 38,000,000 cubic yards of earth or *détritus* annually discharged into the streams by miners, to the destruction of the navigability of the stream and the injury of the agricultural lands along shore. In other words, the miners lawlessly so use the stream as to injure others, in violation of well-settled legal principles, and the Government steps in with a large annual appropriation to permit the cause of and prevent the mischief. This use of the river has been declared illegal by the courts of California, and it has been held that the State can not tax its citizens to remedy the evils caused by the use of this stream. Hence to shoulder the burden upon the United States is in an eminent degree "practical statesmanship." The Secretary says:

The matter of the improvement and protection of the channels of the Sacramento and Feather Rivers in California requires a special remark. Previous appropriations for the improvement of the Sacramento River have been mostly expended in dredging the channel, and of the present appropriation $40,000 have been allotted for the continuation of this particular kind of work. The project submitted to me for the expenditure of the remaining part of the appropriation is for the erection of restraining barriers upon the Yuba, American, and Bear Rivers, tributaries of the Sacramento and Feather, to hold back the flow of *détritus* caused by hydraulic mining. In submitting the project the Chief of Engineers makes a slightly qualified recommendation, and I have therefore been led to examine with some care the papers in this Department relating to the project, which is the result of careful consideration by the Engineer Bureau. The problem seems to be to prevent the injury caused by the downflow of about 38,000,000 cubic yards of *détritus* annually, caused by the artificial washing away of gold-bearing gravel banks, in doing which 870,000,000 cubic yards of water are annually used. The records indicate that this downflow is injurious not only to the navigable streams below, but enormously destructive to agricultural lands, both directly and by raising the flood-levels of the rivers, and that the owners of these lands are equally with if not more than any other class of citizens interested in preventive measures.

The streams and the mining works are within the State of California, and it seems that in at least one instance a mining enterprise has been enjoined by a local court from prosecuting its work in such way as to cause the injuries complained of, but I have not learned that it has been decided by the highest court whether the injury to navigation and agricultural interests can be prevented by judicial action.

The act of the Legislature of California, passed in 1880, the purpose of which was the raising of funds by taxation for certain objects, described as "the control of *débris* from mining and other operations, the improvement and rectification of river channels, and the erection of embankments or dikes necessary for the protection of lands, towns, or cities from inundation," was, in the next year, declared unconstitutional by the supreme court of the State upon several grounds. One of them, as stated in the leading opinion, was—

"That the storage of *débris* is, in its nature, a private enterprise, in which the few only are interested. * * * To promote a public purpose by a tax levy upon the property within the State is within the power of the Legislature, but the Legislature has no power to impose taxes for the benefit of individuals connected with a private enterprise, even though the private enterprise might benefit the local public in a remote or collateral way."

Consequently the efforts of the State authorities of California to impound the *détritus* from hydraulic mining enterprises were brought to an end.

The work projected would involve the expenditure, within the next eight years, of nearly a million and a half of dollars, with doubtful results; and, as the exact character of the work to be done is not indicated in the act, in my hesitation as to approving the project, I have thought proper to refer to the debate in the House upon the passage of the particular clause in question. I have gathered from remarks made in the debate, which seemed to receive the unqualified assent of the chairman of the Committee on Commerce reporting the bill, that it was not the intention to commit the Government to the policy of providing reservoirs for the storage of *détritus* from future mining operations, it being thought that they were but a partial remedy, and would not accomplish the purpose designed if hydraulic mining should continue, and it was stated that the committee did not adopt the plan sketched in the engineer's preliminary reports.

The project now before me for the expenditure of the main part of the appropriation seems to be in exact accord with those reports which did not receive the approbation of the committee. I have not, therefore, yet considered it proper to do more than continue the dredging operations.

For some further information in relation to the third inquiry I beg respectfully to refer to the above-mentioned report of the Chief of Engineers.

It will doubtless be insisted that this appropriation is limited only to the improvement and protection of the navigable channel; but it will not, I think, be denied that the protection of the channel is from the downflow of this *détritus* deposited in the navigable channel. The Chief Engineer in his report made, since the last appropriation, and the expression of views of the committee that were made in debate indicate that the impounding of this *détritus* is essential to the protection of the navigable channel and that a portion of this outlay will be expended for such impounding; and in the remarks of the honorable gentlemen from California [Mr. PAGE and Mr. BERRY], page 5046, RECORD, Forty-seventh Congress, first session, it was urged that hydraulic mining was working the ruin of this river.

Mr. Speaker, such are some of the items included in this bill. They were especially reported upon by the Secretary of War, and his report has satisfied the country that many of the appropriations made at last session ought never to have been made. The same reasons make it equally clear that they ought not to be continued in this bill.

To further illustrate the erroneous theory of such river and harbor appropriations I desire to make a few remarks more particularly pertinent to the act passed at last session.

I am aware that it is urged by the friends of the river and harbor bill passed at the last session that although many of its items were for appropriations on small, obscure streams, whose commerce, if any they had, either prospectively or in fact was small, yet that as the commerce of the country is the aggregate of the commerce of all its localities, therefore all harbors and all streams, no matter how inconsiderable in size or capacity for navigable use, are proper subjects for improvement at the public expense, because all local commerce is part of the general commerce of the country.

If this broad ground is admitted, it opens up an unlimited field for public expenditure. The same argument justifies, yes, imposes, as a national duty the expenditure of money for the improvement of roads and bridges in the most rural settlements; because, though their use is local, yet products may be and are carried over them which, passing on, soon enter into the general commerce of the country. If we must improve the small stream for the benefit of raftsmen or lumbermen, why must we not build their roads from the forest to the river-side? Surely we should benefit the commerce of the country as much by one expenditure as the other. The same argument to justify the one justifies and makes constitutional the other.

But no one seriously contends that any such power resides in Congress. The Committee on Commerce, which framed and reported this bill, declared in their report that they had "not placed in the bill appropriations for small streams of no importance to commerce." It is manifest that the committee were misled.

To show the House and the country how just were the grounds of the President's veto of that bill and how unjustifiable the haste with which it was passed over his veto, I call attention to some of the items in the bill and some facts gathered from the engineers' reports to show the character of the streams and harbors into which in such large volumes the public treasure was poured. In the defense of this bill upon the floor, and by its champions before the country, it was stoutly maintained that the Government engineers had recommended not only the sums in the bill but much larger sums, and the idea was industriously circulated that these appropriations were vouched for by the engineers as needful and beneficial to the commerce of the country. I dissent from and take issue with these statements. The officers of the Engineer Corps have not recommended, but on the contrary, in many instances by their reports, have discouraged the work. True, they made estimates of the cost; true, their estimates in most cases exceeded the sum appropriated, because they figured on the total cost of improvements of such works as must be made to be of any benefit; but they did not recommend.

The Secretary of War in his letter of January 4, 1883, in response to the House resolution of December 9, 1882, says:

I am advised that it has been the general, if not the uniform, custom of this Department, in reporting to Congress in relation to this class of works for which appropriations were made in the above-mentioned (river and harbor) act, to refrain from any expression of opinion as to whether or to what extent works projected or in progress are in the interest of or benefit commerce and navigation.

One may search their reports in vain for a recommendation of the greater number of the items in the bill.

ANALYSIS OF THE VETOED BILL OF AUGUST 2, 1882.

There were in this bill three hundred and fifty-three separate items. Omitting the sum for the Mississippi River, $4,123,000, and the appropriation amounts to $14,123,000 in round numbers. Of this number (three hundred and fifty-three) sixty-four items are classified by the engineer officers of the Army as "not yet commenced and not of well-defined and national importance." There are ninety-nine items where the works have been commenced and are of local importance only, and of slight, if any, importance to navigation, and eighty-eight items which they declare to be of local importance only. Thus from their reports two hundred and fifty-one items are outside the domain where such appropriations are legitimate or proper. These items call for $3,790,875. True, the appropriation in most cases is small, much smaller than the estimates, but these amounts are only the nest-eggs for still greater expenditure. Before the next Congress and its successors these very appropriations will be urged as a reason for continuing appropriations to keep from utter loss the sums expended in beginning these improvements.

To show as briefly as I can the nature of some of these items, I ask attention to the following cases. Note what the Secretary of War and the engineers of the Army say of them. Note how valid were the grounds of that veto, so ruthlessly overridden in this House. The reports of the Secretary of War and of the engineers are my authority.

PLYMOUTH HARBOR, MASSACHUSETTS.

Eighty-five thousand dollars have been expended here previous to the $14,000 given by this Congress. Benefits are local. The harbor is reported "so difficult of approach as to be useless to strangers."

PULTNEYVILLE HARBOR, NEW YORK.

Four thousand dollars are to be expended here in aid of a commerce in which the arrivals and departures do not average over one a week during the season of navigation of vessels of not over forty tons tonnage.

SHEEPHEAD BAY, NEW YORK.

Three thousand dollars added to the $7,000 heretofore voted. The principal occupation is fishing, conducted by small sailing vessels, and the estimates call for $92,000.

WILSON HARBOR, NEW YORK.

Forty thousand dollars have been appropriated here, and $60,000 is wanted. On the average, one vessel a week of about eighty tons burden touches at this port.

Oak Orchard Harbor, on Lake Ontario, has had $163,500 and wants $100,000 more, of which $3,000 was doled out by this Congress. The

engineer's report says: "This harbor is of local importance only, one or two vessels a week visiting it during the season of navigation averaging not more than seventy tons each.

FLUSHING BAY, NEW YORK.

Five thousand dollars are given here. There is no commerce. The engineer surmises that "a development of trade by water might follow the improvement." But as $120,000 more are needed to make the improvement of any avail, even as an encouragement to a commerce not yet called into being, it will be at this rate of annual outlay twenty-four years before the locality will realize any other result or benefit than that flowing from the expenditure of the money in the neighborhood.

Canarsie Bay, New York, comes in for $3,000 on an estimate of $88,000 for the benefit of an undeveloped commerce which has already absorbed $5,000, a mere driblet of no benefit.

The act known as the "river and harbor bill" actually declares a harbor to exist at Long Branch, and provides an appropriation for its protection. There is not, never was, and never can be a harbor there, and the provision in the bill is for "shore protection," and has not even the flimsy pretext that commerce will be benefited, unless the transfer of funds from the pockets of guests to the coffers of landlords can be called commerce.

Vermillion Harbor has had $111,946.32, and must have $60,000 more. Nineteen vessels of small burden cleared this port in a year, yielding a magnificent revenue of $16.45.

Michigan City, Indiana, gets $20,000 for the inner harbor, the prime benefit of which accrues only to owners of dock property. Waukegan, Illinois, without a harbor and with little if any commerce by water, comes in for $20,000 on top of $15,743 already bestowed.

For the harbor of refuge at Grand Marais, Michigan, where there is no local commerce, $40,000 is given. The engineers report that the improvement to be of value will cost half a million, and until half of this is expended the money put there is merely sunk. Monroe, Michigan, comes in for an appropriation of $1,000. Improvements were commenced forty-six years ago and have not yet developed a commerce, but railroads have shorn it of all significance as a harbor.

Wherever you turn in this list of three hundred and fifty-three items you strike harbors without commerce, or at best only an insignificant local trade, and rivers not only without commerce but almost without water.

At New Buffalo, Michigan, an appropriation is made on an abandoned harbor in which work years ago was discontinued because there was no commerce. At Cedar River, Michigan, $15,000 goes for what? To build a harbor at the mouth of a stream which can hardly float saw-logs and support one saw-mill.

Among the rivers which are the recipients of large sums is to be mentioned Rancocas River, which gets $10,000 added to $10,000 heretofore received. This appropriation is in the interest of one single item of commerce, phosphate rock, which is carried to one factory for making fertilizers, on the river. Cohansey Creek, New Jersey, comes in for $5,000 to clear out material permitted to wash into its channel from the streets of Bridgeton, New Jersey. Chester Creek, Pennsylvania, a drainage sewer for the town of Chester and of local importance only, is given $3,000 to add to $3,000 already bestowed.

Virginia is generously dealt with in the bill. Pamunkey River is the recipient of $2,500, continuing improvement, because the citizens think improved navigation would "stimulate better tillage and would increase trucking business." Totusky River has $5,000, continuing improvement. This stream is navigable for small craft only five miles, and then is crossed by a permanent bridge. Staunton River gets $7,000, continuing improvement. There is one small steamboat on it. The rest of its commerce is by "pole-boat" navigation. Archer's Hope River gets $5,000 for a traffic carried on by "one small steamer and two schooners." Urbana Creek has no commerce, but it is thought she can get one by putting enough money into the river.

Tennessee is not forgotten in this wholesale distribution of money in small streams.

Clinch River, "used only for rafts and flat-boats at low stages," and "blocked with mill-dams and fish-traps" and a railroad bridge. She has had $10,000, gets $3,000 from this Congress, and needs $13,400 more.

French Broad River came in for $5,000 on an estimate of $136,500. Its commerce is "largely grain." It is said 65,000 bushels were floated on its bosom in one year. When this river is improved, and if it maintain its present thriving commerce, it will cost only a little over $2 a bushel to furnish navigable water to get out this grain product. Mill-dams and fish-traps abound in this majestic national highway.

Duck River gets $3,000, wants $25,000 to secure two and one-half to three and one-half feet depth during four to six months of the year. The State has given the exclusive monopoly of navigation in this stream to a private corporation. Hiawassee River maintains one small steamboat. South Forked Deer River is blocked by several railroad bridges without draws, but she wants $19,200, of which this bill doles out $3,000, although "very little trade has been carried on of late years, for the reason that the country has had railroad facilities." Caney Fork and Obey's River receive $4,000 and $5,000, respectively, continuing improvements. They each contain so little water that only three feet can be obtained at high water from February to June.

In Alabama the appropriations are equally lavish and improvident. To improve the Cahawba River $20,000 is given. This is the starter for an appropriation of $577,000 called for by the estimates. It is expected to get by this outlay a three-foot navigation for eighty-eight miles. There are only two insignificant villages on this river, and its use is obstructed by two railroad bridges.

The Tallapoosa River receives $15,000 and needs $260,000 more. The river can be navigated only with flat-boats, and the engineer says "its present commerce is not worth considering."

West Virginia comes in for her full share of this unwise appropriation. Elk River gets $2,000 on an estimate of $100,000 for one plan, and $1,500,000 on another, for the improvement. The only navigation possible is that of logs, canoes, and flat-boats, and the logs can not float unless a five-foot rise can be furnished. Fifteen thousand dollars has heretofore been appropriated. Guyandotte River comes in for $2,000, having already received $10,500 to clear out old artificial obstructions, such as mill-dams and locks now blocking up the river.

North Carolina has not been forgotten. On Lillington River $3,000 goes after the $3,000 heretofore bestowed. Flat-boats and rafts floating cordwood constitute its commerce, which, present or prospective, does not seem to warrant expenditure above eleven miles from its mouth. New River is given $5,000 to commence improvements, which to be effective must be costly, and, as the engineer reports, "not justified at this time."

Georgia did not sleep on her rights to a share of this divide. Oostanaula and Coosawattee Rivers, with "but little commerce on either river," get $1,000. No steamboat has been on the Oostanaula.

Kentucky was vigilant for her due proportion. Her Big Sandy gets $25,000, has previously had $80,000, and wants $46,000 more for "bettering raft navigation." Treadwater River has $3,500, but needs $118,000 to procure available benefits.

No part of the country appears to have been neglected. Maryland has her Choptank River. This river has a trade carried on by three schooners of less than one hundred tons burden each. Five thousand dollars for continuing improvements are bestowed upon Choptank. Elk River receives $6,500, continuing improvement, although she is blocked by a permanent bridge. A channel must be excavated to Elkton, and of course the people of the United States are profoundly interested in the increase of wharf facilities at Elkton.

Maine, New Hampshire, Massachusetts, and Connecticut have each their small rivers and these have come in for a share to aid local developments, help a local trade, increase the value of sites along the rivers, or help the business of running small excursion steamers.

Far-off Texas has her interests cared for. Trinity River had one steamboat in 1874 which was not expected to run in 1880, but $8,000 is voted, and $26,500 has been given before.

Neches River has been known to float a steamboat, and comes in for a permanent place in the annual bill.

At Fort Brown $1,000 is bestowed, not to help commerce, but to keep the banks from caving into the river to the injury of the private proprietors!

Delaware gets for her Indian River $10,000, and must have $40,000 more. It is solely for the benefit of local trade, and the products of the region are fruit, vegetables, and oysters, which can not be shipped, as they are too perishable.

Clinton River, Michigan, attests her watchful zeal. The engineer reported $10,000 necessary if any attempt at expenditure was made here. The act gives $6,000. The commerce is only local, and in four years has yielded a revenue of $297.

These are only a part of the items most manifestly misbestowed by this bill. The expression of public opinion which followed the passage of this bill, condemning it and sustaining the veto, was just although severe. But the people then knew but little of the details of the bill and could point out but few of its objectionable items. I here make this allusion to a few out of many, solely to show the erroneous theory on which the bill was framed.

Not only is the bill too lavish, putting money where it did not and could not benefit commerce or call it into being, but it has, in the attempt to give something to all localities, in many instances wasted what it has given by giving too little to do any good. The following are some of the streams to which a little was given, but not enough to be of benefit:

Swanton, Vermont, gets $4,500 to build a breakwater 1,900 feet long, 260 feet of which have been built at a cost of $60,000. This will make the whole cost nearly half a million. The sum appropriated will build about 20 feet, at which rate it will take eighty-two years to finish the work.

Scituate, Massachusetts, is given $10,000. The engineers report that $280,000 is needed and that $100,000 is necessary to make a beginning.

Canarsie Bay receives $3,000 to make a tidal basin; cost, $73,000. The appropriation of 1881 was $5,000, not used, as it was not enough to start the work.

Sheepshead Bay is given $3,000 where $92,000 is needed.

Flushing Bay is given $5,000 on an estimate of $128,500, with the engineers asking $30,000 as necessary to do any good.

Grand Marais, Michigan, gets $40,000; estimate, $450,000.

Cahawba River, Alabama, gets $20,000 on an estimate of $577,000.

Oconto Harbor, in Wisconsin, is doled out $15,000, while the engineers report that $50,000 must be given before operations can be profitably prosecuted.

Again, the bill in several items, for some unexplained reason, exceeds the engineers' estimates.

Red River gets $75,000 on an engineer's call for $28,000.

Yaquina Bay, in Oregon, gets $100,000 on an estimate of $60,000.

To Providence River and Narragansett Bay $125,000 is given on an estimate of $100,000.

Saint Anthony's Falls, on the Upper Mississippi, gets $25,000 although the improvement is completed and no estimate shown, and the record is silent as to what shall be done with the money.

The act appropriates, exclusive of the Mississippi Valley amount, nearly fifteen millions. The estimates show that this expenditure involves further appropriations of not less than $63,000,000 to save from total waste the amounts already given.

An analysis of the bill shows that forty-nine new objects are named for which appropriations are for the first time made. These items amount to $1,798,000. Careful estimates from part of these proposed improvements warrant the conclusion that they are the beginning of a series of appropriations which must aggregate fifteen millions.

Moreover, engineers aver that the system of partial provision for continuing improvements generally results in a cost of 20 per cent. more than if the work had been prosecuted on a sum covering the estimate. If this be true, these appropriations, exclusive of the work of the Mississippi River Commission, must cost nearly ninety millions.

With a few more observations I have done. The bill of last year made an appropriation for a preliminary survey of the Hennepin Canal, in the State of Illinois. If there is power granted to Congress directly or by implication to appropriate money for such a purpose, I am unable to determine where it is vested. If building the Hennepin Canal may be done by this Government, I can not anticipate on what shore its power is limited or what public works are left for States and individuals and private corporations to create, manage, and maintain.

In the light of history and the log-rolling tendencies apparently developed by the passage of the bill passed over the veto last summer, the Hennepin Canal is specially obnoxious to every principle of justice and sound legislation. It has been probably more widely discussed than any like project for many years. If its construction would draw to it such an immense traffic, why is it that Illinois, with all its great capital, could not find private enterprise sufficient to build it? Capital, where controlled by private individuals, rarely fails to engage itself with any valuable project, especially if it be so valuable as this is said to be. Why did not the State of Illinois build it? Certainly no people knew its advantages better than those of that State, and yet in a constitutional convention held in that State in 1870, where the whole merits of the proposed canal were discussed, an amendment was proposed and carried, by 49 ayes to 11 noes, prohibiting the State of Illinois, through its General Assembly, from ever voting to loan its credit to build this canal, and by a vote of 35 ayes to 25 noes prohibited the appropriation of a dollar for the purpose. This amendment, when submitted to the people for ratification, was carried by a vote of 142,540 ayes to 27,017 noes.

It is opposed by those whom it would be expected most to benefit.

I have listened attentively to all I could hear said by its most zealous friends and advocates, urging this Government to undertake the unsavory work of building a local canal after the great State of Illinois has forbidden by a constitutional amendment an appropriation by its State Legislature of a single dollar for such purpose.

The only reason I have heard that seemed to possess any force was that if such a policy as was being carried out by the river and harbor bill was to prevail, Illinois might as well come in for her part of the general divide.

If this Hennepin Canal were built it would unquestionably afford large additional drainage to the sewers of the city of Chicago and to the United States Treasury.

The last but not the least objection that I shall now suggest to such river and harbor bill appropriations is improving the Upper Mississippi River for the professed object of storing water in reservoirs to let out in times of low water to improve navigation below Saint Paul, and improving Saint Anthony's Falls water-power at Minneapolis.

I understand that with all the large expenditures that have been made in constructing reservoirs no practical advantage has been or can be derived by the shipping interests on the river where relief is needed. That good storage for logs owned by private corporations and individuals has been provided and is enjoyed by such parties I suppose none will question; and that this was all that the original zealous promoters and advocates of this scheme ever anticipated seems probable. The water-power at Saint Anthony's Falls is almost as famous and well-known as the great State of Minnesota, of which it forms so conspicuous a part. This highly valuable water-power is owned, however, by private individuals or corporations, and why the United States Government should be called upon or consent to make large appropriations or indeed any appropriations to improve property so owned and occupied I am unable to learn.

The owners of this vast property do not, so far as I can ascertain, attempt to explain, much less to make clear, why the Government should improve, protect, and preserve their property any more than it should protect the private property of every other citizen in the country.

Furthermore, there are hundreds, if not thousands, of streams in the country equally deserving of attention as those provided for by this legislation. Their improvement might benefit some local trade, possibly facilitate the rafting of forest or field products. They can not be denied if such claims as are granted by the act of 1882 and by the bill we are now asked to pass are worthy. Equal justice and fairness to locality and private individuals must accord to them a share in this great distribution. The disastrous result, as in the case of all departures from a sound and wise policy, no man can foresee.

Lee vs. Richardson.

REMARKS

OF

HON. SAMUEL LEE,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the contested-election case of Lee vs. Richardson.

Mr. LEE said:

Mr. SPEAKER AND GENTLEMEN: I have, in the short time allowed me, endeavored to prove to you that I have been elected to the Forty-seventh Congress from the first district of South Carolina and I trust I have convinced every member without regard to his political convictions that I am entitled to the seat I claim, and I earnestly look for a favorable vote from my political opponents who can rise superior to party and decide this case upon its merits. I have confined my remarks to the Darlington precinct because the chairman of the Committee on Elections states that one to be the main cause that prevents him from joining in the report made in my favor, but I refer you to the report made by Mr. PETTIBONE and concurred in by six other members of the Elections Committee for other startling facts in the case.

There are one or two general features of the political situation in the South that I wish to refer to before taking my seat. The political condition of the South is at present singular and abnormal. The relation of the races there is strained and unnatural, politically, while materially and in every other aspect it is comparatively harmonious.

It is an unfortunate state of affairs, and I should despair of the future did I not believe that time would work a beneficent change in the temper and disposition of the Democrats in control there and induce them to fall in line with the progressive and liberty-loving spirit that has dominated this country for the last twenty years, and I trust will continue to control and direct its affairs through all its glorious future.

As a colored man and a representative of the race with which I am identified I have always done, and will continue to do, everything in my power to bring about such a state of things.

If the Democrats of the South would acknowledge in a practical manner the political rights and privileges of the colored voters there would be an end of all difficulties, and the colored voters would unite in electing the best men to positions of honor and trust upon their merits only, and thus bring peace and contentment and prosperity to the South.

But as long as they see the Democrats as a party determined to deprive them of their rights, either by brute force or clear violation of law, or under the forms of law ingeniously and elaborately devised to neutralize the practical enjoyment of their rights, they will unite to a man to resist and oppose that party, and keep it in the minority where it so justly belongs.

I trust the Republicans of this House will to-day administer a rebuke to the practices of the Democrats in their violations of law and justice, as shown by the facts in the election in the first Congressional district of South Carolina that I have described, by unseating the contestee in this case.

I need not say to the Republicans of this House that it is essential to the purity of elections that this be done and the safety of those principles that underlie the very superstructure of our Government. You are well aware of this, gentlemen. I am satisfied that you will not countenance by your vote the violations of law and the political practices that prevail in elections in the South, as shown in this case that is so repugnant to every sense of justice and fairness that it renders one-half of this country as unrepublican as despotic Russia, while the other half remains the most liberal and progressive of any land of ancient or modern times.

When this House, representing the great Republican constituencies of the North and West, shows its disapproval of the illegal methods resorted to by the South to obtain a representative here, these practices will cease, and not before.

I need not dwell on the intelligent appreciation shown by the colored people of the South, during the last twenty years of the eventful history of this country, of the important issues at stake.

It would be superfluous to state how deeply they sympathized with the principles that animated the Republican party from the firing of the first gun on Fort Sumter, and how steadfastly they adhered through the war and subsequently to the cause of Republicanism. They have sealed their devotion with their blood on many battlefields, and have maintained their political rights at the ballot-box, braving assassination and intimidation that would have unnerved the stoutest hearts.

I trust the action of this House to-day will demonstrate to their anxious and waiting hearts that such sacrifices have not been in vain I ask that you examine the report referred to.

Mr. PETTIBONE, from the Committee on Elections, submitted the following report:

The Committee on Elections, to whom was referred the contested-election case of the first Congressional district of South Carolina, having had the same under consideration, beg leave to report:

The district is composed of the counties of Georgetown, Sumter, Williamsburgh, Horry, Darlington, Marlborough, Marion, and Chesterfield.

The returns of the State board of canvassers give to—

John S. Richardson	20,142
Samuel Lee	11,674
Majority for Richardson	8,468

The contest was begun by the contestant, Samuel Lee, against the sitting member, John S. Richardson, and in his notice of contest he alleges the following grounds:

"First. That a majority of the legal votes polled at the election held on the 2d day of November, 1880, in the first Congressional district of South Carolina were cast for me.

"Second. That owing to frauds, violence, and intimidation committed in your interest by your partisans and supporters in each and every county in the Congressional district, the true result of the election was defeated and a pretended and fraudulent majority made to appear for you.

"Third. That the returns made to the State board of canvassers by the commissioners of elections of Sumter, Williamsburgh, Georgetown, and Horry Counties do not contain true and correct statements of the votes cast for a member of Congress in said counties.

"Fourth. That according to the returns of the election made by the managers of election of the several voting precincts in the counties of Sumter, Williamsburgh, and Georgetown I received a majority of the votes cast in each of the said counties.

"Fifth. That in Sumter County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the following voting precincts, to wit, Sumter No. 1, Carter's Crossing, and Rafting Creek.

"Sixth. That in Williamsburgh County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the following voting precincts, to wit, Salters, Gourdins, and Midway.

"Seventh. That in Georgetown County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the following voting precincts, to wit, Upper Waccamaw, Lower Waccamaw, Santee, Sampit, Choppee, and Pee Dee or Birdfield.

"Eighth. That in Horry County the commissioners of election illegally refused to count and canvass and include in their statement of the result of the election the vote cast, canvassed, and duly returned for a member of Congress at the voting precinct of Martin Hill.

"Ninth. That in Sumter, Williamsburgh, and Georgetown Counties, at the following voting precincts, to wit, Lynchburg, Mayesville, Shiloh, and Privateer, in the County of Sumter, and Kingstree, Gourdins, Black Mingo, Greelyville, Salters, Cedar Swamp, Prospect Church, Pipkins, Andersons, Scranton, and Grahams, in the county of Williamsburgh, and Georgetown, Upper Waccamaw, Sampit, and Carver's Bay, in the county of Georgetown, the vote actually cast for me was larger and the vote actually cast for you was smaller than appears on the face of the returns made by the managers of election at the voting precinct aforesaid; that the difference between the vote as actually cast and the vote as returned by the managers aforesaid arises from the fact that at each of the aforesaid polls numerous ballots bearing your name for Congress were fraudulently placed in the ballot-box for the purpose of creating an excess of votes over voters, and thereby compelling the managers to draw out and destroy the excess of ballots thus created, in order to reduce the number of ballots in the box to the number of names on the poll-list; that in drawing out of the box at each poll the excess of ballots fraudulently created as aforesaid numerous ballots bearing my name for Congress, and which had been legally voted, were drawn out and destroyed, and in their place was counted a corresponding number of ballots with your name for Congress thereon, which had not been legally voted; wherefore, to the vote returned for me by the managers of election at each of the polls aforesaid should be added the ballots bearing my name for Congress which were drawn out and destroyed, and from the vote returned for you at each of the polls aforesaid should be deducted a corresponding number.

"Tenth. That in Marion, Marlborough, and Chesterfield Counties, at the following voting precincts, to wit, Marion Court House, Berry's Cross-Roads, Campbell's Bridge, Little Rock, Friendship, High Hill, Mount Nebo, Marsbluff, Arieal, and Stones, in the county of Marion, and Bennettsville, Smithville, Adamsville, Brownsville, Brightsville, Hebron, Clio, Red Bluff, and Red Hill, in the county of Marlborough, and Chesterfield Court House, Mount Croghan, and Hebron Church, in the county of Chesterfield, for the causes set forth in the preceding paragraph (No. 9) the vote actually cast for me was larger and the vote actually cast for you was smaller than appears on the face of the returns made by the managers of election at the voting precincts aforesaid; wherefore, to the vote returned for me by the managers of election at each of the polls aforesaid should be added the ballots bearing my name which were drawn out and destroyed, and from the vote returned for you at each of the polls aforesaid should be deducted a corresponding number.

"Eleventh. That the polls required by law to be held at Stateburgh, in Sumter County, and at Griers, in Georgetown County, were not opened, because the managers of election, who were your partisans and supporters, and members of the political party whose nominee you were for Congress, neglected and refused to act, in consequence of which numerous voters who went to said polls for the purpose of casting their ballots for me for Congress were deprived of the opportunity to vote for me for Congress, as they intended and desired.

"Twelfth. That at Black River or Brown's Ferry voting precinct, in Georgetown County, 276 votes were cast for me and 20 votes were cast for you; that at the close of the poll, upon opening the ballot-box and counting the votes therein, the managers found that there were 602 tickets in the box; that this excess of 306 ballots was caused by your partisans and supporters fraudulently placing in the ballot-box that number of small tissue ballots bearing your name for Congress; that when it was ascertained that the ballot-box had been stuffed as aforesaid, a controversy arose between the United States supervisors and the managers as to the duty of the latter under the circumstances, and not being able to agree the managers sealed up the box and delivered the same to one of the supervisors without making a canvass and return of the votes required by law; wherefore, the vote cast as aforesaid at said precinct should be added to the vote returned for you and for me, respectively, by the commissioners of election of Georgetown County, to wit, 20 for you and 276 for me.

"Thirteenth. That at Cheraw voting precinct, in Chesterfield County, the poll-list kept by the managers of election and their clerk was falsified in your interest by the insertion thereon of one hundred and sixteen fictitious names, and for the names thus fraudulently placed on the poll-list a number of ballots bearing your name for Congress were surreptitiously placed in the ballot-box and counted, canvassed, and returned for you; wherefore, from the vote returned for you at said precinct should be deducted the number of ballots so illegally counted, canvassed, and returned for you.

"Fourteenth. That at each and every voting precinct in the counties of Chesterfield, Horry, Marlborough, Williamsburgh, Darlington, and Marion numerous illegal votes were cast for you by persons not qualified to vote and by persons who voted more than once.

"Fifteenth. That at each and every precinct in the counties comprising the first Congressional district a large number of colored voters who desired and intended to vote for me for Congress were denied that right, without good and sufficient cause, by the managers of election.

"Sixteenth. That throughout the Congressional district the supervisors appointed by the circuit court of the United States to represent the Republican party, whose nominee for Congress I was, and the deputy marshals of the United States were obstructed, hindered, and prevented by your partisans and supporters from fully and freely performing the duties required of them by the laws of the United States.

"Seventeenth. That at each and every voting precinct in the eight counties comprising the first Congressional district all the managers of the election were known to be your political partisans and supporters and members of the political party whose candidate for Congress you were; that in the reception and rejection of votes and in the general management and conduct of the election the managers of election aforesaid at each and every poll acted in your interest and for your benefit; that at each and every precinct where there was an excess of ballots in the box the managers of election as aforesaid in drawing out such excess acted in your interest, manipulating the ballots in such a way as to draw out mostly tickets with my name for Congress thereon.

"Eighteenth. That in Darlington County there was not a free and fair election, owing, first to the repeating, illegal voting, and ballot-box stuffing, which was committed in your interest and by your partisans and supporters at each and every voting precinct in the county; second, at Darlington Court House poll, Florence, Effingham, James Cross-Roads, Gum Branch, and Timmonsville, by the poll-list being falsified by the insertion thereon of fictitious names, repeating, violence, intimidation, illegal voting, and by the rejection of a large number of qualified voters who desired and offered to vote for me for Congress; wherefore the entire vote returned as having been cast at each of the above-named polling precincts should be rejected and entirely excluded.

"Nineteenth. That in Darlington County, at the following voting precints, to wit, Effingham, James Cross-Roads, Gum Branch, Timmonsville, Lisbon, Lydia, Society Hill, Leavenworth, and Mechanicsville, for the causes set forth in paragraph No. 9, the vote actually cast for me was larger, and the vote actually cast for you was smaller, than appears on the face of the returns made by the managers of election at the voting precincts aforesaid; wherefore, to the vote returned for me by the managers of election at each of the polls aforesaid should be added the ballots bearing my name which were drawn out and destroyed, and from the vote returned for you at each of the polls aforesaid should be deducted a corresponding number.

"Twentieth. That at Graham's Cross-Roads, Scranton, and Cedar Swamp, in Williamsburgh County, the ballot-boxes were stuffed, the poll-lists falsified by the insertion thereon of fictitious names, violence, intimidation, repeating, and illegal voting committed in your interest and by your partisans and supporters, to such an extent that it is impossible to tell how many legal votes were cast at said voting precincts; wherefore the entire vote returned as having been cast at said polls should be rejected and entirely excluded."

To the notice of contest the sitting member filed exceptions and answers as follows:

"SIR: In reply to your notice of intention to contest my seat in the Forty-seventh Congress of the United States as a member from the first district of the State of South Carolina, served on me on the 20th day of December, 1880, I have to say—

"I. That I deny and except to your right to contest my seat, either in your own behalf or in the interest of the voters of the first Congressional district of the State of South Carolina, for the reason that you were not at the time of the general election of the 2d of November, 1880, either a legal voter or a citizen of the said district or State.

"I allege that two years previous to said election, with the intention of removing from South Carolina, you sold whatever property you owned in South Carolina and removed with your family beyond the borders of said State, and returned to the said State less than twelve months previous to said election.

"II. I object and except to your notice so far as you charge force and intimidation on the part of my supporters, because you do not specify, as the law and practice require, or pretend to specify, a single instance of force or intimidation committed by any of my supporters anywhere in the Congressional district on any of the voters of said district. Nowhere in your notice do you state who was forced to vote for me, or who was intimidated by my supporters and prevented from voting for you, or in what manner, place, or town such intimidation was had, or by whom it was done.

"III. Because your specifications of grounds of contest are insufficient in law, and do not set forth facts sufficient or of such a character as to enable you to contest my right to said seat. And not waiving my aforesaid exceptions, but expressly reserving and relying on the same, I do hereby expressly deny, on information and belief, all the charges and allegations in your said notice contained and set forth, and require you to prove the same, except as hereinafter admitted.

"To the first ground of your contest I deny the same, and each and every allegation therein contained. On the contrary, I allege that my official majority, as found by the State board of canvassers for the State of South Carolina, was 8,468.

"To the second ground of your contest I deny the same, and each and every allegation therein contained.

"To the third and fourth grounds of your contest I object, and except to them as indefinite and insufficient in law. If true, as alleged by you, they do not show or allege that I am not entitled to said seat, or that you are; and they do not state how or wherein the said returns are not true and correct, or what would be your majority in said counties if the said returns were corrected as claimed

by you. In reference to your allegation in said third ground of contest, while I do not admit it, because I do not know it to be true, but, on the contrary, require you to prove it, I claim and allege, if true, as alleged by you, I would still have a large majority of the votes cast at said election, and be entitled to said seat.

"In reference to the fourth ground of your contest, I answer that I believe it is true, as alleged by you therein, that a majority of the votes cast in said counties of Sumter, Williamsburgh, and Georgetown were cast for you, but I object and except to your specification as indefinite and insufficient in law. It does not state what returns; from what voting precincts; how or wherein the said returns are not true or correct, or what would be your majorities in said counties; and I expressely and emphatically deny that you would, if your said allegations were true, thereby or by reason of anything alleged in said third and fourth grounds of contest, have a majority of the votes cast in said district, or be entitled to said seat.

"To the fifth ground of your contest, I answer that I do not know or admit that in Sumter County the commissioners of elections illegally refused to count and include in their statement the votes cast and returned at Sumter precinct No. 1, Carter's Crossing, and Rafting Creek. I admit that the votes cast at said voting precincts were refused and excluded. As to the votes cast at Sumter precinct No. 1, I waive the question as to whether the same were legally or illegally refused and excluded by said commissioners, and agree that the same may be counted. And I allege and claim if they be counted I would still have a large majority of all the votes cast in said district. As to the votes cast at Carter's Crossing and Rafting Creek, I deny, on information and belief, that they were illegally refused and excluded from the said statement, and I allege and claim if they be counted I would still have a large majority of all the votes cast in said election.

"To your sixth, seventh, eighth, ninth, and tenth grounds of contest, on information and belief, I deny the same and each and every allegation therein contained.

"As to so much of the allegation contained in your ninth ground of contest as alleges that there is such a voting precinct as Mayesville in Sumter County, I deny the same; and though I received a majority of the votes polled at said supposed precinct, I allege that there is no such voting precinct established by law, and ask that the vote returned and counted from said supposed voting precinct be excluded.

"To your eleventh ground of contest, on information and belief, I deny that the poll at Stateburgh, in Sumter County, and at Grier's, in Georgetown County, were not opened. I deny that said polls were not held because the managers neglected or refused to act. I deny that because said polls were not held numerous voters who desired to vote for you were thereby deprived of the opportunity to vote for you.

"On the contrary, on information and belief, I allege that the poll at Grier's, in Georgetown County, was held, and I charge and allege that your partisans and supporters, with force and arms, took from the possession of the managers of said poll the box containing the ballots cast for a member to Congress and carried off the same, refusing to allow the said managers to count the ballots and ascertain the result. And I further allege that no one was prevented from voting for you who desired to do so by anything that was done at either of said voting precincts by my partisans and supporters, or by the managers at said precincts.

"To your twelfth ground of contest, on information and belief, I deny the same, and each and every allegation therein contained; and I charge and allege, on information and belief, that your partisans and supporters, with force and arms, took from the possession of the managers of said Black River or Brown's Ferry precinct the box containing the ballots cast at said voting precinct, and refused to allow the same to be counted by the managers, as by law required to be done.

"To your thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, and twentieth grounds of contest, on information and belief, I deny the same, and each and every allegation therein contained. As to your seventeenth ground of contest, and all other grounds where similar allegations are made by you, I charge and allege that the managers of the election were appointed, and the purging of the ballot-boxes, where the same was found to be required by law, was done in strict accordance with the laws of South Carolina governing in such cases, and that said laws were framed and passed by the political party of which you are a member, and the appointment of said managers and the purging of the boxes were done in strict accordance with the practice adopted and acted on by the party of which you are a member when said party were in power in South Carolina. I further charge and allege that the party to which I belong have not altered, amended, or repealed the said laws in one iota.

"As to so much of your allegation contained in your eighteenth and nineteenth grounds of contest as alleges that there is such a voting precinct as James Cross-Roads in Darlington County I deny the same, or that there was any vote polled at or counted from any such voting precinct.

"The undersigned alleges and charges that there is no such voting precinct established by law as Mount Clio in Sumter County, and claims that the vote counted and canvassed as polled at said supposed voting precinct should be excluded.

"The undersigned further denies that if the irregularities alleged by you to have been committed did occur (of which he has no knowledge or information), they were of a character in any degree to affect or invalidate his true and lawful election. On the contrary, he alleges and claims that counting the entire vote polled at every voting precinct in the Congressional district, and accepting the returns made by the Republican supervisors wherever they made returns as to the number of such votes and the persons for whom they were cast, the contestee received a large majority of all the votes cast for a member to Congress from the first district of the State of South Carolina at the election held for such member on the 2d day of November, 1880.

"While the undersigned denies that there was any 'force or intimidation' whatever used or practiced anywhere in the Congressional district by his partisans and supporters, he alleges and charges that there was great force, undue influence, violence, and intimidation practiced by you and your partisans and supporters upon and over a large number of colored voters who desired to vote for him, and who in consequence of such force, violence, undue influence, and intimidation were prevented from voting for him, and forced by fear of violence and injury to their persons or property to vote against their wishes for you. That this was notably the case at each and every voting precinct in the counties of Sumter, Williamsburgh, and Georgetown. That to render this intimidation more complete and effectual you and your partisans and supporters caused large numbers of the colored people to be formed into clubs and appointed captains over them, who were charged to march their squads in a body to the polls, and there see that they voted the Republican ticket. That you and your partisans did so officer them and march them in squads to the polls, and by such means massed large bodies of colored voters at certain polls, thereby crowding out Democratic voters, and preventing them from voting thereat, and thereby overawed, intimidated, and forced many colored voters to vote the Republican ticket who desired to vote the Democratic ticket. That you and your partisans and supporters procured certain little blank books, which you and your partisans and supporters caused to be placed in the hands of certain of your partisans and supporters, and gave out that these books were furnished by the United States authorities, or by the national Republican party who were in authority, for the purpose of entering therein the names of all colored men who voted the Republican ticket, to be returned to the said authorities as evidence that they had so voted.

"The undersigned further alleges and charges that you intimidated a large number of colored voters and prevented them from voting for contestee by procuring yourself to be appointed a United States deputy marshal, and acting as such in the interest of your own election; that you and your partisans and supporters procured the appointment of a large number of special deputy marshals, whom you and your partisans and supporters caused to be stationed at each and every poll in the Congressional district without warrant of law, there being no city or town in the district of 20,000 inhabitants; that these deputy United States marshals had displayed on their persons the badges of their authority obtained from the United States authorities, and were active partisans and supporters of yourself, overawing and forcing many colored voters to vote for you who would otherwise have voted for him.

"The undersigned further alleges and charges that in order the more effectually to intimidate and force the colored voters to vote for you, you caused your name as a candidate for member to Congress to be printed on a thick, stiff, and striped-back card, easily discerned at a considerable distance, thereby seeking to prevent, and in a great many instances did prevent, the colored voters from voting a secret ballot, as is contemplated by the law. That many of these colored voters desired to vote the Democratic ticket on which contestee's name was printed as a candidate, and would have done so could they have voted it without its being known to your partisans and supporters for whom they voted. That many colored voters actually came to the friends and supporters of the undersigned and stated that they intended and desired to vote the Democratic ticket, but could not do so, for fear of your partisans and supporters, unless the Democratic ticket could be pasted on the inside of your striped-back ticket, and these—when this device was resorted to, to shield and protect them against the violence and intimidation of your partisans—voted the Democratic ticket.

"The undersigned alleges and charges that your partisans and supporters armed themselves with guns and pistols, openly displayed on their persons, and went to the polls so armed and equipped, and there threatened and intimidated many colored voters who intended and desired to vote the Democratic ticket, and prevented them from so doing. That this was so done at each and every voting precinct in the counties of Georgetown and Williamsburgh, and at Sumter Court House, Carter's Crossing, and Rafting Creek, in Sumter County."

The issues between the parties are so clearly set out in their pleadings that little comment thereon is needed.

We therefore proceed to examine the case according to the testimony found in the record, and the law applicable thereto.

GEORGETOWN COUNTY.

It is agreed (Richardson's brief, record, page 92) by both contestant and contestee that all the vote of Georgetown County was rejected by both the county and State board of canvassers save one poll, to wit, Georgetown poll—that is, viz, Santee, Sampit, Upper Waccamaw, Lower Waccamaw, Carver's Bay, Choppee, Pee Dee, and Brown's Ferry, eight precincts thrown out and Grier's not held.

The "official returns" give to Lee 617 votes; to Richardson, 302 votes for the whole county; total, 919 votes. Thus giving to Mr. Lee a majority of 315 only.

But Mr. Richardson admits (brief, page 10) that the total vote in 1876 in the same county was 3,836, almost four times as much as in 1880, and this is explained because of the throwing out of the eight precincts. Were these eight precincts, or any of them, improperly thrown out?

But, first, as to Georgetown poll. It appears from the record, page 788 (R. H. Williams), and is not contradicted, that at Georgetown poll 923 votes were cast; 1,092 were found in the box, 169 more than there were voters (H. T. Herriott, record, page 817), and these were Democratic tissue ballots, and all for Richardson. Instead of rejecting these 169 tissue ballots, the managers, all Democrats, returned all the tickets to the box and then withdrew 169 tickets and destroyed them (record, 798), but not one tissue ballot is shown to have been withdrawn. Other honest ballots, which were honestly cast, were withdrawn and destroyed. All the tissue ballots were counted for Richardson; 112 honest Lee ballots and 57 honest Richardson ballots were withdrawn and destroyed.

Thus Richardson got 169 more votes than he was entitled to and 57 less; but his vote was increased 112 by the fraud and Lee's decreased 112 by the same fraud, and it was so counted in the make up of Richardson's assumed majority. Thus, as Richardson got by this fraud 112 more than he was entitled to and Lee 112 less, the difference is 224. And manifestly if there was no other fraud Richardson's majority is too great by 224 votes, and Lee's true majority at Georgetown poll was 539 in place of only 315.

Santee poll.

At Santee an honest election was held; five hundred and one persons voted as shown by the poll-list, and 501 ballots were found in the box. (J. B. Lloyd, record, 804.) Two votes were only for Presidential electors; 499 votes were cast for Representatives in Congress, and of these Lee received 476 and Richardson 23, showing a clear majority for Lee of 453. But this poll was rejected, not because there was any fraud or any pretended fraud, but as J. W. Tarbox, the Democrat chairman of the county board of commissioners swears (record, page 797), "We threw out the Santee box because the box was sent without a written certificate authorizing the bearer to deliver it." But that the election was an honest one and that Lee received 453 majority is uncontradicted and unquestioned.

Sampit.

This precinct was rejected by the same board of commissioners for the same reason, because "the box was sent without a written certificate authorizing the bearer to deliver it."

At this precinct 437 ballots, as is shown by the poll-list, of which 432 were for Congress. (H. T. Johnson, record, page 815.) The poll-lists kept by the two supervisors agreed; 495 ballots were found in the box when it was opened.

Now, somebody committed a fraud by placing 58 fraudulent ballots in that box. Two of the managers were Democrats and one a Republican. Twenty "little jokers," tissue ballots, were found inclosed in another ballot. The managers destroyed the 20 tissue ballots and returned to the box the ballot inclosing them.

Four Democratic ballots were found with one or more Democratic ballots folded within them. These inclosed ballots were destroyed, and then an excess of 37 ballots was still found. Then the managers drew from the box, in strict accord with the law of South Carolina, 37 ballots; 18 were Republican and 19 were Democratic. The withdrawal was as fair as could possibly be. But the fraud practiced, it is as clear as sunlight, was a Democratic fraud; yet this ballot-box was rejected, not because of the fraud, but on a purely technical ground. Mr. Lee, as both the Republican and Democratic supervisors, who were present, saw, and reported the result, swear (record, page 816), got 256 votes and Mr. Richardson 176, a clear majority for Mr. Lee of 80 votes, as shown by the managers' returns. But Richardson got 18 more votes than he was entitled to and Lee 18 less, because 18 "tissue ballots" were counted for Richardson in place of 18 honest votes for Lee withdrawn from the box, and then 36 votes should be added to Lee's vote, and his majority is honestly 116 at this precinct.

Upper Waccamaw.

This precinct was rejected by the Democratic county commissioners for the same reasons—purely technical. The managers who held the election were all Democrats. (Record, page 810.) They were Mr. Richardson's political friends, and ought to have seen that no fraud was perpetrated, as against him at least. But Bently Weston and R. F. Johnson, the two supervisors, one a Democrat and one a Republican, reported (record, page 814), and Johnson swears that there were 432 names on the poll-list; that an excess of 80 ballots were found in the box; this excess was drawn out and destroyed by a Democratic manager; but

by a singular perversity of fate 48 of the ballots were Republican and only 2 Democratic! And, as a specimen, let the following testimony of R. F. Johnson show:

"Q. How many, if any, Democratic ballots were found together in one at the counting of the ballots at the close of the poll?

"A. Twelve in one."

After this manipulation, the Democratic managers gave to Mr. Lee 341 votes and to Mr. Richardson 90, which gave Mr. Lee 251 majority, and this was rejected by the Democratic county commissioners and utterly cast away.

Reversing this process of gross and palpable fraud, even the Democratic managers, whose business it was to see justice done, admitted and certified to a majority for Mr. Lee of 251; and remembering that 48 honest votes given to Mr. Lee were drawn out and 48 not honestly given to Mr. Richardson were left in the box, thus taking from Lee 48 votes which belonged to him and adding to Mr. Richardson's vote 48 votes which did not belong to him, Mr. Lee's vote is swelled to 341, plus 48, which makes 389, and Mr. Richardson's is 90, less 48, which gives him 42 votes; and this clearly gives Mr. Lee at this poll a majority of 347 votes instead of 251.

Lower Waccamaw.

The poll at this precinct was rejected for the same flimsy reason. There is no dispute between the parties as to the vote actually cast. Two of the managers were Democrats and one Republican (record, page 824). An honest election was had here; the vote was 250 for Lee and 45 for Richardson. This fact is utterly unquestioned. This gave Lee 205 majority. Let us in conscience so count it.

Carver's Bay.

The managers here were all Democrats (record, 820). The poll-list kept by these Democratic managers and by the Republican supervisor both agree that only 293 votes were cast; 377 votes were found in the box when the same was opened. (Record, page 820, R. B. Anderson.) The box was in the hands and under the control of the Democratic managers. A fraud gross and palpable was perpetrated—94 fraudulent votes were found in the box. In one ballot 23 Democratic ballots were found inclosed, and also "tissue ballots" were found professing to be Republican ballots by having the honored names of Garfield and Arthur at the top; and then a lot of names of persons as electors who were not running; and then the name of Mr. Richardson as the Republican (?) candidate for Congress. Within one ballot alone 31 of these doubly fraudulent ballots were found. These 23 Democratic and 31 "so-called" Republican tissue ballots, but all having the name of Mr. Richardson as a candidate, and the one which inclosed the 23 were destroyed; thus 55 fraudulent votes out of 94 fraudulent votes were destroyed by the managers.

But 39 fraudulent votes were returned to the box; of this number was drawn out 19 Republican and 20 Democratic. The drawing out was as fair as fair could be. And the managers returned 183 for Richardson and 97 for Lee. (R. B. Anderson, record, pages 820–21.) This gave Richardson 86 majority. But the facts show the fraud was a Democratic fraud. The fraud was in favor of Mr. Richardson. Nineteen Republican votes were drawn out which were honestly cast. In their place 19 fraudulent votes were left in the box and counted for Mr. Richardson. He got 19 more votes than he was entitled to, and Lee 19 less. The difference is 38. Subtract this from Richardson's certified majority 86; lessen it by 38, and his true majority was only 48.

And this would give a difference of 38 votes in favor of Lee over that certified to by the managers.

Choppee.

This poll was thrown out for the same alleged reason above set forth as in the case of Sampit. (Record, page 797.) The undisputed vote cast was 238. That number of ballots were found in the box. The managers were all Democrats, but they show in this return that the honest vote cast was 197 for Lee and for Mr. Richardson 41. This gives a majority for Lee of 156. (E. J. Greggs, record, page 823.) This result is undisputed; it should be so counted.

Pee Dee.

Here the managers were all Democrats. Their returns and the United States supervisors testify to the same result. The vote stood 469 for Lee and 33 for Richardson, giving a majority for Lee of 436. This is not questioned or disputed. It was thrown out by the county commissioners for the same technical reason as Choppee and the balance. (Record, page 797.) We can not so report; because the messenger was not authorized to carry up the returns in writing we can not reject the entire poll.

Brown's Ferry or Black River precinct.

At this precinct it appears to be admitted that a reasonably fair election was held. That is, every voter was permitted to vote as he choose. The poll-list of the managers showed (record, page 800) that 296 votes were cast, and the names of the voters are given. But when the box was opened 602 ballots were found in that box. All the managers were Democrats. (See record, page 790–'2.) To show these ballots were found in the box, the testimony of Joseph Dunmore, a United States surpervisor, is sufficient. We quote (record, page 794):

"Q. Where in the box, in what quantities, and in what condition were these tickets found?

"A. About the middle of the box, inside of a larger Democratic ticket, in quantities of ten or twelve.

"Q. How many of these packages were found together in the box?

"A. Five or six."

He also swears that "at the corner bottom of the box a large number of these tickets were found." It appears that the voters were very much excited, as we think American citizens ought to have been. "When they found that the managers attempted to throw the ballots found folded together back into the box and count them." (Record, page 790.)

The witness Dunmore being asked why he objected to counting these five or six parcels of fraudulent tickets answered, "Because they refused to destroy all but one (as the law required), but attempted to put them back in the box and count them." Isaiah James McCottru (record, page 810) swears that 201 Republican votes were cast and 95 Democratic. In this he is corroborated by Joseph Dunmore, the United States supervisor. A great excitement naturally prevailed. A monstrous fraud was about to be perpetrated before their eyes. Joseph Dunmore swears (page 792) that Mr. Montgomery, one of the managers, suggested "to throw the whole box in the fire." In this he showed his thorough impartiality (?), the Republicans being largely in the majority. The Democratic United States supervisor said, "No; throw them in Black River, as it was a fraud, and he would not stand and see them counted."

All the tickets were placed back in the box, tissue ballots and all, and the box locked and delivered to Joseph Dunmore (record, 792), who next day offered the box and the contents to J. W. Tarbox, the chairman of the county commissioners of election, who would not receive it. The said box was by Dunmore transmitted to the Committee on Elections, and is now in the custody of the clerk of said committee. But as the names on the poll-list are printed in the record, page 800, and the number not disputed, and as the proof is clear that 95 were Democratic votes and 201 Republican, and as "nothing short of the impossibility of ascertaining for whom the majority of the votes were given ought to vacate an election" (McCrary on Elections, 230), we are constrained to count 95 votes for Richardson and 201 for Lee, since the witness McCottru swears he observed the Republican ticket voted (page 810) bore the name of Samuel Lee for Congress, and this would give Mr. Lee 106 majority at this poll.

The result of this analysis shows that in Georgetown County, by the record evidence, enormous frauds were perpetrated; that looking to the uncontradicted evidence as to the votes actually cast by the legal voters, the vote honestly cast was as follows:

Vote of Georgetown County.

Precincts.	As returned to the State canvassers.		As corrected by the committee.	
	Richardson.	Lee.	Richardson.	Lee.
Santee			23	476
Sampit			158	274
Upper Waccamaw			42	389
Lower Waccamaw			45	250
Carver's Bay			164	116
Choppee			41	197
Pee Dee			33	469
Grier's, no poll opened				
Brown's Ferry, or Black River			95	201
Court House precinct	302	617	190	729
			791	3,101
Lee's majority				2,310

This gives a gross majority in Georgetown County to Lee of 2,310, in place of 315 as allowed by the board of State canvassers, and deducting the admitted majority from the real majority of Mr. Lee, shows beyond cavil that Mr. Lee was defrauded out of 1,995 honest votes in Georgetown County.

SUMTER COUNTY.

The board of State canvassers certify that Mr. Lee received in this county 1,789 votes, and Mr. Richardson 2,560 votes (see record, page 228). We analyze the vote of this county as follows:

Sumter precinct No. 1.

Mr. Richardson, the contestee, in his answer to the notice of contest, on page 4 of the record uses the following language:

"As to votes cast at Sumter precinct No. 1, I waive the question as to whether the same were legally or illegally refused and excluded by the commissioners, and agree that the same may be counted."

The proof shows that 1,499 votes were cast for Samuel Lee, and 9 votes for John S. Richardson. (Record, pages 44 and 245.) Since Mr. Richardson admits this vote to be correct, we may safely count it that way. This gives Mr. Lee a clear majority at Sumter precinct No. 1 of 1,490 votes.

The honesty of the contestee with regard to this precinct is certainly worthy of commendation; but what shall be said of or what language can characterize the partisan malignity of the commissioners who utterly ignored that poll?

Sumter precinct No. 2.

At this poll, which was in the same town as Sumter precinct No. 1, and about one hundred yards distant, the total vote cast for Richardson was 398; the vote cast for Lee was 91, making a total of 489 votes.

It appears clearly by the evidence that a great many voters tried to vote there who could not and did not. (See record, pages 29, 31, 38, 41, 256, 258, 259, 52, 53, and 54.) It must be apparent to the dullest capacity that if 1,508 honest votes, as Mr. Richardson admits, could be cast at Sumter No. 1 on the day of the election, the same number of votes might have been cast within the same hours at Sumter No. 2. The record shows that at Stateburgh precinct, a neighboring voting-place, no election was held. The managers at Stateburgh were all Democrats; necessarily the voters of that precinct had to go to a neighboring precinct or not vote at all. They went to Sumter, and A. Johnson Andrews swears (see page 42), "I saw about four hundred to five hundred Republicans leave town that day without voting." Other witnesses prove that Republican voters were prevented from going to that ballot-box. Men and boys stood in solid array in front of that ballot-box. Democrats had free access to the poll. One witness, B. Spears (see page 30), swears as follows: "Every time I started I was pushed right back, but that colored men who had Democratic votes in their hands were given free passage."

Thomas R. Harney (record, page 32) swears that it was impossible for a colored Republican to vote at Sumter No. 2, "Because the stairway leading to the poll was crowded with white men and boys, and when I attempted to go up I would be squeezed and mashed so that I would be injured by trying to get up there. I made three attempts to get up there, but failed each time."

C. J. Croghan swears (see page 39):

"Occasionally they let one in after sticking him with pins, abusing him, and cursing him, and telling him this was no damned Republican poll."

Alfred Davis (record, page 52) swears he attempted to vote. "I was prevented as I started up the steps; I was stuck with knives everywhere." To the same effect is the testimony of Ancrum Slater, Ransom Dicks, Monday Bronson, and others (see pages 46 to 54). From all this testimony it must be clear that no fair election was held at Sumter No. 2. The frauds which were committed were in favor of Mr. Richardson. Allowing them to stand, we pass to

Lynchburgh precinct.

The State board of canvassers report that Mr. Lee received 181 votes and Mr. Richardson 319 votes, making a total of 500 votes. (See record, page 227.) But 107 more ballots were found in the box than were actually cast by the voters. (See record, pages 25 and 27—James Levy and R. A. Wilson.) All the managers were Democrats. By the law of South Carolina 107 ballots were drawn from the box and destroyed, and then the 500 ballots remaining were counted. This would have been exactly just if the 107 fraudulent ballots had been withdrawn, but they were not. The result, as stated by the State board of canvassers, was, as we have already seen, 181 for Mr. Lee and 319 for Mr. Richardson. But since it is evident that a gross fraud was perpetrated here as in other precincts by the ballot-box being stuffed, and since all the managers whose duty it was to see that the box was empty at the outset and to see that a fair election was held were the political friends of Mr. Richardson, it is difficult, not to say impossible, to believe that the fraud was perpetrated in favor of Mr. Lee.

We turn, therefore, to the positive testimony, and on page 61 of the record a list is found of those who exhibited Republican ballots, and who voted the same.

This list shows that 242 votes were cast for Mr. Lee at Lynchburgh precinct, and since the report of the board of State canvassers shows that 500 votes were cast for candidates for Congress, the true vote as actually cast was for Lee 242 and for Richardson 258, in place of for Lee 181 and for Richardson 319.

By the official returns Richardson received 138 majority; but in truth and in

fact he received a majority of 16 votes only. (See testimony of James Levy, record, pages 25 and 61; also R. A. Wilson, page 27.)

Now, it is clear that the 107 extra ballots found in the box were fraudulent. They must have been, for there were no voters behind them. Were they for Lee? The record is silent as to who they were for.

R. A. Wilson, United States supervisor, page 28, swears the managers would not let him see the tickets they destroyed. In this he is corroborated by J. A. Rhame. (Record, 671.)

Mayesville precinct.

At this precinct the State board of canvassers give to Mr. Lee 257 votes and to Mr. Richardson 274 votes. The total vote would thus be 531.

But the poll-list showed that 539 votes were cast, and there was found in the box 760 ballots. It is thus manifest that there was a fraud perpetrated by stuffing the ballot-box with 221 fraudulent ballots. They were Democratic ballots. V. S. Johnson swears (record, page 19) that in not less than ten instances "there were quite a number of Democratic tickets folded together," and "the general appearance was that they were laid in there before the voting commenced, and had not been put through the hole in the lid;" and also swears that Mr. Wilson, one of the managers and the one who counted the tickets, stated that "the tickets were hatching in the box." Johnson also swears that he saw the tickets counted, and no Democratic tickets were pasted upon the checked-backed tickets voted by the Republicans, and all the managers were Democrats; and Mr. Cooper, one of the Democratic managers declared that the bundle of Democratic tickets "could not have been voted in the box and have to be torn up."

Mr. Johnson further swears that "there was one bundle which could not go through the hole in the lid." H. H. Wilson swears (page 21) that he kept a book, which he produced, in which the names of the voters who voted the Republican ticket at that poll on that day were written down, and that 402 Republican votes were cast, upon which appeared the name of Samuel Lee for Congress. The names of all these voters are found in the record on page 58 and following, as sworn to by the witness Wilson. Wilson swears he saw each of these persons deposit their tickets. (See record, page 22.) True it is that E. M. Cooper, one of the Democratic managers, swears, on page 698, that in his judgment Wilson could not know this fact, but it is evident that 221 fraudulent ballots were found in the box. They could not have been put through the small hole in the lid of the box. They must have been placed in the box before the poll was opened.

They were all Democratic tickets. It is impossible to believe for an instant that it was a Republican fraud, since the whole advantage was in favor of Mr. Richardson and the Democratic party. It is clear as demonstration can be that it was a Democratic fraud. Under the law of South Carolina a number of ballots equal to the fraudulent Democratic excess was withdrawn from the box. It would have been honest if all the fraudulent Democratic votes had been withdrawn, but the record shows they were not. Instead of this, 147 honest Republican votes and 74 dishonest Democratic votes were withdrawn. Since 147 honest Republican votes were withdrawn and destroyed, and 147 dishonest and fraudulent Democratic votes were left in the box and were dishonestly counted for Mr. Richardson, the fraud consisted in giving to Mr. Richardson 147 more votes that were actually cast for him and taking away 147 votes which were honestly cast for Mr. Lee.

We must correct the result as declared by the board of State canvassers by deducting from Mr. Richardson's certified vote 147 votes, and by adding to Mr. Lee's certified vote 147 votes. This will deduct 294 votes from Mr. Richardson's certified majority, and shows that the true vote at the Mayesville precinct was 404 votes for Lee and 127 for Richardson, in place of 257 for Lee and 274 for Richardson. This shows that Mr. Lee's true majority at Mayesville precinct was 277 in place of a majority of 17 votes for Richardson, as certified by the board of State canvassers.

Concord precinct.

At this precinct it is claimed by Mr. Richardson and conceded by Mr. Lee that every honest vote cast was cast for Mr. Richardson. One hundred and fifty-two honest Democratic votes were cast at this poll. The Republicans refused to vote because they believed the ballot-box was already stuffed before the poll was opened. All who voted there voted the Democratic ticket. This is undeniable. (See record, page 54.) But, strange to say, when the box was opened a fraudulent excess of 41 ballots was found in the box. They were all Democratic tickets. As no Republicans voted, and not a single Republican ballot was found in the box, it would seem to be plain that this fraud was a Democratic fraud. The excess was properly rejected; but Concord precinct may fairly be held forth as a specimen of the frauds perpetrated in this district. The managers were all Democrats. Democrats alone voted. One of the managers, J. D. Wilder, testifies (record, page 692) that "the Republicans refused to vote, and that an excess of 41 ballots were found in the box when the same was opened." He further swears that he "did not see a single person who was recognized as a Republican voter at that poll."

The only explanation of the singular facts which stand out clear and apparent at Concord precinct poll is that a scheme had been formed and organized before the election came off to deliberately swindle Mr. Lee and the Republican party in the election in that district at that time. It is the only explanation a reasonable mind can offer or suggest why such a monstrous and patent fraud was perpetrated. And here we leave the consideration of the Concord precinct, with the consciousness of having exposed a fraud as novel as it is monstrous.

Privateer precinct.

At this precinct a comparatively fair election was held. The managers were all Democrats (record, page 45). Seventeen Republicans only voted there, and 127 Democrats; but when the box was opened there was an excess of 120 ballots. That they were fraudulent no man can deny, since there were no voters to cast them. Under the law of South Carolina these 120 votes in excess had to be withdrawn from the ballot-box. They were Democratic votes. In withdrawing 120 votes 10 of the honest 17 Republican votes that had been cast were withdrawn, and only 110 of the 120 dishonest, corrupt, and fraudulent Democratic votes were withdrawn. Believing that honest votes only ought to be counted, we must diminish the vote of Mr. Richardson by 10 votes, which are counted for him in his certified majority, but which were not cast for him by voters, and increase Mr. Lee's certified vote of 7 to the 17 votes actually cast for him, and this makes a difference of 20 votes which must be deducted in truth and all fairness from Mr. Richardson's certified majority. This makes Mr. Richardson's true vote 127 votes, in place of 137 votes. This result it would seem to be impossible to dispute.

Carter's Crossing precinct.

At this precinct, as in all the precincts of the county, the managers appointed by the county commissioners were all Democrats. (See record, pages 8 and 47.)

At this poll Mr. Lee received 407 votes; Mr. Richardson received 29 votes. This would give a clear majority to Mr. Lee of 378 votes. (See record, pages 23, 249.)

Dr. Henry Stucky, one of the Democratic managers, swears, page 18, that the election was fairly held; that the two supervisors, one a Republican and the other a Democrat, were present all the time; that the managers adjourned once for breakfast and once for dinner, about twenty minutes (record, pages 24, 18), and left the box in the custody of these two supervisors, one a Republican and the other a Democrat.

J. Nelson Carter, one of the two United States supervisors, swears (record, page 23) that while the managers were absent no one touched the ballot-box. The poll-list kept by the Democratic managers and the two United States supervisors exactly agreed. (See record, pages 23 and 249.) But because of the adjournment by the Democratic managers for breakfast and dinner, E. P. Ricker, one of the county commissioners, swears, on page 48 of the record, that "Carter's Crossing precinct was rejected on the ground that the managers adjourned for breakfast and dinner!" Since no witness controverts the facts as stated here, your committee is compelled to correct and count this poll and give to Mr. Lee 407 votes, and to Mr. Richardson 29 votes, thus counting for Mr. Lee a majority of 378 votes at Carter's Crossing poll.

We summarize, so far as Sumter County is concerned: The State board of canvassers (record, page 228) certify and give to J. S. Richardson 2,560 votes, and to Samuel Lee 1,789 votes. This would give to Mr. Richardson a majority of 771 votes, and this majority goes to make up Mr. Richardson's majority in the district of 8,468 votes.

But since your committee have analyzed the vote of this county of Sumter, so far as all the disputed precincts are concerned, they find and summarize as follows:

Vote of Sumter County.

Precincts.	As returned to the State canvassers.		As corrected and found by the committee to be the actual vote as cast.	
	Richardson.	Lee.	Richardson.	Lee.
Bishopville	353	9	353	9
Lynchburgh	319	181	258	242
Providence	127	40	127	40
Shiloh	180	143	134	189
Swimming Pens	99	233	99	233
Wedgefield	190	232	190	232
Mayesville	274	257	137	404
Spring Hill	224	181	224	181
Corbett Store	79	346	79	346
Manchester	28	69	28	69
Privateer	137	7	127	17
Concord	152	.....	152	.....
Sumter No. 2	398	91	398	91
	2,560	1,789	2,306	2,054
Add three polls not included in the returns made to State canvassers:				
Sumter No. 1	.....	.....	9	1,499
Rafting Creek	.....	.....	51	313
Carter's Crossing	.....	.....	29	407
			2,395	4,272
Lee's majority	.....	.....	.....	1,877

This gives a majority in Sumter County to Lee of 1,877 votes, in place of 771 majority for Richardson, as accorded him by the State board of canvassers, and shows conclusively the extent of the frauds perpetrated.

Shiloh precinct.

By the vote as declared by the State board of canvassers at Shiloh precinct, Mr. Lee received 143 votes, and Mr. Richardson 180 votes. This gives to Mr. Richardson a majority of 37 votes; but there was found an excess of 168 votes in the box. This was a palpable and glaring fraud. But it appears by the testimony of W. E. Boykin (page 28) that at least 189 votes were Republican, "and Samuel Lee's name was on every one of them;" and that 134 Democratic votes were cast, making a total of 323 votes. But this gives to Mr. Lee a majority of 55 votes instead of a majority of 37 for Richardson; and so Mr. Richardson's assumed majority must be decreased by 92 votes. (See also record, page 26.)

Rafting Creek precinct.

Here, as usual, all the managers appointed by the county commissioners were Democrats. One of them, however, Mr. McLeod, did not serve by reason of a broken arm. (See record, page 34.) Prince A. James, a colored man, was chosen by the other two managers, both Democrats, to fill his place. (See record, page 15.) A fair election appears to have been held by all the testimony given in evidence. The result was that for Lee were cast 313 votes and for Richardson 51 votes. This gave to Mr. Lee a majority of 262 votes. (See record, pages 33 and 249.)

The returns and ballot-box were placed by the managers in the hands of Prince A. James, to be delivered to the county commissioners. But on the pretext that James had not been appointed by them as one of the managers, these sternly righteous commissioners refused to count the vote at all, and threw out the entire poll! (See testimony of John J. Winn, pages 7 and 8, and E. P. Ricker, pages 47 and 48.)

Your committee believe that an immense majority of all honest Americans would say at once, since no one questioned the integrity of the election at Rafting Creek poll, Mr. Lee's true majority ought to be counted for him. Your committee feel that they are compelled so to count the vote; and Mr. Lee's majority of the honest votes, honestly cast, honestly counted, honestly returned, but rejected by the county commissioners, was 262 votes.

WILLIAMSBURGH COUNTY.

The secretary of state counts, in his report, the county of Williamsburgh, as follows:

For Mr. Lee 1,585 votes, and for Mr. Richardson 2,084 votes. This would give to Mr. Richardson a majority of 499 votes. But on page 228 of the record he certifies that "no managers' returns from any precinct in Williamsburgh County are on file in his office;" that "none were sent by the county canvassers of said county."

But the positive statute law of South Carolina is that—

"After the final adjournment of the board of county canvassers, and within the time prescribed by this act, the chairman of said board *shall* forward, addressed to the governor and secretary of state, by a messenger, the returns, poll-lists, and all papers appertaining to the election. (See Statutes of South Carolina, section 4, act of 1872, volume 15, page 171.)"

It appears that three of the precincts of this county, to wit, Gourdin's, Midway, and Salter's, were thrown out, and not counted by the board of county commissioners. But it appears by the testimony of Capers King, who was the Democratic clerk of the Democratic board of county commissioners (record, page 498), that "the vote for member of Congress, as returned by the managers

of election for the precincts of Gourdin's, Midway, and Salter's, and who were all Democrats, was as follows:

Precincts.	Lee.	Richardson.
Gourdin's	217	30
Midway	155	72
Salter's	426	49
Total	798	151
Majority for Lee	647	

But the same witness swears, on record page 499, that—

"The board of election commissioners adjudged the votes cast at Gourdin's, Midway, and Salter's to be illegal, and in the exercise of judicial powers as election commissioners did not count the same."

Since the supreme court of South Carolina, politically opposed to Mr. Lee, have solemnly decided (*Ex parte* Mackey *et al. vs.* Carwile *et al.*) that the said county commissioners have no judicial powers in counting the vote for a Representative in Congress, your committee is constrained to say that the House of Representatives is not bound by their attempt to exercise judicial functions.

The objections urged against the validity of these three polls, as the record shows, were not because of frauds perpetrated, but of informalities on the part of the managers holding the election, all of whom were politically opposed to Mr. Lee. (See record, pages 498 and 499.) Your committee here remark, with regard to the managers who held the election, that the presumption always is that a public officer has legally discharged his duty until the contrary appears. They hold, as did the court in Biddle and Richard *vs.* Wing (Cl. and H., 504), that—

"Nothing short of the impossibility of ascertaining for whom the majority of votes was given ought to vacate an election, especially if by such decision the people must, on account of their distant and dispersed situation, necessarily go unrepresented for a long period of time." (See McCrary, section 304.)

Your committee believe, and have acted upon the principle, that—

"Questions affecting the purity of elections are, in this country, of vital importance. Upon them hangs the experiment of self-government. The problem is to secure first to the voter a free, untrammeled vote, and secondly, a correct record and return of the vote. But these rules are only means—the end is the freedom and purity of the election. To hold these rules all mandatory, and essential to a valid election, is to subordinate substance to form—the end to the means." (McCrary, section 200.)

The chief objection to Gourdin's poll seems to be based on the testimony of N. W. Badget (record, page 717), who swears that he lived about fifty yards from where the votes were cast. That he went to vote at half past 5 o'clock p. m., and found the poll closed, and was thereby prevented from voting. He gives the names of four others who were there at the same time, and were likewise prevented from voting. He also swears that two of these persons lived within seventy-five yards of the polls, and the others two hundred yards away. But A. M. Gordon, one of the managers, who swears he was a Democrat, also swears that the polls were closed at Gourdin's precinct at 6 o'clock p. m. by his watch. Six o'clock was the legal hour for closing the polls. Since Mr. Lee received 217 votes and Mr. Richardson only 30 votes at this poll, and in view of the fact that all these five voters lived so near the poll, and the question at what time the poll was closed seems to be fixed by the watch of the Democratic manager, your committee can not agree that Mr. Lee's majority of 187 votes should be thrown away by the rejection of this poll. They therefore count the votes at Gourdin's as 217 for Mr. Lee and 30 for Mr. Richardson, as reported by the managers who held the election, and who were politically opposed to Mr. Lee.

Midway.

The vote of this precinct was also rejected by the county commissioners. Levy Mouzon, one of the United States supervisors, page 492, swears that the managers were all Democrats; that he kept a poll-list, as did the managers, and both lists agreed. As an exhibit to his deposition, he furnishes (record, page 508) the report signed by himself and J. M. Kennedy, the Democratic supervisor, by which it appears that Mr. Lee received 155 and Mr. Richardson 72 votes. The only objection to this poll is that the managers, all politically opposed to Mr. Lee, closed the polls at too early an hour.

J. J. Morris, one of these managers, swears that this was done on the suggestion of Mr. Mouzon (record, page 717), while Mr. Mouzon swears (record, page 493) that it was done "at the suggestion of some of the managers." Your committee think that even if Mouzon gave bad advice the managers were not bound to take it, and since the contestee does not even pretend that any one was deprived of voting at this poll by reason of its too early closing, your committee can not agree on such a technicality that the poll should be thrown out and Mr. Lee deprived of his majority of 83 votes. It is true that one witness, R. K. Hurst, swears (record, page 717) that Henry Williams, a colored man, told him he intended to vote the Democratic ticket, but after Hurst voted and left he voted the other way. As Williams was not called, and the testimony is purely hearsay, your committee can not agree that this poll should be thrown out.

Salter's precinct.

At Salter's precinct the managers, all Democrats, returned for Samuel Lee 426 votes and for J. S. Richardson 49 votes. This gave Mr. Lee a majority of 377 votes. (See record, page 498.)

J. E. Singletary, United States supervisor, swears that he was present and saw the polls were opened from 6 o'clock a. m. to 6 o'clock p. m.; that there was no disturbance during the voting; that he kept a poll-list, and that it agreed with a poll-list kept by the managers. (Record, page 476.)

Julius B. Grayson, one of the Democratic managers, swears that he and one R. O. Bristow were the only managers who held the election; that both served till a quarter of an hour before closing the polls, when Bristow became sick and had to lie down (record, page 708). On cross-examination he swears that the election was tolerably quiet during the day till about 6 o'clock; that he closed the poll and refused to count the votes—

"Because I was left alone. 'I then insisted on carrying it to my rooms to remain until Bristow was able to attend to his duties, and the negroes objected to my taking away the box or leaving it till they were counted.'"

It seems those negroes stuck by Mr. Grayson.

"Till I got Bristow out of bed; we then took the box into a little house and counted the votes; we then made our report, and on the following day I brought the box over to Kingstree." (Record, page 708.)

On cross-examination he swears that the box was always in his sight until he went into a room to get Bristow to come out and assist him in counting the votes; during that time he left the box in the custody of the United States supervisor, Singletary, and one Walters McCullough. They would not allow him to take the box into the house unless they could go in too, and so he left the box with them, but the box was locked and sealed "with a strip of paper and sealing wax," and he, Grayson, had the key, and when he and Bristow came out it was in the same condition as when he left it. (Record, page 709.) Since there is no pretense that the election was not fair, since the box was not tampered with, and the result of the count was declared by the Democratic managers who held the election, your committee is constrained to count this precinct just as the managers did, that is, 426 for Lee and 49 for Richardson, giving Lee a majority of 377 votes.

Black Mingo.

At this precinct there were returned for Lee 110 votes, and for Richardson 81 votes, making 191 votes; and giving Lee a majority of 39 votes. (See record, page 498.) And this is corroborated by the testimony of Isaac I. White, who swears that 191 votes were cast, and 110 counted for Mr. Lee, but that this was after 12 votes in excess of the poll-list had been drawn out. These 12 votes were fraudulent votes. He further swears that he was a United States supervisor; that he kept a little book to record the names; that the Republicans voted 6 voters at a time; that they came with open votes for him to see, and folded them up and voted them; that he was present when the votes were counted.

"Q. Were any tickets found in the box compactly folded together?

"A. There were.

"What kind?

"All Democratic tickets."

He also swears that there was an excess of 12 votes.

"Q. Whose name was on the tickets for member of Congress so drawn out?

"Ten for Samuel Lee and 2 for Richardson."

He further swears that the managers were Democrats; that 14 Democratic ballots were found with one or more Democratic ballots folded within them; that no Republican ballots were so found, and after destroying these 14 ballots there were still 12 ballots in excess of the poll-list. On page 500 of record he gives a list of 120 names who voted for Lee.

Since his testimony is not traversed, the inevitable result is that Lee's vote should be increased 10, giving him 120, and Richardson decreased 10, giving him but 71, as the true result of the honest vote cast at this poll.

Cedar Swamp precinct.

By the returns of the managers at this precinct Mr. Lee received 8 votes and Mr. Richardson 107 votes.

The managers were all Democrats. The regular place of holding the election was Grayson's store. The election was held at a church three-fourths of a mile distant. J. T. Wilson, a United States supervisor, was at Grayson's as early as 2 o'clock in the morning. Before the polls were opened he found out that the place of holding the election had been removed to the church, but he swears he arrived there seventeen minutes by the watch before 6 o'clock a. m. The polls were already opened. He remained there till after the close of the polls; saw the box opened and the ballots counted.

"Q. When the box was opened were there any ballots found with one or more ballots folded therein?

"A. Yes, sir.

"Q. How many and what kind?

"A. Six or seven bunches, Democratic ballots, all aggregating 40."

He further swears (record, page 486) that these 40 ballots were destroyed by the managers, but that 143 votes still remained in the box in excess of those who voted, and whose names were on the poll-list (record, page 486), which showed that only 115 votes were cast at that poll. Under the law of South Carolina, 143 ballots had to be withdrawn to bring down the number left in the box to correspond with the number of votes actually cast.

The majority at this poll was honestly Democratic. The managers were all Democrats!

The fraudulent votes found in the box were Democratic. It was a Democratic fraud. And in the withdrawal 121 Democratic votes were withdrawn and 22 Republican. Wilson swears that on the 22 Republican ballots withdrawn was Lee's name as a candidate for Congress. These 22 votes should be counted for him, because they were honestly cast for him.

Having been withdrawn, 22 fraudulent votes were left in the box in their place and counted for Richardson, and his vote should be diminished by the same number, since no witness contradicts the testimony of Wilson. Adding 22 votes to the 8 counted for Lee will give him 30 votes, and subtracting the 22 fraudulent votes which were not cast for Richardson from the 107 counted for him will give him 85 votes.

Greelyville precinct.

At this precinct the managers returned for Mr. Lee 118 votes and for Mr. Richardson 117, giving Lee a majority of 1.

All the managers were Democrats. (Record, page 495.)

F. J. Felix, United States supervisor, was there at the opening of the polls and staid till the ballots were counted. He swears that Samuel Lee received 141 votes and J. S. Richardson 95. (See record, pages 495 and 503.) He also swears that there was an excess of 30 more ballots in the box than there were names on the poll-list. In this he is corroborated by W. J. Ferrell, Mr. Richardson's witness, who swears to the same fact, and who also swears that the election was peaceable. (Record, page 704.) Both witnesses agree that 30 ballots were withdrawn from the box by the Democratic managers.

Felix swears, and is not contradicted, that 25 of the ballots withdrawn were Republican, and had Lee's name on them for member of Congress, and 5 were Richardson's tickets. He also states (record, page 496) that one Jim Lescone was detected in the act of voting two Democratic tickets.

It is evident that the fraud perpetrated at this poll was a Democratic fraud; that 25 honest votes cast for Lee were withdrawn, and 5 votes cast for Richardson to equal the 30 fraudulent votes stuffed into the box, which were all Richardson's tickets. Thus Mr. Lee's vote was decreased 25 and Richardson's vote was increased 25 by this fraudulent stuffing of the ballot-box. Your committee purged this box by deducting 25 votes from Richardson and adding 25 votes to Lee, and this would give at Greelyville poll a majority of 51 for Lee.

Kingstree precinct.

The whole number of votes counted at this poll by the managers of election for member of Congress was 897, of which they certify that Samuel Lee received 592 and John S. Richardson 305. (Record, page 504.)

This gave Lee a majority of 287. But, as usual, there was an excess of 110 ballots found in the box. One Republican ballot was found with one or more Republican ballots within the same, while 7 Democratic ballots were found with one or more Democratic ballots within the same.

The number of ballots drawn out of the ballot-box and destroyed by the managers by reason of excess over the poll-list was 110; 74 of these bore the names of the Republican candidates and 36 bore the names of the Democratic candidates. It is evident a gross fraud was committed. It is equally evident that Mr. Lee was cheated, but your committee is unable to say to what extent, and therefore do not undertake to purge this poll.

Prospect precinct.

At this precinct the managers' returns gave Samuel Lee 120 votes and John Richardson 111 votes; Lee's majority, 9 votes.

All the managers were Democrats. (Record, page 468.)

As usual, there was an excess of ballots in the box over the names on the poll-list here to the number of 31. (John Roumond, record, page 466.) He also swears that the Republican tickets were on much thicker paper and could be easily told (record, page 468); that on drawing out the excess 29 Republican and 2 Demo-

cratic ballots were withdrawn and destroyed. (Record, page 466.) In this he is corroborated by A. A. Brown, one of the Democratic managers, who swears that he withdrew the excess from the box. Asked if he could tell a Republican from a Democratic ticket in so withdrawing them, he answered, "I could not say positively."

"Q. Was there not enough difference so that if you had been disposed you could have distinguished between them?

"A. There was."

Asked whether the excess was drawn out fairly, or were Republican ballots fraudulently fished out, he answered, "They were fairly drawn out according to law." He also swore, "I claim to be a true Democrat." (See record, page 721.) Your committee think that little comment is necessary upon this testimony.

It is evident a fraud was perpetrated by the stuffing of the ballot-box; it is equally evident that it was a fraud by which 29 votes honestly cast for Mr. Lee were withdrawn and destroyed; that Mr. Lee's vote should be increased by 29 votes, which were honestly cast for him but were not counted by the managers; that Mr. Richardson's vote should be decreased by the same number of votes which the managers counted for him but which were not cast for him by the legal voters.

Making this correction, it is evident that Mr. Lee received from the voters' hands 149 votes, and Mr. Richardson, in like manner, 82 votes. Lee's majority was thus 67 in place of 9 votes, as was reported by the managers.

In view of the above your committee correct the vote of Williamsburg County, as follows:

By the returns of the State board of canvassers Richardson received 2,084 votes, and Lee 1,585 votes. This would give Richardson a majority of 499, which it is evident goes to make up Richardson's assumed majority of 8,468.

Your committee here summarize their correction of the vote of this county by precincts, as follows:

Vote of Williamsburgh County.

Precincts.	As returned to the State canvassers.		As corrected by the committee.	
	Richardson.	Lee.	Richardson.	Lee.
Anderson	112	59	112	59
Black Mingo	81	110	71	120
Cedar Swamp	107	8	85	30
Graham Cross-Roads	563	78	563	78
Greeleyville	117	118	95	141
Indiantown	18	348	18	348
Kingstree	309	592	305	592
Muddy Creek	117	.....	117	.....
Pipkins	74	109	74	109
Prospect	111	120	82	149
School-House	83	14	83	14
Scranton	333	.....	333	.....
Sutton	75	138	75	138
			2,013	1,778
Add three polls not included in the return made to the State canvassers:				
Midway	.....	.....	72	155
Salter's	.....	.....	49	426
Gourdin's	.....	.....	30	217
			2,164	2,576
Lee's majority	.....	.....	.....	412

The above table shows the vote of this county, as shown by the testimony, and in place of a majority for Richardson of 499, as given him by the State board of canvassers, your committee find a majority of 412 votes for Lee, and we so accord it.

Muddy Creek precinct.

At this poll, by the returns, Mr. Richardson received 177 votes, and Mr. Lee none. S. G. Graham, a United States supervisor, swears (record, page 490) that the election had theretofore been held at Ard's store. That this was the old voting place. The managers opened the poll at a school-house some two hundred yards distant. In this he is corroborated by W. H. Harmon, a witness for Mr. Richardson, and a Democrat. (Record, page 720.) Graham swears (record, page 488) that he showed his commission to the managers and asked permission to act as United States supervisor to the election; that—

"Henry Harmon, one of the managers, drew his revolver on me and said my authority was no account; he put his hand in his pocket, drew out his revolver, and presented it to me in a threatening manner."

He also states that Mr. Huggins, the other manager, when Harmon drew the pistol on him, went off, and Harmon said nothing, but shook his head.

Huggins and Harmon both swear that Graham's statement is false, and Huggins swears that the Republicans did not vote at all; they went off. He also swears there were about thirty-five or forty negroes in the crowd.

Your committee leave these meager facts without further comment.

HORRY COUNTY.

The State board of canvassers certify that Mr. Richardson received in this county 2,173 votes and Mr. Lee 599, giving Mr. Richardson a majority of 1,574. (See record, page 228.) But it appears from the record, page 236, that the board of county canvassers did not canvass or count the vote cast at Martin Hill precinct in that county; their reason for so doing they state as follows:

"In view of the facts as set forth in affidavits hereto annexed, to the effect that the polls were not opened at above precinct at the hour prescribed by law, the board of canvassers on motion decided that the vote of this precinct be not canvassed or included in the general statement."

The *ex parte* affidavits referred to are found in the record on page 237.

Moses F. Sarvis swears that owing to the fact that Nimrod Davis, one of the managers, did not arrive till about that hour, the polls were not opened until about a quarter past 8 o'clock in the morning.

John Martin swore he was there at 7 o'clock and could not deposit his vote because the polls had not been opened.

Frank Wilson swore that he was there at 7 o'clock and could not deposit his vote because the polls had not been opened up to that hour, "and that he and others had to go to Cedar Grove to vote."

Upon this *ex parte* testimony the poll was rejected. The three managers who held the election certified (record, page 236) that Mr. Lee received 172 votes and Richardson 13 votes, giving Lee a majority of 159 votes, which he lost in the count by the rejection of this poll.

McCrary declares (section 114):

"That a few minutes' delay in opening the polls will make no difference, but several hours' delay may render the election void, and certainly will have that effect if the party complaining of it can show that he has been injured thereby."

But when we analyze the case it appears that only 185 votes were cast at that poll; that the polls were open continuously from 8.15 a. m. till 6 p. m., and that some and probably all of the few persons there about 7 o'clock in the morning went to Cedar Grove and voted. It does not appear for whom they voted or wished to vote. This is one of the few polls at which there is no pretense of intended fraud. There is not the slightest proof that either Lee or Richardson lost a single vote by the failure to open the polls promptly at 6 o'clock in the morning. Your committee feel that the simplest statement of the facts affords the strongest commentary. And we count this poll, as the managers did, and accord to Lee 159 majority, and, as the result of the foregoing, your committee add to Mr. Richardson's certified vote in this county 13 votes and to Mr. Lee's 172 votes, making the vote as actually cast by the voters and counted by the managers for Mr. Richardson 2,186 votes and Mr. Lee 771 votes, giving Richardson a majority of 1,415 votes, instead of 1,574, as allowed him by the State board of canvassers.

DARLINGTON COUNTY.

The State board of canvassers certify that Mr. Richardson received in this county 4,671 votes and Mr. Lee 2,117 votes, giving Richardson a majority of 2,554 votes. (See record, page 228.)

But the secretary of state certifies, on page 228 of the record, that "no managers' returns from any precinct" in Darlington County were on file in his office, nor were any returns from any voting precinct in said county sent to his office by the county canvassers. It is impossible, therefore, to ascertain what was the vote at any precinct in this county by anything in the record from the State board of canvassers. Only the gross result is given as above.

But on pages 570, 571 of the record, the contestee, Richardson, for the purpose of supplying this deficiency, introduced in evidence a schedule showing the precinct managers' returns for each and every polling place in Darlington County, by which it appears that according to the managers' returns Richardson received 4,567 votes in place of 4,671 votes, as certified to by the secretary of state; in other words, the secretary of state gives Richardson 104 votes more than did the managers who held the election.

But section 4 of the act of 1872 of South Carolina made it the duty of the chairman of the board of county canvassers to forward by a messenger to the governor and secretary of state "the returns, poll-lists, and all the papers appertaining to the election." We think it can not be questioned that the statement of the managers who held the election, verified by their returns and poll-lists, &c., is better evidence than the certificate of the secretary of state, who certified that he never saw the returns and poll-lists, for they were never sent to him as the law requires.

It is manifest that Mr. Richardson's majority grew to the number of 104 votes, by his own testimony, after the polls were closed and the result declared.

Florence precinct.

Contestant, in his notice of contest, distinctly charged that the poll-list at Florence was "falsified by the insertion thereon of fictitious names." This is as distinctly denied by contestee. L. W. Gadsden, a United States supervisor, swears there were 18 more names on the poll-list kept by the managers than there were ballots in the box. (Record, page 371.) In this he is corroborated by W. J. Bradford, who was present and kept the tally. (Record, page 176.) He swears there were 1,048 names on the poll-list kept by the managers, and only 1,030 ballots in the box. Both these witnesses were sworn and examined on February 25, 1881.

On the 15th of March of the same year, William McKenzie (record, page 507), a witness for contestee, swore he was one of the managers at this poll, and that all the managers were Democrats. He was examined at length, but he does not deny that the poll-list was falsified as above set forth.

Captain E. W. Lloyd (record, page 518), also a witness for contestee, was examined on the 16th of March, 1881. He swore he was clerk of the board of managers; he was also a Democrat. He ought to know all about the poll-list. He does not deny or even mention the alleged falsification of the poll-list by the insertion thereon of eighteen fictitious names. No witness in all the record denies the statements of Gadsden and Bradford in regard to the poll-list at Florence, though some sixteen were put upon the stand and examined by contestee touching that poll.

L. W. Gadsden, United States supervisor (record, page 365), swears that he arrived at the poll a few minutes after 5 o'clock a. m.

"The managers were then there; the door was guarded, where the poll was; the place was crowded with a lot of Democrats; I could not get within ten feet of the door."

He states that a few minutes before the poll was opened he attempted to go in to witness the opening, and to examine the box; that he was obstructed from getting in by a crowd of town authorities, or policemen; that he showed his commission as United States supervisor, and told them he was going in; that one Captain Gaillard told him he must wait until he, Captain Gaillard, saw Captain Blackwell, to find out if he had any right there or not. Gaillard came back and said it was all right. He started, and was stopped again. Captain Gaillard then assisted him, and he then got in.

The box was locked and the voting had been going on ten or fifteen minutes. "I asked the managers to let me copy the names off their poll-list; they said they had not time to stop and could not stop the clerk."

He further testifies:

"I asked to be allowed to have a clerk and was refused and was not allowed to copy those names on the managers' poll-list that had voted. (See record, page 365.)"

He also testifies (record, page 369) on his cross-examination:

"Q. Did you stay there all day?

"A. Yes, sir; only absent for about three minutes.

"Q. How do you account for the fact that you were there all day as a life-long Republican watching the election for there being more names on that poll-list than there were ballots in the box?

"A. They must have had a false poll-list prepared beforehand that they carried in there and failed to put enough ballots in the box to tally with the poll-list. I was not allowed to examine the list. The box was closed before I was allowed to go in.

"Q. Did you witness the count?

"A. I did.

"Q. You stated that you were there all day except about three minutes. Now did you or not see the names that were written on the poll-list?

"A. I did not, for I was not allowed to examine it.

"Q. Did you ask to be allowed to examine that poll-list?

"A. I did ask, and asked further to be allowed to copy from it.

"Q. Who did you ask?

"A. The managers.

"Q. What time of day was it when you asked to be allowed to copy and examine the poll-list?

"A. I first asked in the morning when the voting commenced, and again that night when the polls closed.

"Q. What did the managers say in reply to your request?

"A. They said I could not be allowed to interrupt the clerk. That was in the morning. But at night when I asked to be allowed to examine the list they refused to let me examine it, but had no objections to the clerk calling the names so I could take them down, but said it was too late to remain.

"Q. Who was the clerk?

"A. Captain E. W. Loyd."

On his cross-examination he further states (record, page 368):

"Q. What time did you reach the polls on the morning of the election?

"A. A few minutes after 5 o'clock.

"Q. What did you see there?

"A. I saw a lot of Democrats around the polls and the door guarded by policemen and constables.

"Q. Did you try to gain admission to the polls?

"A. I did.

"Q. To whom did you apply for admission?

"A. I started to the polls and was stopped by policemen and constables and told that I could not go up.

"Q. What policemen and constables denied you admission?

"A. T. D. Brunson, John Dockery, E. M. Selfe; those were the policemen, and Z. T. Kershaw was the constable.

"Q. What did they tell you?

"A. That I could not go up to the polls. I told themt I was United States supervisor, and showed them my commission, and told them I must go up.

"Q. Is that all they said to you?

"A. Yes; that I could not go up, and shoved me out of the way.

"Q. Did they or not tell you that nobody but policemen and constables could go into that house?

"A. They had a line drawn and told me nobody else had any right in there.

"Q. Did they or not tell you that nobody but policemen and constables could go into that house?

"(Counsel for contestee demands an answer, yes or no.)

"A. I have answered it already.

"Q. Did you show your commission to anybody?

"A. I did.

"Q. To whom did you show it?

"A. I showed it to the very men that stopped me and Captain Gaillard.

"Q. Did they then admit you?

"A. Captain Gaillard told me to wait until he saw Captain Blackwell.

"Q. Did he say anything else beside this?

"A. Not until after he saw Captain Blackwell.

"Q. Did he or not tell you to wait until he saw Captain Blackwell as to whether or not you had a right to go in?

"A. He did; but Captain Blackwell is a private citizen, and I did not think he had a right to pass upon my commission."

He also swears (record, page 366) that three hundred or four hundred Republicans were standing in line ready to vote when the polls closed, while the Democrats were allowed to vote freely and unobstructedly during the day; that late in the evening sixty or seventy-five Democrats came in from Timmonsville; that the line of Republicans that had been standing there all day were made to stand back by the constables and town marshals and those men from Timmonsville allowed to go up and vote. He is corroborated by 208 voters who were prevented from voting, whose depositions are found between pages 139 and 342 of record. They all swear they desired to vote for Samuel Lee, but were forcibly prevented from getting to the ballot-box. Asked why they did not, the answers were, "because the Democrats would not let me get to the polls." Witness after witness swears that he was there from 6 o'clock a. m. to 6 o'clock p. m. trying to vote. What was done was excused by Mr. Richardson (brief, page 148) on the ground that the Republicans intended to take possession of the polls and vote first, and asks—

"Can the Democrats be blamed for standing their ground and voting first and before they gave way to the colored voters, who had laid a trap in which they were caught?"

Surely not; but neither party had the right to prevent the other party from voting.

John T. Rafra was United States supervisor at Timmonsville, and swears (record, page 85) he saw a crowd of Democrats, he counted seventy-five on the top of the flat cars, "and the coach was full of them," going in the direction of Florence. He swears they all voted before leaving Timmonsville. In this he is corroborated by John E. Keeler (record, page 374), who testifies he counted seventy-five, and that every one of them had voted before they left Timmonsville. S. W. Gadsden gives the names (record, page 365) of persons he knew who came from Timmonsville and voted at Florence, namely, Alexander Taylor, Yanty Byrd, H. M. Oliver, W. J. Stradford, and George Montgomery. Not one of these persons were called in rebuttal. The few witnesses examined by Mr. Richardson touching Florence poll were the officers who held the election, the policeman who kept the colored Republicans from the polls, and a few active Democratic partisans.

We have seen (record, page 571) that the contestee puts in evidence a schedule of the vote at each precinct in Darlington County, accompanied by the certificate of J. N. Garner, the clerk of the court of common pleas, that—

"The schedule represents truly and correctly the balloting for member of the Forty-seventh Congress."

Sworn as a witness, the same Garner testifies as follows (record, page 738, bottom):

"Q. Have you not had occasion to certify to the correctness of the precinct returns touching the last election for member of Congress?

"A. I don't think I did, because I could not certify to the correctness of the returns, as it seems to me that a commissioner ought to do that.

"Q. Did you or not?

"A. I did not."

It appears further, by his testimony, that the precinct returns, instead of being sent, as the laws requires, to the secretary of state, were with the ballot-boxes placed in the jury-room opening into the court-room, which was open for all public purposes, and only when not used was it locked up. Two terms of court were passed before he was examined.

Your committee feel constrained to say we must reject Florence poll, because there was an unlawful interference with the United States supervisor of election, whereby he was prevented from discharging the duties which were committed to his hands by the law of Congress; because it is clear that the poll-list at Florence was falsified by the insertion thereon of fictitious names by the officers of the election; because it is evident that a crowd, the exact number of which it is impossible to say, who had already voted at Timmonsville, were permitted to vote at Florence for Richardson, while more than 200 of Mr. Lee's supporters, standing in line all day, were forcibly prevented from voting at all; and because the evidence as to what the actual vote at Florence poll was is so unreliable as to be utterly without credit.

The conduct of the election officers was such as to destroy the integrity of their returns, even if we had any means of knowing what those returns were. There is no proof *aliunde* how the vote stood. The election was so utterly unfair by reason of fraudulent voting and forcible preventing of honest voting as to give us no course but to reject the poll, which we accordingly do.

Darlington precinct.

What the exact vote at this precinct was we have no means of determining other than the certificate of J. N. Garner, the clerk of the court of common pleas for that county, which was introduced by Mr. Richardson, on page 571 of the record. But we have already seen in the case of Florence precinct that the same witness, Garner, testifies that he never did certify to the correctness of the schedule found on page 571 of the record, in which Richardson is set down as having received 1,271 votes and Lee 117 at Darlington precinct. On pages 737 and 738 of the record, the same witness, Garner, testifies as follows, on the 15th of April, 1881, when interrogated as to the returns of the precinct managers:

"A. Election papers were filed in my office by the commissioner of election, J. G. McCall.

"Q. Please state what those papers were.

"A. I can not; I did not examine them.

"Q. Have you not had occasion to examine those papers since they have been filed in your office?

"A. I have not.

"Q. Then you have no idea of what papers are filed in your office bearing upon the election of member of Congress in Darlington County at the last election?

"A. I know there were election returns bearing upon the last election. They have been examined repeatedly by others, but not by myself.

"Q. Do you know if those returns in your office are correct or not?

"A. I do not know anything about them.

"Q. Were those returns filed in your office delivered to you in or out of the ballot-boxes?

"A. They were delivered to me in an envelope outside of the ballot-boxes.

"Q. Were the ballot-boxes ever filed or deposited in your office?

"A. They were, as they usually have been in my office.

"Q. Have you ever had occasion to examine the papers or seen in those boxes?

"A. I have never examined the papers and have never seen in the boxes until yesterday."

In this testimony he is corroborated by J. G. McCall, who was chairman of the county board of commissioners. On page 110 of the record he testifies as follows:

"Q. Did you make any returns to the secretary of state showing the votes cast at the separate precincts throughout the county?

"A. We did not.

"Q. What did your board do with the returns from the various precincts throughout the county?

"A. I think those returns were put back in the ballot-boxes and turned over to the clerk of the court.

"Q. Will you be positive that such disposition was made of them?

"A. That is my recollection of it."

On page 109 of the record, when asked if he could state what was the vote at Darlington precinct for member of Congress, he answered (page 110, top): "I can not."

It thus appears by the testimony of McCall, the chairman of the board of county commissioners, who testifies that he made no return of what the vote was at Darlington precinct, either to the secretary of state—which is corroborated by the certificate of the secretary of state, who testifies that no such returns were made to him, page 228—or to the county clerk, and by the testimony of the clerk himself, on page 738, who also swears he never examined the managers' returns from the various precincts of Darlington County, showing the results of the election held in 1880 for member of Congress.

It further appears by the testimony of George W. Brown, Mr. Richardson's own attorney, who was put upon the stand by Mr. Lee, in rebuttal, that he found the precinct returns in the ballot-boxes in one of the jury-rooms of the court-house. (Record, page 736.)

On the cross-examination of Garner, the clerk, by the same witness, Brown, acting as the attorney for Mr. Richardson, testifies as follows. (Record, page 739):

"Q. You say that the ballot-boxes, with what they contained, upon being returned to you after the last election, were deposited in a jury-room up stairs in the court-house?

"A. They were.

"Q. Have you not charge, and do you not keep the keys of that court-house by authority?

"A. I do.

"Q. The court-room proper leading to that jury-room is used for all public purposes, is it not?

"A. It is.

"Q. When not so used, is it not kept locked?

"A. It is.

"Q. Has it not been frequently used for public purposes since the last election and since those boxes were deposited in the jury-room?

"A. Yes, sir.

"Q. When the court-room is used by the public, have they not also access to the jury-room where the boxes were?

"A. They have.

"Q. Were those boxes kept locked, and is there any law requiring you to keep them locked?

"A. They were not kept locked, and there is no law requiring them to be kept locked.

"Q. Might they not, when returned, contained the papers for which contestant yesterday searched, and all other papers which the law requires them to contain, and have been lost since?

"A. They might."

We think the above evidence conclusively establishes that no confidence can be placed in any so-called returns from Darlington precinct.

Brown testifies that he prepared the statement (record, page 736), which purports to have been certified to by the clerk, Garner, but which he testifies he did not certify to. The ballot-boxes and their contents had been open to the access of any who chose to go and examine them, as the witness Brown did. Whether they had been tampered with or not, no one testifies, and no one can. How the vote stood for member of Congress at Darlington precinct the secretary of state does not know, for he certifies that no separate return of the vote of that precinct ever came to his hands.

Garner, the clerk, as we have seen, swears he does not know.

McCall, as we have seen, also swears that he does not know, and C. S. McCullough, who swears he was chairman of the board of managers, testifies (record page 527):

"Q. What was the number of votes cast for member of Congress at this poll?

"A. I do not remember."

And Philip Lewenthal, who swears that he was clerk of the board of managers at Darlington poll (pages 546 and 547), testifies that he does not know. In the entire record no witness swears how the actual vote stood at Darlington poll. This is one of the precincts especially attacked by Mr. Lee.

A vast mass of testimony was taken by both parties touching this poll. From the evidence in the record it is not possible to ascertain the true result.

The rule, as laid down by McCrary (section 437), we think should be applied to this case, and is as follows:

"Where the true vote can not be ascertained, either from the returns or from evidence *aliunde*, the vote of the precinct is to be rejected."

But it is very evident from the testimony that intense excitement prevailed at Darlington on the day of the election. The polls were held at a different place than the usual one.

The witness McCall, a county commissioner of election (record, page 111), admits that the place was less convenient. It was up in the second story of the court-house, fifteen feet above the ground, with two stair-ways leading up to the ballot-box.

It appears from all the testimony that the Democrats, dressed in red shirts and caps, took possession of the polls from the outset.

J. A. Smith (record, page 106) states that from 700 to 800 Republicans were prevented from casting their votes by reason of intimidation. He says:

"I made three attempts to reach the ballot-box—myself and others; I found it impossible to do so without a collision with the Democrats and red shirts, who had the steps packed from bottom to top."

Ainwell Western, jr. (record, page 92), states that from 800 to 1,000 Republicans left the polls without voting. He also states that on the night before the election two wagons loaded with guns came on the back street and they were carried down the street next to the court-house. A portion was placed in a store of one Early, and "some were put in the court-house, where the ballot-box was."

On record, page 94, he gives the names of the men who unloaded those wagons: Moses Bishop, Sam Hinds, Rosser Hart, and Charlie Bishop. He states that Moses Bishop and Sam Hinds carried a portion of those guns upstairs where the ballot-box was. It appears from his testimony that guns were brought on the train about 12 o'clock at night, which train neither blew a whistle nor rung a bell. The guns were tied up in blankets in large bales.

None of the persons who handled the guns were called as witnesses to deny the statement. A great many witnesses were called by Mr. Richardson who did not see any guns and did not see any intimidation.

Ainwell Weston, sr., swears as follows, among other things:

"Q. Did you vote there?

"A. I could not vote there.

"Q. Why could you not vote?

"A. There was bulldozing, pushing, pulling, and blockading the steps. Some of them had knives drawn; looked like they were drunk."

He also testifies they had red shirts on. (Record, page 116.)

Edward Williams, on same page, testifies to the same effect.

Simeon Saunders (record, page 117) saw men attempt to go up those steps and saw them tumble back; they were pushed back by the Democratic crowd upon the steps.

Thomas Myers (record, page 105) testified:

"Q. What poll did you attend?

"A. Darlington poll.

"Q. Did you vote?

"A. I did not.

"Q. Why did you not?

"A. They would not let me.

"Q. Who would not let you?

"A. The Democratic party.

"Q. How did they prevent you?

"A. I started up the steps, and they told me I should not go up.

"Q. What did they do to prevent you from voting?

"A. They pulled me back. I attempted to go up twice, and they pulled me back by my coat."

Noah Burch testifies (record, page 105) that he tried to vote; that the steps were full from bottom to top with white men; that they shoved him down and told him he could not vote; that he tried again, and was again shoved back by the Democratic crowd on the steps.

Simon Scott (record, page 136) testifies that a crowd of Democrats dressed in red shirts prevented him from voting. He says:

"I went up to the steps of the court-house, and they said you can not vote here unless you vote a Democratic ticket."

Burrell McIver (record, page 355) testifies that he did not vote—

"Because the court-house steps were so crowded with Democrats that I could not reach the ballot-box to cast my ballot. They would not let me go up the steps.

"Q. Did you see any men with guns, and to what political party did they belong?

"A. The Democratic; I saw no arms but theirs.

"Q. Where were these men with their guns?

"A. In a store in front of the court-house."

Peter White (record, page 384) testifies as follows:

"Q. Did you vote?

"A. No, sir.

"Q. Why not?

"A. Because I was prevented by the Democratic party. The ballot-box was in the court-house, and I tried to go up the steps and they would not let me go up; saw one man trying to climb up on the outside of the steps, and when he got up his handhold was broken loose and he fell to the ground and was hurt.

"Cross-examined by C. D. Evans:

"Q. What time did you reach the Darlington poll that day?

"A. About a quarter of an hour after sunrise.

"Q. When did you leave?

"A. About 2 p. m., I guess.

"Q. Did you hear Jack Smith's order for all Republicans to go home, and at what time did you hear it?

"A. I heard it about 11 a. m.

"Q. You say it was impossible for you to vote from the time you reached Darlington until you went away?

"A. It was really impossible. I was very determined, and I saw no chance without getting hurt or being killed."

Alonzo Lewis sworn (record, page 387):

"Q. State your name, age, residence, and occupation.

"A. Name, Alonzo Lewis; 23 years old; residence, Darlington County; occupation, butler.

"Q. Were you at the Darlington polling precinct on the day of the last election?

"A. Yes, sir.

"Q. Did you vote?

"A. No, sir.

"Q. Why not?

"A. Because I couldn't get to the polls; the red-shirt Democrats prevented me from getting to the polls; they were standing on the steps leading up to the box. I attempted to go up, and they said, 'No radicals in here,' 'No radicals in here,' and all caught arms together and shoved me back.

"Q. Who did you intend voting for for Congress?

"A. Samuel Lee."

The above are given as specimens, taken almost at random from the printed testimony.

The depositions of two hundred and forty witnesses appear in the record who swear they were present at the Darlington poll and desired to vote for Mr. Lee, but were prevented from so doing by threats or intimidation. Convinced they could not vote without danger of riot and bloodshed, hundreds withdrew from the poll. There is counter testimony in the record, but it is from the very parties complained of, and from comparatively few other witnesses.

Your committee are compelled to say, from all the evidence, that the case of Darlington poll falls within the principle laid down by McCrary, as follows:

"SEC. 416. The true rule is this: The violence or intimidation should be shown to have been sufficient either to change the result or that by reason of it the true result can not be ascertained with certainty from the returns. To vacate an election on this ground, if the election were not in fact arrested, it must clearly appear that there was such a display of force as ought to have intimidated men of ordinary firmness."

Here it is proper to remark that up to 1878 Darlington precinct always was largely Republican.

A few years ago the Republicans used to poll 1,200 to 1,300 votes at that poll. See testimony of John G. Gatlin (record, page 79), John Lunney (record, page 81), Jordon Lang (record, page 95).

At the election in 1880 Mr. Richardson is credited by the schedule, which purports to be certified to by the clerk, Garner, but which he testifies he did not certify, as having received 1,271 votes to 117 votes for Mr. Lee; and from the impossibility of ascertaining how the actual vote stood at Darlington poll, by the disregard on the part of the county commissioners to forward the returns and poll-list to the secretary of state, in violation of a plain provision of law, and from the fact that intimidation and violence prevented hundreds from voting, your committee reject Darlington poll from the count.

Lydia precinct.

All the managers at this poll were Democrats.

As we have seen, no possible reliance can be placed on the statement in the schedule purporting to be certified by the clerk, Garner (record, page 571), since he swears he did not certify it. We therefore rely upon the report, sworn to and put in evidence, of the two United States supervisors (record, page 113), by which it appears that Richardson received 572 votes and Lee 193 votes.

An excess of 163 votes was found in the box, showing the box was stuffed. As the election seems to have been fairly conducted after the arrival of the supervisor, Robinson, which was just after the polls were opened, we conclude the box was stuffed in the beginning, and by the managers. But since the excess was drawn from the box, and seems to have been fairly withdrawn in proportion to the vote of each candidate for Congress, we think that both Lee and Richardson should each be credited by the number of votes which were counted for them, as shown by the report of the two supervisors, namely, Richardson 572 votes, Lee 193; majority for Richardson of 378.

Society Hill precinct.

For the same reasons as above stated no reliance can be placed on the clerk's schedule, which the clerk himself rejects, as to what was the true vote at this precinct. But on page 363 of the record we have the report of Z. W. Wines and E. P. Cannon, the two supervisors, which, Wines as a witness (record, page 338) testifies, gives a true account of the poll when the box was opened and the votes counted.

By it it appears that the poll-list kept by the managers and those kept by each of the supervisors all showed that 535 votes were cast. Extra ballots were found in the box.

The box had been stuffed. John T. Prince, one of the managers, swears (record, page 565) that 58 ballots in excess were found in the box. The managers and clerks were all Democrats. The excess of ballots was drawn out and destroyed, of which 12 had Richardson's name on them.

If the ballots destroyed had been the exact fraudulent ballots put in the box this would have been precisely just. But this could scarcely be.

It is not right that all the managers, in all the precincts of a county, should be the partisans of one candidate.

It is not just that ballots should be honestly voted and then withdrawn and destroyed because other fraudulent ballots had been stuffed into the box.

Happily, we have the means to determine how many honest votes each candidate for Congress received at this poll. In the record, page 118, is found a list of 383 names kept by H. D. Kershaw and R. E. Postell, all of whom, they swear, voted for Mr. Lee. They saw them cast their votes. (Record, pages 118 and 339.) Since 12 of the 58 votes drawn out were for Richardson, the other 46 must have been for Lee; and adding these 46 votes to the 337 counted for Lee we have 383 votes, which exactly corresponds with the list of 383 names of voters who Kershaw and Postell testify voted for Lee. We therefore accord to Lee 383 votes and to Richardson 152 votes, making a total of 535 votes, the number of votes cast at this poll.

Lisbon precinct.

This poll is in like strait as the preceding. We, however, find on page 238 of record the report of the United States supervisors, H. C. Harrell and J. H. Hugging. This report, Harrell as a witness, on page 194, testifies is correct. By it we see that four hundred and ninety-three names were on the poll-list, and the managers counted for Richardson 317 votes and for Lee 176 votes.

This box had been stuffed with 98 fraudulent ballots. All the managers were Democrats. Ninety-eight ballots were withdrawn and destroyed, of which 39 were for Lee and 59 for Richardson. (Record, page 238.)

If this was a Democratic fraud, then Lee was deprived of 20 votes, and Richardson gained that many. That it was a Democratic fraud is manifest when we see that W. R. Dukes (record, page 201) testifies he was present and kept a list and saw 215 persons vote for Lee. He furnishes that list of names. (Record, page 223.) There is no witness called to deny this. And when we add 39 Lee ballots, withdrawn from the box, to the 176 which the managers counted for him it amounts to exactly 215. But subtracting 215 Lee's votes from the whole vote of 493 and it leaves 278 as Richardson's true vote.

Timmonsville precinct.

By the report of the supervisor (record, pages 68 and 69) 608 votes were counted for Representative in Congress. The managers counted 533 votes for Richardson and 75 for Lee. It was from Timmonsville that 75 or more Democrats, having voted there, went to Florence poll and again voted. The ballot-box was stuffed at Timmonsville, and the excess drawn out and destroyed. Rafra, the supervisor, swears to his report. (Record, page 84.) The managers and clerk were all Democrats. J. E. Keeler testifies (record, page 373) that he kept a list of the Republicans; that they voted Republican tickets, and for Samuel Lee for Congress. The list is found (record, page 376) showing 199 names.

The contestee has not shown that a single one of these 199 did not vote for Mr. Lee. We correct this precinct by giving to Mr. Lee 199 votes, and subtracting that number from the whole vote, 608, gives 409 as Mr. Richardson's true vote.

Leavenworth precinct.

By the report of F. W. Prince, United States supervisor, made an exhibit to his deposition (record, page 98), it appears that the names on the poll-list kept by the managers of election were 594. That 239 fraudulent ballots in excess were found in the box. As usual the box had been stuffed; 239 ballots were withdrawn and destroyed by the Democratic managers, 110 Republican and 129 Democratic. W. H. Waddell testified (record, page 99) that he kept a list of the Republican votes. That he saw the names of the candidates on the tickets, and that they all voted for Samuel Lee.

The list foots up 308 names. As this list is undisputed by any witness we accord to Mr. Lee 308 votes at this precinct, and the balance of the 594 we count for Mr. Richardson, to wit, 286 votes.

Correcting the vote at the precincts above set forth, as we have, and leaving

untouched the other precincts of Darlington County, and counting them as claimed by Mr. Richardson, and the result is as follows:

Vote of Darlington County.

Precincts.	As found by the committee.	
	Richardson.	Lee.
Leavenworth	286	308
Cartersville	195	69
Lydia	572	193
Mechanicsville	31	349
Timmonsville	409	199
Gum Branch	143	29
Effingham	142	95
Lisbon	278	215
Society Hill	152	383
Darlington		
Hartsville	187	44
Florence		
	2,395	1,884
Richardson's majority	511	

We find for Mr. Richardson, in Darlington County, a majority of 511 votes, in place of 2,554 votes, as given to him by the returns of the State board of canvassers.

MARLBOROUGH COUNTY.

Bennettsville precinct.

The secretary of state certifies (record, page 226) that Lee received 464 votes and Richardson 335. An excess of 61 votes was found in the ballot-box. That number of ballots were withdrawn and destroyed, 60 being Lee's votes and only 1 a Richardson ballot. (D. D. McCall, United States supervisor, record, page 253.) How this strange result happened McCall in his testimony explains. The tickets were easily distinguished by feeling.

"When box was opened at close of polls there were 61 more votes in box than names on poll-list of clerk of managers, and in drawing out the clerk who did the drawing would carefully feel the ballots and turn loose a Democratic ballot if he found on feeling that it was such, and continue to feel until he would bring out a Republican ticket. The second ticket drawn from box was only mistake he made, this one being a Democratic ticket; the other 60 so drawn out being Republican."

Weatherby, a Democratic manager, testifies as follows (record, page 652):

"Q. Could he simply by the touch distinguish the tickets?

"A. Yes, I think so; unless they were pasted together; one was heavier than the other."

He also swears the clerk seemed to be in no hurry.

Now, adding 60 votes to the 464 counted for Lee and we have a total of 524 as Lee's true vote, if all the Republicans voted for him; but McCall swears that 511 did vote for him whose names he gives (record, page 274), and Mr. Lee proves by five other witnesses whose names were not on McCall's list, that they also voted for him. (See record, pages 255, 259, 260, 263, and 273.)

We therefore count for Lee 516 votes, and give the balance, 283, for Richardson.

Red Hill.

The secretary of state returns for contestant 182 votes, and for contestee 353 votes, but it appears by the testimony of J. W. Jenkins (record, page 270) that the ballot-box was stuffed. Jenkins was United States supervisor. He swears to the report found on page 290 of record, that there was an excess of ballots in the box over poll-list of 25. All the managers were Democrats. In withdrawing this excess, 24 ballots bore the names of the Republican candidates and 1 of the Democratic candidates.

William A. Rogers, an Independent, swears, (record, page 269) that the colored voters all approached the polls by the back door—

"And as one approached the door and made it known that he wanted to vote the ticket prepared by the Republican party, I would fold the ticket and hand it to him. I did this so they should not be charged with voting double tickets." (Record, page 269.)

And one of the Democratic managers, W. B. Alford, a witness for contestee (record, page 663), thinks there was an excess of about 24. On cross-examination, he testifies as follows:

"Q. Can you account for how 24 ballots were in excess of the names on the poll-list?

"A. Only in this way, by finding two ballots folded together; from appearance they were supposed to be put in together when voted.

"Q. When two or more ballots were found folded together, were not all destroyed save one?

"A. I don't recollect about that, but I think they were returned to the box and the excess drawn out.

"Q. Then the managers did not observe the law in that particular, did they?

"A. I do not remember the particulars in that regard; I paid more attention toward the ballot-box than anything else."

Since all the officers conducting the election were Democrats, since pains were taken to prevent the Republicans being charged with double voting, and since the excess of votes must have been a Democratic fraud from the evidence, and because it clearly appears that at least 24 honest votes were withdrawn and that at least 23 if not 24 were Republican tickets, we correct this poll by adding 23 votes to contestant's returned vote of 182, because 23 of his honest ballots were withdrawn from the box, and we deduct 23 votes from the 353 votes counted for Richardson, because 23 fraudulent ballots were counted for him. So correcting the vote and the result is: for Richardson 330, and for Lee 205.

Brownsville precinct.

At this precinct, by the secretary's report, Lee received 90 votes and Richardson 290, but it appears by the report of the two United States supervisors, Moses W. Pearson and W. B. Drake, put in evidence and found on page 242 of record, that this ballot-box was stuffed by 129 ballots over the names on the poll-list. To reduce the number of ballots to correspond with the names on the poll-list 129 ballots were withdrawn by the managers, and the strange disparity occurred here as elsewhere in withdrawing the excess. The managers were all Democrats. They ought to have guarded the box with zealous care. They withdrew 116 ballots which bore the name of the Republican candidate and only 13 Democratic ballots. It was a repetition of what we have already seen occurred again and again. We correct this poll by adding 116 to the 90 votes counted for Samuel Lee, making a total of 206 for Lee, and deducting 116 from the 290 which the managers counted for Richardson, which leaves him 174 votes. Lee honestly received 206 votes and Richardson 174 at this poll.

Hebron precinct.

At this precinct the secretary returns for Lee 106, for Richardson 245; total 351. There was an excess of ballots in the box of 43 over and above the names on the poll-list. See testimony of B. F. Hamer, United States supervisor (record, page 258), his report (record, page 282).

All the election officers were Democrats. This box had also been stuffed; 43 ballots were withdrawn and destroyed. How many Lee ballots were withdrawn the record failed to show, but Ennis Campbell (record, 263) and Crawford Tournage swear about 30 Lee ballots were withdrawn and destroyed. Tournage further swears that he saw 145 Republican votes cast. Adam Cook (record, page 259) testifies that he made a list of 145 names of those who voted the Republican ticket; he furnishes that list in record, page 283.

In this he is corroborated by Gibson Townsend (record, page 260), who testifies he was acquainted with most of those voters. As none of the witnesses called by contestee deny the above statement, we think it clear that Lee received 145 votes at this poll. We accord him that number, and the balance to Richardson, which gives for Lee 145 and for Richardson 206 votes.

Smithville precinct.

By the secretary's table Lee received 229 votes and Richardson 233 votes.

At this poll, as usual, all the managers were Democrats, and the ballot-box was stuffed.

H. S. Grant, United States supervisor, testifies (record, page 256) there were 81 more ballots in the box than there were names on the poll-list. That number was drawn out and burned. Sixty-four of them bore the name of Samuel Lee for Congress. (Record, pages 256 and 282.)

H. E. Johnson, a white man, and an Independent Democrat, testifies (record, page 267) that Lee's name was on all the Republican tickets drawn out.

William Pagues, a Democratic manager, drew out the ballots. Johnson swears (record, page 267):

"I told him that in the manner in which he was drawing out these ballots I pronounced him a perjured man, and told him I intended to indict him in the United States court."

The reason given was because he evidently hunted for Republican tickets.

"It was so evident that I complained of it." (Record, 267.)

On page 266 he testifies to having detected one Williams in the act of voting two Democratic tickets at once.

The vote at this poll is proved and sustained by a list kept and furnished by witness Benjamin Quick (record, page 292), whereby it appears the names of 295 voters are given who voted the Republican ticket. As this testimony is not rebutted, we count, therefore, at this precinct for Lee 295 votes and for Richardson 167 votes.

We summarize the vote of this county by precincts as follows:

Vote of Marlborough County.

Precincts.	As returned by the State canvassers.		As corrected by the committee.	
	Richardson.	Lee.	Richardson.	Lee.
Bennettsville	335	464	283	516
Red Hill	353	182	330	205
Adamsville	331	80	331	80
Brownsville	290	90	174	206
Clio	214	59	214	59
Red Bluff	187	65	187	65
Hebron	245	106	206	145
Smithville	233	229	167	295
Brightsville	237	181	237	184
	2,425	1,456	2,129	1,752
Richardson's majority			377	

The above table shows Richardson's majority in this county to be 377, in place of 969, as allowed him by the State board of canvassers.

MARION COUNTY.

Marion Court-House precinct.

At this ballot-box, as at every one in the county, all the managers were Democrats. B. A. Thompson (record, page 425) testifies that he was one of the county commissioners of election for Marion County; that he demanded of the board the appointment of a Republican manager at each precinct, but this was not complied with, and the majority of the board appointed none but Democrats.

At the court-house precinct the managers reported 522 votes for Mr. Lee and 574 votes for Mr. Richardson. As seems to be the rule, this ballot-box was stuffed. R. B. Mullins, one of the managers (record, pages 632 and 633), testifies: "There was an excess of about 50 ballots in the box over the names on the poll-list."

J. H. Holloway, a Republican, testifies (record, page 411) that 56 Republican votes were thrown out at this precinct. R. J. Blackwell, another Democratic manager, testifies (record, page 637) that there was an excess over the poll-list of about 50 votes. E. J. Crawford, United States supervisor, whose report is put in evidence on page 247 of record, states that the excess was 55 votes, and of the 55 ballots withdrawn and destroyed 54 bore the names of the Republican candidates and "one doubtful whether Democratic or Republican."

There seems to be no essential controversy, and your committee count 54 votes as having been withdrawn from Mr. Lee's honest vote. They accordingly add 54 votes to the number counted for Mr. Lee, and deduct that number from the 574 votes counted, but not cast, for Mr. Richardson. This would give as the true result at this poll for Lee 576 votes and for Richardson 520 votes.

Berry's Cross-Roads precinct.

At this precinct the secretary of state reports that Richardson received 372 votes, and Lee received 168.

The managers were all Democrats.

This poll was no exception to the fact of ballot-box stuffing. All the witnesses interrogated admit this. Gregg C. Crawford (record, page 427) testifies that the poll-list called for 541 votes; that 637 ballots were found in the box, and he testifies:

"Joe Jarnegan put his hand into the box ninety-six times and took out the excess votes. All he took out were Republican. They put them into the fireplace and burnt them."

B. F. Crawford, United States supervisor, whose report is in evidence (record, page 248), states that 96 ballots were withdrawn—93 Republican and 3 Democratic. The Republican tickets were thick like unto a card and the Democratic ticket was a little thin ticket. (Record, page 427.) Since it is evident from the testimony that the ballot-box was stuffed—that 96 fraudulent ballots were found therein, and that 93 were at least Republican and only 3 Democratic—it is manifest this fraud was a Democratic one. The disparity in drawing out was enormous.

We correct this poll by adding 93 to the number which the managers count

for Lee and deduct a like number from the vote counted for Richardson. This gives 261 to Lee and 279 to Richardson.

Campbell's Bridge precinct.

The secretary of state gives Richardson 284 votes and Lee 111 votes at this poll. The number of names on the poll-list was three hundred and ninety-five. (Record, page 432.) This ballot-box was also stuffed. The managers here were all Democrats; 31 extra ballots were found in the box. The total Republican vote found in the box was 141. (Brownhamer, record, page 431.) In this he is corroborated by the deposition of D. P. Murphy, the United States supervisor. (Record, pages 432 and 461.) How they were withdrawn is manifest from the testimony of Brownhamer. (Record, page 431.) He testifies that the manager—

"Was not blindfolded; just turned himself one sided and put his hand in the box and felt in there, and would take out a Republican ticket and hand it to John Henry, saying he was working for his country."

Witness adds:

"I could take every Republican ticket out of that box if I was as blind as a bat; one was soft and thin, the other thick and stiff."

D. P. Murphy (record, page 432) testifies:

"He turned his side to the table and drew them out very carefully, taking his time as if he was separating the Democratic tickets from the Republican tickets."

He further states that the Republican ticket was very thick, and the Democratic tickets were very thin. In his report, to which he swears, 30 of the ballots drawn out bore the names of the Republican candidates, and 1 of the Democratic candidates. Edwin Bethea, witness for the contestee (record, page 624), states that he drew the tickets out of the box. He testifies:

"I think I can tell a Democratic ticket from a Republican ticket. The Republican ticket was about one and a half inches shorter than the Democratic, a half inch wider, and two or three times as thick."

G. J. Bethea states (record, page 628) that the excess was 31 votes; that—

"Edwin Bethea was not blindfolded in drawing out the ballots; that the Republican ticket was thicker than the Democratic ticket."

John W. Gourdin (record, page 439) testifies that about 30 white men voted the Republican ticket; he testifies that Ed. Bethea, the manager who withdrew the tickets without being blindfolded, cursed them for doing so. He said that "if white men would vote the damn nigger ticket he would throw their votes out."

It is manifest from the testimony that a gross fraud was committed at this poll. Republican tickets were delibrately withdrawn and destroyed, in place of the fraudulent tickets which had been stuffed into the box. We therefore correct this poll by adding 30 votes to Lee and deducting 30 votes from Richardson, which gives Lee 141 votes and Richardson 254 votes.

Friendship precinct.

The secretary of state gives Mr. Lee, at this precinct, 139 votes and Mr. Richardson 104 votes.

J. B. Hayne, United States supervisor, testifies (record, page 420) that there were 157 votes polled for Lee and 86 for Richardson; that he kept a poll-list and marked the Republicans "R" and the Democrats "D." That list he furnishes (record, page 457), which corresponds with his sworn statement, to wit, Republican 157 and Democratic 86. He states that the Republican ballots found in the box agreed exactly with his tally, namely, 157 votes, and in this he is corroborated by John M. Mace, one of the Democratic managers (record, page 621). He states that—

"The tickets were emptied on the table, and we picked out the Democratic tickets and the Republican tickets, and opened them as we took them up so as to see if they were folded together. Wall, one of the Democratic managers, took the Democratic tickets to the fireplace to count them. The other manager, Mace, counted the Republican ballots in the presence of the supervisor and found they agreed with his tally—157."

He states further:

"We got through with the Republican tickets before Wall got through counting the Democratic tickets. I turned to the fireplace to see what kept him. When we counted the Democratic tickets, instead of 86 there were 104. My tally of the Democratic votes was 86. All the tickets, Republican and Democratic, were then placed back in the box by the managers, and the excess of 18 drawn out by the clerk, all of which were Republican ballots."

Wall, the Democratic manager, denies that he perpetrated any fraud, but the tally-list kept by the United States supervisor and by the managers exactly agreed. It is not denied that 157 Republican ballots were found in the box. The supervisor furnishes a list of 157 Republicans who voted at that poll. There was an excess of 18 ballots either in the box or added after the box was opened. It was a fraudulent excess. The managers deducted 18 ballots from Lee, giving him only 139 votes, and added 18 votes to Richardson's 86 votes, as found on the list furnished on page 457 of the record. It is, we think, too clear for argument that a monstrous fraud was attempted and carried out at this poll. We correct it by restoring to Lee the 18 votes, which gives him 157 votes, and deduct the same number of votes from Richardson, which gives him 86 votes; this exactly corresponds with the names found on the tally-list.

Correcting the vote at the precincts above set forth as we have, and leaving untouched the other precincts of Marion County, and counting them as returned by the managers, and the result is as follows:

Vote of Marion County.

Precincts.	As returned by the State canvassers.		As corrected by the committee.	
	Richardson.	Lee.	Richardson.	Lee.
Hymansville	167	277	167	277
Evergreen	214	.....	214	.....
High Hill	350	74	350	74
Kentyre Church	190	74	190	74
Stoney	238	116	238	116
Old Ark	52	5	52	5
Mullin's	488	153	488	153
Marion	573	522	520	576
Little Rock	469	230	469	230
Mount Nebo	126	105	126	105
Friendship	104	139	86	157
Berry's Cross-Roads	372	168	279	261
Mars Bluff	201	415	201	415
Campbell's Bridge	284	111	254	141
Aerial	192	56	192	56
			3,826	2,640
Richardson's majority	.....	.....	1,186	

We find a majority in this county for Richardson of 1,186, in place of 1,565, as returned for him by the State board of canvassers.

CHESTERFIELD COUNTY.

By the table of the secretary of state, Richardson received in this county 1,917 votes, and Lee 1,666 votes (record, page 228).

The county board of canvassers did not transmit the poll-lists, returns, and other papers appertaining to the election to the secretary of state, as the law requires should be done (record, page 228). But the evidence found in various parts of the record goes to show that this is a Democratic county.

The only poll attacked by Mr. Lee in his notice of contest is Cheraw precinct. Mr. Richardson shows (record, page 587) that the clerk of the court certifies that the managers' returns turned over to him correspond with the statement of the secretary of state. This certificate of the clerk is really of no force or effect. He was not by the statute required or expected to make any such certificate. The law is well settled that—

"Statute-certifying officers can only make their certificates evidence of the fact which the statute requires them to certify. And when they undertake to go beyond this and certify other facts, they are unofficial and no more evidence than the statement of any unofficial person." (See McCrary, section 104.)

But there was an election held at Cheraw, and Thomas E. Smith, who was one of the commissioners of election for that county, and was present at Cheraw, testifies as follows:

"A. There were a great many more names on the poll-list than there were ballots in the box, but how many I do not recollect.

"Q. Was that defect remedied by the managers; and, if so, how?

"A. No, sir; it was not remedied. The managers called on Captain A. A. Pollock, a lawyer, for his advice, and he said in a case like that he did not know what to do. But if there were more tickets in the box than there were names on the poll-list, he could easily tell them what to do.

"Q. How did the managers proceed to declare the result of the election under the circumstances?

"A. They did not take any steps about there being any more names upon the poll-list than ballots, but just counted the ballots in the box.

"Q. Did they make any report in regard to their poll-list being in excess of the ballots in the box to your board as county canvassers?

"A. They did not, sir.

"Q. Did you see any tissue ballots in the Cheraw box while the managers were canvassing the vote?

"A. Yes, sir.

"Q. Did they count those tissue ballots to ascertain the result of the election?

"A. Yes, sir; they did count all of them.

"Q. Were you present while the voting was going on during the day?

"A. I was there from 7.30 a. m. until they got through at night.

"Q. Did you see any tissue ballots voted during the day?

"A. No, sir; there were none voted openly.

"Q. When was the first time that you saw any of those tissue tickets?

"A. Not until the managers opened the box and commenced canvassing that night."

This testimony is not seriously controverted. A ticket printed upon thin tissue paper, and admitted in the argument to be a fac simile of some of those found in the Cheraw box, was put in evidence by contestant. It was larger in size than the other "little jokers." And some of the witnesses for contestee deny that tissue ballots were voted, evidently meaning the "little jokers," about 2 inches long by 1 inch wide. But two kinds of Democratic tickets were found in the ballot-box at Cheraw, and one was printed on very thin tissue paper. We have seen that the secretary of state had before him no statement of what the vote was at Cheraw. The clerk's certificate is not evidence. How the vote actually stood we do not know, and from the evidence on file we can not know. It appears that the returns were deposited with the clerk, and the poll-lists turned over to the county auditor by the board of county commissioners. (T. W. Bouchier, record, page 590.)

A manifest fraud was perpetrated at Cheraw. It is impossible to determine what the true vote was.

Your committee have no alternative save to reject this poll. We therefore deduct the reported vote of Cheraw, as shown by Mr. Richardson—to wit, for Richardson 483 votes, and for Lee 458 votes—from the vote of the county, leaving for Richardson 1,434 votes, Lee 608 votes, giving a majority to Richardson of 826 votes, in place of a majority of 851 votes, as allowed him by the State board of canvassers.

Having gone over the entire district, and purged the polls, precinct by precinct, by the preponderating weight of evidence, and permitting every precinct to stand where the matter was doubtful, and not clearly made out, we tabulate the result as follows:

Counties.	Actual vote cast as found by the committee.		Majorities.	
	Richardson.	Lee.	Richardson.	Lee.
Georgetown	791	3,101	.....	2,310
Sumter	2,395	4,272	.....	1,877
Williamsburgh	2,164	2,576	.....	412
Horry	2,186	771	1,415	.....
Darlington	2,395	1,884	511	.....
Marlborough	2,129	1,752	377	.....
Marion	3,826	2,640	1,186	.....
Chesterfield	1,434	608	826	.....
	17,320	17,604	4,315	4,599
				4,315
Majority for Mr. Lee in the district	.....	.....	.....	284

From which it appears that Samuel Lee was elected by a majority of 284 votes.

We therefore recommend the adoption of the following resolutions:

I. *Resolved*, That John S. Richardson was not elected as a Representative to the Forty-seventh Congress of the United States from the first Congressional district of South Carolina, and is not entitled to occupy a seat in this House as such.

II. *Resolved*, That Samuel Lee was duly elected as a Representative from the first Congressional district of South Carolina to the Forty-seventh Congress of the United States, and is entitled to his seat as such.

A. H. PETTIBONE.
F. JACOBS, JR.
WM. G. THOMPSON.
J. M. RITCHIE.
JNO. T. WAIT.
GEO. C. HAZELTON.
A. A. RANNEY.

Rivers and Harbors.

SPEECH
OF
HON. RANDALL L. GIBSON,
OF LOUISIANA.

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. GIBSON said:

Mr. SPEAKER: It is believed by many gentlemen who have not themselves investigated the phenomena of the Lower Mississippi, or the reports of the scientific engineers who have sought to ascertain the laws that control this inland sea, that the commission appointed by the President in conformity with the act approved June 28, 1879, have in view the reclamation or protection of the alluvial lands, while the act creating the commission declared its purpose to be "the improvement of the river."

It is true that the Mississippi River Commission, after a thorough examination of the whole subject, came to the conclusion that it was essential as a part of their plan for the improvement of the navigation of the river to close the gaps in the levees, and that they estimated that the total cost of this work would not exceed $4,000,000. They show that over 2,000 miles of levees have already been constructed by the people and stand firmly to-day, confining the water to the channel and securing the greatest velocity and the fullest (maximum) scouring power, and that about one hundred miles will complete a continuous line from Cairo to the mouth of the river. They do not propose to build one foot of the levees to protect or recover alluvial lands. They have not spent one dollar for that purpose. They have, it is true, made contracts for closing some of the most important gaps in the levees, and have co-operated with the State and local authorities for this purpose, but in every instance they have declared by unanimous resolution that it was for protecting and improving the channel of the river, which within the last fifty years has widened an average of about 50 per cent., and shoaled to such an extent that navigation is absolutely suspended three or four months every year, at the very time when it is necessary to move the wheat and cotton and other crops of the valley.

I might defend the action of the Mississippi River Commission by referring to the names of the gentlemen who compose it; to the able and clear reports they have submitted to Congress; to the action of the Committees on Commerce and on the Mississippi River; to all the distinguished engineers of the Army, without exception, who have had service on the river; to the opinions of all the celebrated engineers in foreign countries, and to the fact that the plan of the River Commission is precisely the plan of which all the rivers of Europe, nay, of the civilized world, have been improved. But I beg now in vindication of the concurring opinions of all these high authorities to refer to two facts, one ascertained by an examination of the recent flood on the river by the present Mississippi River Commission, and the other derived from the report of Humphreys and Abbott, who were for more than ten years engaged in the examination of the phenomena of the Lower Mississippi River:

First. General Suter, when under examination by the recent investigating committee of this House, declared, on behalf of the Mississippi River Commission of engineers, that the crest of the flood, which was perfectly well defined and sharp and well marked, so as to be traced from gauge to gauge without difficulty when within the banks of the river, was just ten days in passing from Cairo to New Orleans; but that when the next rise took place, producing an overflow, the crest of the flood was so retarded that it was over one hundred days traveling the same distance. I beg to annex his testimony on this subject and to invite close attention to the fact. Nothing could show more plainly how much the velocity is increased and the scouring force of the current by holding the river within its channel and how much it is retarded by overflows, and how deposits or sand-bars, the great obstacles to navigation, are produced by such overflows.

Second. I go back now thirty years, to the observations made by Humphreys and Abbott, to whom I have already referred. They found on the 19th of March, 1851, that when the river was 14.9 feet above low water it discharged 1,149,398 cubic feet per second, and that its mean velocity was 6.19 cubic feet per second. On August 29, 1851, when the river was 8.1 feet only above low water, the discharge was only 572,383 cubic feet per second, and its velocity was only 3.38 cubic feet per second; that is, a difference of only 6.8 feet caused a discharge of the river at Carrollton to double. The river here at the lowest stage was 115 feet deep; hence there was an increase of only one-seventeenth part of its total depth to produce this astonishing difference in the discharge. The velocity was at the same time increased 85 per cent. These tables are accurate; they have never been disputed. And they show that when the river rose only 6.8 feet at Carrollton it would have required an outlet as large as the Mississippi itself to have reduced it 6.8 feet; that is, that an increase of 6.8 feet, when confined within its banks, made it equal in its discharging capacities to two Mississippi rivers at its mean low-water stage. Hence it follows that in order to reduce the river even 6 feet by an outlet it would be necessary to make the outlet equal to the Mississippi River itself at its ordinary stage. Such an outlet or crevasse would in less than a fortnight put an average depth of 3 feet over an area greater than the State of New Jersey.

But the point I desire to establish by these two illustrations, taken from two commissions which were authorized by the Government to examine the phenomena of the river, is this: They concur, though made thirty years apart, to show how the capacity of the river to discharge the floods is increased by confining them within the channel. If these two important facts are borne in mind, it appears to me that no one can dispute the correctness of the theory of contraction; that is, of confining the river in its flood stages to a particular channel, in order that the great energy which it then possesses may be applied to the task of conveying the *détritus* and *débris* with which it is charged to the sea. How otherwise is the vast burden to be borne? By what force? If such energy may not be utilized, it is very evident that heavy deposits must take place, and that so far from the local treatment at the reaches being successful, the shoals will be merely transferred from one point to another, and the conditions aggravated.

If it be demonstrated that levees are essential to the improvement of the channel and navigation of the river, will gentlemen deny to the engineers the authority to complete the line because the States and people dwelling on the banks of this stream are seeking by the same instrumentalities to protect the public health, their lives and property from disastrous overflows. Is the very fact that they co-operate sufficient of itself to condemn the engineers? It appears to me that it would gratify every enlightened man in this House and in the country if it were shown that while we were improving by the national resources the navigation of this great highway we were at the same time securing the co-operation of the people dwelling upon its banks. For we thus accomplish a great national purpose and perform a great national duty, aided and assisted by interests that may be in one sense local, but are in reality of national importance. Should we not expend three or four millions of dollars to complete the line for the benefit of navigation when all the engineers concur in the opinion that it must be done, because it will reclaim incidentally an area of the richest lands on the continent, equal to the State of Indiana, wholly uninhabited to-day, and for the most part public lands, and protect the people who have already become farmers and planters in the valley, who are overflowed by breaks in the levees occurring not in the parishes or States in which they reside, but in the neighboring States above them at points where there are no settlements, no inhabitants, no interests of sufficient magnitude to protect themselves; for it must be remembered that when we speak of the levees having given away, we do not mean that the whole line of levees 2,000 miles long have been washed away, but that breaks may have occurred in Arkansas, and the waters from them have overflowed a dozen or more parishes in the State of Louisiana in front of which the levees have remained perfectly secure? Now, the question is, who shall repair these breaks which occur at these points at which there is little or no population? These are the points especially that we insist should be provided for by the Federal Government, when it is demonstrated that they must be closed in order to prevent the gradual but certain destruction of the river itself for all commercial purposes, converting it into a series of shallow lakes at one season and a mighty torrent at another. The March number of the North American Review contains an article on this subject to which I invite attention.

But I do not propose at this time to enter into a general discussion of the whole question. I desired merely to place two important facts, taken from the reports of the engineers of the Government, before the public.

I might show further how the causes that produced these floods were national, not local, but I content myself now by illustrating how they are in fact destroying the river, and how readily they might be controlled to improve the navigation of the river by levees on its banks in connection with the channel treatment, levees not of large proportions such as would be required to reclaim the delta, but of small dimensions, perfectly continuous and at an insignificant expense. If the people seeking protection should co-operate with us and enlarge these levees for their purposes nobody should complain.

I beg to call attention to the following extract from the report of the commission, dated December 1, 1882, signed by every member of the commission except its president, General Gillmore, who was ill, but who has perhaps more fully than any other member of the commission showed the disastrous results that would follow the application of the outlet system and the beneficial effects to navigation by confining the waters to the channel. When General Gillmore was examined before the Committee on Commerce he declared substantially "Levees were the proper and best instruments for confining the water, and that they were in his judgment an essential part of the plan for the improvement of the navigation of the river, and that they should be applied not only where the river is unduly wide and shallow, but that they should be

made continuous from the head of the passes to Cairo; that the bar at the mouth of Red River and the other reaches or bars at Lake Providence and Plum Point were caused by the breaks in the river below Red River as much as by those in the vicinity of these shallow, shoal reaches themselves, and that in order to remove these vast obstacles above Red River it was absolutely necessary to close the breaks and outlets below Red River; that just in proportion as the velocity of the river was increased, even where the navigation was not now impeded, its ability would be increased and its power to remove the accumulations of sediment in the upper reaches of the river where the navigation is suspended—in other words, that the velocity of the river to be made effectual must be maintained not merely where the bars exist, but throughout its whole course."

APPENDIX.

REPORT OF THE MISSISSIPPI RIVER COMMISSION, DECEMBER 1, 1882—OUTLETS AND LEVEES.

The commission, in its earlier reports, agreed in recommending the confinement and concentration of discharge by restraining and contracting works, instead of its diffusion and waste through lateral channels and outlets, as the underlying principle of any correct system of improvement of the Mississippi River. In this conclusion it was considered that flood conditions ruled in the determination of the capacity and in the formation of abnormal extremes and inequalities of width and depth, causing obstructions both to flood discharge and low-water navigation. Therefore, the plan of improvement should include the control of floods in order to succeed in such general improvement as is described in the organic act creating the commission and in the river and harbor bill of August 2, 1882. This fact, characteristic to an unusual extent of the Mississippi River, is apparent when it is remembered that the mean duration of overflowing floods or those rising above the banks at the different gauge stations is from fifty to one hundred days, and in many years, at many stations, from one hundred to one hundred and sixty days, and even more. Thus the flood conditions rule not only by their violence but by their duration.

While it was believed that the studies and experience of engineers on sedimentary streams had collected much evidence in favor of such conclusions, it was still considered necessary by the commission to undertake a careful and extensive project, first, of surveys (to be extended finally over the entire basin); and, second, of instrumental observations upon the size and form of the bed and the changes therein; the velocity and its distribution; the mutual relation of stage, velocity, area, and discharge; the phenomena of floods and low water; the amount and manner of transportation of solid matter, and other kindred problems. These surveys and observations had for their immediate object such accurate knowledge of the river and of its laws as would enable the commission to devise the most sure and economical methods of applying the adopted principles to its improvement. Though yet incomplete, they have progressed far enough, when supplemented by the work of other observers, to add much testimony to the correctness of the theoretical conclusions of the commission, to establish important truths upon which any plan of improvement must be founded, and in general to enable the commission more safely to adopt the details and order of execution of improvement works.

It is known that the rate of progress of the apex of a flood-wave of sufficient height to allow escape by overflow is much slower than that of a wave contained within the banks. The subsidence of an overflowing flood is also much retarded, as compared with one which has been restrained within either natural or artificial banks. It is also known that a large part of the solid matter moved by the force of the stream from above, to form obstructing bars below, passes on or very near the bottom, and that outlets, therefore, while decreasing the ability of the stream to do its work, or its volume and velocity, do not proportionately diminish the work required to be done or the burden of solid matter to be moved. The commission is now prepared to recommend, as part of a complete system of channel improvement, levees of the following description:

The standard of elevation for levees should be sufficient to confine floods most frequently recurring, with the intention of producing the maximum effect of channel improvement at a minimum of cost. The restraint of those great floods, which recur only at long intervals, would involve a cost disproportionate to the injury which would be inflicted upon the maintenance and improvement of the channel by overflows occurring at such intervals. The system should be generally one of restraint in the interest of navigation. The extent to which it should be carried with this object would be determined by considerations of economy. At outlets and depressions of the bank, where the height of levees would make them particularly important as a part of the plan, they are most liable to destruction and costly to rebuild. They have also particular importance at the heads of the great basins, from the pressure upon them and from the destructive character of the floods, to the work below, which their loss would produce. At such localities entire security should be given by greater widths, and grades above any expected flood.

The height of no one recorded flood can be adopted throughout the lower river as a standard of elevation, for all floods show local peculiarities of slope resulting from the causes combining to produce them; and also because these recorded relative elevations are liable to be further changed by the continuous erection of levees. Such a standard of elevation can only be judiciously adopted after the reduction and analysis of the surveys and observations of this and previous years. From the same sources will also be obtained reliable information concerning the cost of such levees.

It is proper that this recommendation should be accompanied by the statement that while levees judiciously erected under the system we have indicated would produce the maximum effect in channel improvement at a minimum of cost, they would not be of a sufficient height to protect the adjacent lands from overflow during great floods.

A discussion of the physics of the river with particular reference to the topic of this part of the report has been prepared by Professor Mitchell. It is herewith submitted as Appendix S.

Of the appropriation of $4,123,000 made by the river and harbor bill of August 2, 1882, the commission considered, at a series of meetings ending August 28, 1882, that the sum of $1,300,000 could be judiciously expended in closing existing breaks in levees as a part of the plan to afford ease and safety to the navigation and commerce of the Mississippi River, and to deepen the channel. While this amount was greater than the estimate for that object accompanying the report of November 25, 1881, it was largely within the recommendation of a supplementary report, dated March 22, 1882, and made necessary by the unprecedented flood of 1882, which greatly increased the gaps to be closed. This supplementary report was transmitted with a special message from the President.

The considerations controlling the use of this allotment of $1,300,000 were as follows: It was deemed expedient to apply it first upon the lowest parts of the river flowing along the fronts of the great basins wherever the State organizations were unable to close the gaps, and thence upward, as far as the allotment would extend, with the intention that such enlargement and improvement of the channel as would result from levees should be secured on the lower part of the river below Cairo, to prepare it for the accumulated waters from above, excluded from the reservoir basins. For it was considered that in the progress of levee building the extension of the work from below upward would have less tendency to produce a temporary increase of flood height, and of overflow, in the upper parts of the river below Cairo than would the extension of levees from above downward have upon the lower parts of the same river. The prudence of this method of procedure is clearly indicated in the history of levee building on the river.

It was also thought expedient to first close new breaks, which presumably would inflict new injuries upon navigation if allowed to remain open, rather than old ones, whose effects had been to a certain degree estimated. These new breaks had principally occurred in the fronts whose restoration is first undertaken.

It was furthermore believed that a greater effect in channel improvement would be accomplished by giving the greatest possible development in length to the levees, even at grades no higher than those previously existing, and proved insufficient for great floods, rather than by giving an entirely secure height to a less length of new work. After mature deliberation the chance of an early repetition of so great a flood as that of 1882 was deemed to involve less prospective risk to channel maintenance and improvement than the incontinuity of the line during an average flood.

Under this project it was anticipated, with such prices as had been ruling for State levee work, that the allotment made would be sufficient, in co-operation with the local and State funds, to entirely confine the river, in any ordinary flood, to its bed along the front of the Atchafalaya, Tensas, and Yazoo Basins. It proved, however, in consequence of the very late period when the appropriation became a law, and of the large amount of work to be completed in a limited time, that higher rates were demanded by contractors, thus rendering it necessary that some gaps in the line should remain unclosed under the present allotment. Others were also left open by the failure of some of the local assistance promised.

To put this project into execution the Secretary of War was requested to convene in a board the executive officers of the several engineer districts of the river in which gaps were to be closed. It was the duty of this board, under the instructions of the commission, to ascertain the extent of the work and to apply the fund placed at its disposal by the commission proportionately to the amount of required work in closing the existing gaps in the fronts of the Atchafalaya, the Tensas, and the Yazoo Basins, omitting such parts of the work as could be undertaken by the States in which the basins lie, and, as far as found practicable and expedient, after the local information to be acquired, extending the work in each basin from below upward.

Their investigations led to the final subdivision of the allotment by them as follows: To the Atchafalaya Basin, $110,000; to the Tensas, $750,000, and to the Yazoo, $440,000. The action of this board in distributing the allotments and in deciding what gaps should remain unclosed in consequence of its insufficiency has been approved by the commission. The reports of the board and the district engineer officers composing it are submitted as Appendices K, L, M, and R.

An effort was made in September of this year by the State of Louisiana, the Mississippi Valley Railroad, and private parties to raise a sufficient fund to close the Bonnet Carré crevasse. They were successful to within $15,000 of the amount required. The commission was requested to supply the deficiency, and thus by the expenditure of a comparatively small sum secure the completion of a work costing $80,000 or $90,000, and closing an outlet which had been discharging for eight years at nearly all stages of the river.

Under these circumstances the commission complied with the request, making a further allotment of $15,000 for closing existing gaps contingent upon the successful completion of the Bonnet Carré levee by the other parties to the work.

In the work of surveys, location, and preparation of notes and maps for the closing of gaps the services and advice of the engineer bureaus of the States of Mississippi and Louisiana, in charge of Mr. G. M. Helm and Mr. H. B. Richardson, were freely rendered and found of very great assistance.

It will be understood from what has been said that the levees for the closure of breaks in which provision was made as stated were not in all cases such as would be recommended by the commission as part of a system of channel improvement. But as the breaks in them exposed the river to rapid depletion of its water along a portion of its course where such depletion would be, it was believed, specially injurious to navigation, it was thought to be in the interest of economy to attempt to close them as far as possible at once.

C. B. COMSTOCK,
Lieutenant-Colonel of Engineers and Brevet Brigadier-General, President Mississippi River Commission.
CHAS. R. SUTER,
Major of Engineers, United States Army.
HENRY MITCHELL,
Coast and Geodetic Survey.
B. M. HARROD.
ROBERT S. TAYLOR.

NOTE.—General Q. A. Gillmore has been prevented by severe illness from participating in the preparation of this report, and is at the date of signing unable to hear it read.

S. S. L.

Major Charles R. Suter was sworn and examined.

By Mr. ROBINSON:

Question. Will you please state your name, age, and rank in the Army?

Answer. Charles R. Suter, major of engineers, United States Army; my age is 41 years.

Q. Prior to your connection with the Mississippi River Commission what experience did you have in the investigation of work on the Mississippi River?

A. I have been engaged on various improvements on the Mississippi River and some of its principal tributaries since 1866.

Q. Your work as an engineer has been confined to that region?

A. As a civil engineer, entirely.

Q. Following the Mississippi River, commencing at Cairo, and going down to the outlet, to the mouth, I want to know, as a fact, which river contributes the greater amount of water, the Ohio or Missouri?

A. The Ohio; it is about double.

Q. Which one bears the greater amount of sediment?

A. The Missouri.

Q. Does the Ohio perceptibly affect the quantity of sediment in the Mississippi?

A. Very slightly, I think, so far as the suspended sediment goes.

Q. And why is that so?

A. Mainly owing to the different character of the rivers. The Missouri is a river of very strong current and heavy slope, and it brings down an enormous quantity of sediment of all kinds. The Ohio is a much more gentle stream, and its banks are harder.

Q. The banks are not so yielding on the Ohio as on the Mississippi?

A. No.

Q. Then it is mainly attributable to the character of the soil?

A. Yes, sir.

Q. You have for years been dealing with the Mississippi as a stream bearing great quantities of water, and of water bearing a large quantity of sediment?

A. Yes, sir.

Q. From Cairo down you find a succession of pools and shoals, and bends to the right and left, do you not?

A. That is the general character of the river.
Q. And the result of years is that that river has wound about over different points of the valley, sometimes forsaking for miles its former course?
A. Yes, sir.
Q. And it is likely to do so for centuries to come?
A. Yes, sir.
Q. The banks of the river are generally yielding and soft, and easily saturated with water, and then they break down in large quantities?
A. Yes, sir.
Q. And that forms a heavy silt in the bottom of the river?
A. Yes, sir; that forms a large portion of it; I do not know what proportion of it, but a large proportion.
Q. What are the difficulties in the navigation that steamboatmen or navigators have to contend with?
A. Of course there are obstacles such as snags, but apart from that the obstructions are shoals.
Q. Where there are pools there is no difficulty in navigation?
A. No, sir; the water is deep in pools.
Q. And then you have, as you said before, a shoal, and then a pool, and then a shoal, in that order?
A. Yes, sir.
Q. So we may infer that you have to correct that class of shoals?
A. Yes, sir. That is the main difficulty.
Q. What other, leaving out the snags?
A. The shoals are, of course, the obstacles.
Q. What is the condition of the stream as to width where you have the shoals?
A. The width is excessive.
Q. And what are the conditions where you have the pools?
A. There it is comparatively narrow.
Q. At the pools you would require no contraction?
A. No, sir.
Q. You propose contraction on the shoals?
A. Yes, sir.
Q. For what purpose?
A. For the purpose of deepening the water.
Q. How?
A. By concentration, increase of current, and scouring.
Q. Will it increase by scouring, or simply by laying water upon itself?
A. It will have to do so by scouring; that would be the object of a rational improvement for a stream of this character; it would undoubtedly be the way. Of course if the bottom were unyielding the water would have to be deepened by piling up.
Q. Is it your theory that you can so control the river that you would remove the tendency to form shoals and pools?
A. No, sir; that is not the object of the improvement. That of course would be carrying the improvement to a more perfect standard, but nothing like it is contemplated by the commission.
Q. That is to say, you would not deepen the shoals to correspond with the depths of the pools necessarily?
A. No, sir.
Q. You improve to what depth—the minimum depth?
A. The commission have not decided upon any special depth as yet.
Q. You contemplate something—I mean the commission?
A. The subject has not been seriously discussed, that is, so far as the limit of depth is concerned.
Q. You were a member of a former board that investigated the subject?
A. Yes, sir.
Q. You individually and your associates proposed ten feet?
A. I believe that was the limit fixed then as something attainable.
Q. How many shoal places do you find, stated approximately, between Cairo and Red River?
A. The whole list, I think, is something between fifty and sixty; I have forgotten the exact number; that is, of shoals on which there is less than ten feet of water.
Q. It was said by General Comstock, I think, that no dredging had been done on the Mississippi to improve navigation between these points; is that correct?
A. There has been no dredging in the ordinary acceptation of the term; that is, no actual lifting out of material; but there have been attempts made of which I have had charge for the deepening of the channel by scraping. In other words, dragging the material from the crest of the bars down into the deep water. It was a much more rapid process than by the ordinary lifting dredges; and it had a further advantage—in fact it depended largely on the loosening up of the bottom and letting the current carry the material off. These results were substantially attained, but the trouble with the Mississippi is that it carries so large an amount of sediment and moves so great an amount of material along the bottom that it filled up the cuts as fast as they could be made.
Q. This was equivalent to stirring up?
A. That was the main principle.
Q. At what point was this tried?
A. It was never tried below Cairo. There has been nothing of that kind done that I know of below the Ohio, except that the same process was tried at the passes at the mouth of the river.
Q. Notwitstanding the fact of the shoals between Cairo and Red River, there is a very large amount of commerce carried on the river?
A. Yes, sir.
Q. By means of boats?
A. Yes, sir; by means of boats and barges.
Q. Steamboats of considerable size run there all the time?
A. No, sir; they do not run in low water; they adapt themselves to circumstances.
Q. And how much of the year are they obliged to suspend?
A. That is a variable element and depends on the character of the season. Some years there will be no obstruction to large boats; they can run all the year. At other times they will have to shift on to other classes of vessels for four or five months in a year.
Q. What is the draught of the larger steamboats?
A. They usually leave the Saint Louis or Ohio River ports when the river is up with a maximum draught of fifteen feet.
Q. Now, can they make that voyage—that trip—in low water?
A. No, sir; that is only at the extreme high stages.
Q. Well, on the average would it be more than thirty or forty days in the year that they could not make these trips?
A. Yes, sir; I think it would.
Q. What do you say as to the practicability of stirring or dredging during times of low water, so as to make a proper channel?
A. The great trouble is that the river gets shoal throughout its whole length all at once, and there is a long period which precedes the really low water. It begins usually at about half stage, or one-half gauge height, and it is then the bars present the greatest obstruction. During high water all the channels of low water are entirely obliterated. The sand moving forward fills everything level, and remains there during the entire high-water period. As the river falls—as the surface lowers—these bars and shoals begin to act as dams, and, of course, approach the surface of the water. The low-water channel has to be excavated through them; that is the general process and usually requires some time for its execution. Sometimes it begins, as I stated, about the half stage, but the low-water channels are not fairly developed, as a rule, until the river has fallen so low that the depth on the crest of these bars is entirely insufficient for navigation. As the process continues the water finally breaks through on the line which offers the least resistance, and then the excavation goes on quite rapidly in these contracted spaces, which become the low-water channels.
Q. That excavation then goes on without any artificial means; it is the river at work on itself?
A. Yes, sir; it is a natural process.
Q. The deposits formed at the high stage of water are picked up by the current and carried on down the river?
A. Yes; in these restricted portions or sections of the river.
Q. What is the difficulty, then, about letting the river do its own work, if it conducts itself in that way?
A. It does not act rapidly enough, in the first place, and does not carry the process to a sufficient extent, in the second.
Q. And is there any difficulty in its not carrying it in any regular channel?
A. That is a further difficulty. Wherever the bends in the river are well developed there is not much shifting in the location of the low-water channel. Although it goes through the same process every year of filling up and cutting out, as a rule the beach through the shoals is sensibly the same in position from year to year. But there are a great many places in the river—and that is really where the most of the trouble comes—at which it can not be determined in advance where the low-water channel will cut out; and during the continuance of the low-water season this channel may fill up and cut out somewhere else. Frequently at low stages of water there will be through some particular bar some five or six different channels of about the same depth. Sometimes one and sometimes another obtains a slight preponderance, which renders it the steamboat channel; but this deepening is often only temporary, and the steamboat channel may change from one channel to another from day to day.
Q. Is it a correct inference, then, that there is sufficient water in the river provided it is brought to bear upon a certain point?
A. There is plenty of water; that is made sufficiently plain by the action which takes place in those localities where the channel is sensibly constant.
Q. And when you say there is plenty of water, you mean at all shoal places?
A. Yes, sir.
Q. So that if you could control the stream at low water, and confine and concentrate the current, there is no lack of force in the current to accomplish the purpose desired?
A. No, sir; no difficulty on that score.
Q. Well, then, upon that rests your theory somewhat—a plan to contract in the wide places, draw the water in within a space of 3,000 feet and holding it there?
A. So far as the low-water improvement is concerned.
Q. And if you bring it into that limit you say there will be water enough to cause sufficient erosion to give a good channel?
A. Yes, sir.
Q. Have you any doubt about that?
A. None whatever.
Q. And that is the result of your observations?
A. Yes, sir.
Q. Now, would you get that effect upon the bed of the river if the restraining works are put in before the river rises into a flood?
A. I do not exactly understand your question.
Q. Would you be obliged to wait until flood-time till you got that effect?
A. That would depend entirely upon the character of the works.
Q. Drop a solid dam into the river, it will throw that much more water into the channel and scour it out?
A. Yes, sir.
Q. You contemplate the works that are permeable and afterward followed by these works?
A. The object is to build up shoals by deposits of sand, causing an obstruction by making new banks.
Q. That is, it is equivalent to drawing the banks in?
A. Yes, sir; equivalent to drawing the banks in.
Q. Then your new banks are as durable as the old banks, we will assume?
A. Yes, sir.
Q. When these new banks form you have the river contracted between the river banks to 3,000 feet?
A. Yes, sir; at low water.
Q. Now, will you be compelled to wait until the river rises in flood until it shows itself on the bottom?
A. No, sir; as the river rises from low to high water it will undoubtedly scour out the channel.
Q. That is if the river flows over the height of low water?
A. Yes, sir.
Q. You are going to put them in at low water?
A. Yes, sir.
Q. Then you are going to put them in at low water—will you have the river at work on the bottom at low water or will you have to wait until flood?
A. We contemplate that we will have to wait until flood, because the works themselves are not capable of accomplishing the results desired.
Q. Your work is for the construction of new banks?
A. They will be formed after one or more flood stages are over.
Q. Will this scheme operate in the low stages of the water?
A. I can only repeat the previous answer, if I understand the question. If the results sought to be accomplished by the works are accomplished the banks will have been built up, and as a result the bottom will undoubtedly scour out.
Q. And then with the new banks formed it will keep that scouring in process, and so keep a good channel?
A. Undoubtedly.
Q. And that process will go on even at the lower stages of the river?
A. Yes, sir.
Q. And successfully?
A. Yes, sir.
Q. Now, if that is so, what do you want with the levees on the banks of the river?
A. That, of course, opens up another phase of the situation. According to my idea, the improvement of the river is not possible unless it is controlled at its high stages as well as at the low stages. The trouble lies in the character of the river itself. One of the essential conditions of the improvement is the obtaining a coincidence in location between the high-water channel and the low-water channel. Otherwise, and it is frequently the case now in the present condition of the river, they do not coincide, and at or during high water deposits are thrown down into the low-water channels. Then at low water, when the river has lost scouring force, it is obliged to dig through these deposits left by the high water. If the low-water channel is so located and fixed as to coincide in direction with that of high water, these deposits will not be found; but in order to do that you have to control high water also, because otherwise it can go anywhere it pleases, and it may develop channels at other than the selected location. In this I am not speaking on theoretical or speculative grounds, for it has been the result of a great many improvements made in the West; that the work designed simply for the restriction of the low-water channel may have been entirely buried up at high water, so that when the river fell, instead of seeking the channel pre-

pared for it, it cut down into the works themselves, which thus were left directly in the channel and formed serious obstructions to navigation. That has occurred at Horsetail Bar, below Saint Louis, and at other places.

Q. How are you to get along unless you bring the levees up on your new banks?

A. That is where they ought to be.

Q. Then the levee system reduces itself to the confinement of the water so as to bring it up to the edge of the new banks?

A. Yes, sir.

Q. That is what you mean by your system?

A. Yes, sir; that is my personal opinion.

Q. Then we have something new. That is your theory carried out to a logical end?

A. Yes, sir.

Q. When you speak of the coincidence of high and low water channels you are necessarily brought to that conclusion?

A. Yes, sir.

Q. Then a levee, as it is understood and regarded in the present position of the levee, does not answer the needs of your theory, does it?

A. Not wholly.

Q. Nor very remotely?

A. Well, that depends on the distance from the banks; the nearer the banks the better.

Q. You have been there and know the theory, and where they are now; can you tell me whether they answer the purpose of this plan?

A. I began by saying that they did not answer it fully. Of course they are thrown back from the river as a matter of necessity, because they would otherwise be tumbling into the river every season; but the place where they should be built is on top of the bank, when this can be held.

Q. With your channel three thousand feet wide the levees are how far apart in many places? State the average from side to side.

A. I do not think I could give you very definite figures; but, roughly speaking, a mile and a half.

Q. But some are more than that?

A. Well, you said the average. There are some that are four miles apart, probably, while the nearest, those below Red River, would be, I suppose, twenty-five hundred feet, or something like that.

Q. Well, then, to repair the levees where they now stand, some of them all the way from two to four miles apart, is going to bring danger to the work on the banks; am I correct?

A. No, sir; I do not think so, so far as my own idea goes.

Q. You say your high-water current, unless it coincides with the low water, is going to work disaster to your works. If you are going to confine the water within the levees, why are you not going to meet that difficulty? May I inquire whether you approve of the present plan of repairing the levees as they stand now as part of the channel improvement; that is, in their present location?

A. Yes, sir.

Q. Has it anything more than a remote connection?

A. That is a matter of difference of opinion.

Q. I should like yours.

A. My opinion is that it is quite an important factor in the channel improvement.

Q. Though, as you state in your report, it is not a necessary adjunct of channel improvement?

A. That is the report of the commission.

Q. You joined in it?

A. Only generally; not as an individual.

Q. Well, then, take that report as a whole, we are to average it to get the sentiment of the commission?

A. It is averaged already.

Q. Where shall I put you; in the extreme view?

A. In that direction.

Q. Which end?

A. At the levee end, sir.

Q. And a pretty strong supporter of the levee end?

A. Yes, sir.

Q. But you contemplate the levees as standing on the new banks?

A. That is desirable.

Q. What is your estimate of the cost of the river improvement from Cairo to Red River, completed according to that plan; what will it cost?

A. I have never estimated the cost of the levees. My estimate for the improvment of the river without levees is about twenty-five millions.

Q. Do you still hold to that estimate?

A. Yes, sir.

Q. What will be the cost of the levees?

A. I do not know.

Q. You want them the whole length, of course, on either side and up the tributaries?

A. I do not care about the tributaries particularly.

Q. You do not care about them; why not?

A. That is not part of the Mississippi.

Q. Would not the water escape around the levees and over the surrounding country?

A. It would have to be shut off from them to prevent overflow, but as a matter of fact they are all situated in such a way that you can not do it.

Q. When you have your complete system according to your statement, your theoretical and ideal levee system close to the edge, 3,000 feet apart, are you going to have difficulty in maintaining them?

A. In the first place I wish to correct that idea of 3,000 feet apart. That 3,000 feet mentioned in the reports of the commisson applies only to the low-water width. The statement made by the commission was that an approximation to low-water width of 3,000 feet would do. At high water it should be more than that. The low-water width named is only an approximation, because at the bends there has got to be greater width. It would only apply strictly to the narrowest places, that is at points of inflection.

Q. Where your new banks are you would have your levees?

A. Yes, sir.

Q. In your judgment would they be easily maintainable there through the whole length?

A. That will be a question of preventing the erosion of the banks.

Q. What do you think of that?

A. I think it can be done.

Q. But at what expense, on both sides?

A. Of course that estimate I gave to you a while ago included that protection wherever it is needed.

Q. By revetment?

A. Wherever it is needed.

Q. Do you think it will be needed if you bring your river and confine it within the space indicated?

A. I think it will be needed in some places.

Q. What portion? I shold like you to be as definite as you can, because we are seeking for information.

A. My idea is that the portion of the river which will require improvement of an extensive character (I will not say expensive because that is implied), but of an extensive character, will probably be about two hundred and fifty miles. There may of course be portions of the river besides that may require more or less work. This is too early a date for us to undertake to answer definitely such a question as that. The estimate is of course only approximate, and I gave it to you merely as my individual opinion.

Q. The work that you have put in the river produces the effect speedily, does it not?

A. So far as we have had any experience, yes.

Q. But whether it will be permanent or not is a question largely for future determination?

A. Yes, sir; it depends largely upon the judiciousness of the location.

Q. Do you anticipate that when those levees are placed on your new banks, your walls raised on either side, that your flood-line is to be afterwards below the natural banks of the river?

A. No, sir; I do not.

Q. Do you not contemplate that as ever occurring in the future?

A. Only as a remote possibility.

Q. That it shall scour down—that the river shall sink below the surface of the river?

A. Very remote, sir.

Q. Has any member of your commission expressed that view?

A. I have heard that view expressed.

Q. You did not express it?

A. Only to a very limited extent. I might qualify that to make my meaning clear at once. I think it likely that in many places that effect will be produced, but I do not anticipate any general lowering from that cause. Of course theoretically there would be; doubtless absolutely there will be; at any rate the experience on other rivers, both in this country and abroad, is to that effect, but it seems to me that it will be small and hardly worth talking about. But the river as it is now with the profile which it has now (and which you will find in the report of the last year.) The profile is from Cairo to Commerce, which lies some forty miles below Memphis, that is as far as we were able to supply the low-water slope, but as that covers three of the reaches where difficulties of navigation are encountered it will answer the purpose of my explanation. You will find illustrated there that taking the lowest point and the highest, that is the extremes of the line, you will find that the straight line between these two points, and which of course is the mean slope, coincide very nearly with this profile, but you will also find that there are points which represent considerable lengths of river which stand considerably above it, which project out above this general line. For instance, the New Madrid Reach and Plumb Point Reach, my recollection of it is that the projection there above the general slope is about eight feet and the high-water slope, which is on the same profile, follows in a measure the same general form. It is, however, not quite so large, as I now remember it. I think it is about six feet. That is the local elevation of this particular reach above the main slope of the river; and you will find that the same thing holds at various points along the profile. These points indicate the location of the present shoals. When I speak of shoals I mean the bars which are found at the foot of bends in the crossings. They may not be obstructions to navigation, but nevertheless at these bars occurs the change of slope between the pool above the bar down to the pool below. My idea is this, that the effect of contraction will be to cut down these high places, and to that extent the flood slope will be lowered. But of course it will be only locally. At certain points there will undoubtedly be a considerable depression. What the amount will be I could not say, and I do not think any one can answer that; but there will be some depression from that cause and probably a considerable one.

Q. You spoke of the effect on foreign rivers; do you speak of your own observation?

A. No, sir.

Q. Did you notice in the last few days the accounts of floods there?

A. Yes, sir.

Q. The Po seems to be behaving badly there?

A. We are likely to have floods on any river, but when we speak of flood-line we mean the average.

Q. There has been a depression of how much within the last four hundred years?

A. I do not know how much; in the case of the Po there has been a depression of the bed, but not of the flood-line. Some explain this one way and some another. I think the most reasonable explanation is that the height of the flood-line is augmented by the progressive deforesting of the mountains and that the water comes down faster.

Q. Then, going below the mouth of the Red River, the navigation is good, is it not?

A. Yes, sir; there is good navigation below Red River.

Q. State, then, what would be the use of levees, in connection with that theory, below that point for channel improvement?

A. The effect of levees below there would be to carry off the water better and to preserve the lower trunk of the river in its present excellent condition. I cover here both branches of the subject; there is plenty of water for navigation, but if you do not get the water out of the river promptly you will have greater floods in the upper portion and corresponding deterioration of navigation.

Q. But for navigation the floods are no damage?

A. That depends.

Q. On what? There have been floods from time immemorial in the Mississippi and there has been good navigation all the way down below Red River.

A. The floods have not been allowed to go out of the river below the Red River. The levee system has been constantly kept up.

Q. But they have been badly damaged the last ten years?

A. They have been badly damaged the last ten years, but the system has been kept up.

Q. True, but serious crevasses have occurred there making great outlets to the flood-waters?

A. Yes, sir; of course there have been crevasses.

Q. What work are you doing there now?

A. Below Red River?

Q. Yes, sir.

A. We are closing crevasses.

Q. You are closing up a crevasse where water has been escaping for many years; Bonnet Carré is the one I believe?

A. Yes, sir.

Q. And still while that has been open navigation has gone on and been pursued there from Red River down, has it not?

A. Yes, sir; there has been no diminution of depth sufficient to obstruct navigation.

Q. Then if there has been no obstruction to navigation, upon what theory of channel improvement do you proceed to improve these levees?

A. It is mainly for the effect it will have on the bars in the river above.

Q. But the river you control by means of works above?

A. If you are referring to the recent action of the commission.

Q. I am.

A. In the first place the commission have stated pretty plainly in their report the idea which has controlled their recommendations as to preventing the escape of water from the river. They recommend concentration in opposition to diffusion. The breaks which the commission authorized to be closed below Red River, with the one exception of Bonnet Carré, which I will come to presently,

were the breaks leading into the Atchafalaya. Of course any water that goes through these breaks tends to enlarge that outlet, which is something that the commission think it extremely desirable to prevent.

Q. Did you understand that Congress intended that you should do anything more in expending the money given you than to improve the navigation of the river?

A. That of course is implied by the law, but as to the work bearing upon navigation improvement, that was left for us to decide.

Q. True, and everything you did was in the direction of channel improvement?

A. Solely for purposes of channel improvement.

Q. Now, your theory of concentration as applied was to be considered in connection with that improvement where improvement was needed, was it not? In other words, you were given $5,000,000 in round numbers to improve navigation between Cairo and the head of the Passes. Now, why would you spend any money where improvement of the channel was not needed?

A. It is impossible in a case of that kind to divorce the diverse interests along the river.

Q. What are those interests?

A. In this particular case to which you refer, as I have before stated, the object was very largely if not entirely to prevent the admission of water into the Atchafalaya and the enlargement of that stream.

Q. Was that the reason for closing Bonnet Carré?

A. I have not come to that yet; I have referred only to the breaks on the right bank below the mouth of Red River.

Q. Well, come to Bonnet Carré at your convenience.

A. Well, in the case of Bonnet Carré, that was a question of direct benefit to be received by navigation. In other words the Bonnet Carré break was at the foot of an extremely sharp bend in the river. Boats coming down stream have to come around a sharp point to get into the bend below, and as they go around this point they are headed directly into the break. At high water there is a strong set of the current in that direction; and in case of foggy and dark nights there is danger of boats being drawn into it. The risk to steamboats is not so great; but there is a case on record where one of the large New Orleans boats went into it at night.

Q. Soon after the crevasse was opened?

A. Yes, sir; soon after the crevasse was opened; I forget the year. The crevasse was formed in 1874; I do not recollect the date, but there has been nothing to prevent them from going in since. The danger, however, was of course greater in the case of boats that had no propelling power—flat-boats and things of that kind; they have frequently been drawn in there. The case was drawn to the attention of the commission. They found that a small expenditure of money, $15,000, would secure the closing of that break, and the remedy for that source of danger would be secured.

Q. Did it enter into your consideration at all that the value of levees was to protect lands from overflow?

A. That was a quality which they possessed which we could not well prevent.

Q. Did you hold to that view?

A. No, sir; that was not our object.

Q. Did you work in connection with the board of State engineers of Louisiana in repairing levees?

A. The work was undertaken by allotments, which were made by the commission after consultation with the State board of Louisiana, and also of the State of Mississippi, with regard to the amount of money that they could furnish themselves, the amount of work they could do.

Q. Why did you take that course?

A. Because we had no surveys.

Q. But you had the money; why did you ascertain how much money they could spend before deciding what you could do?

A. The commission had decided to allow only a certain amount, and the question was where to spend it to the best advantage and make it go as far as possible. We singled out the different States that were concerned in the matter and then we had to locate our expenditures where the local means were the smallest.

Q. What had this improvement of the channel of the river to do with the interests of the State?

A. I do not know whether it had anything to do with it or not.

Q. Why did you have to consult?

A. Our object was to close the gaps in these levees.

Q. Your object was to improve the channel of the river?

A. Our object was to close the gaps in the levees, as one of the measures.

Q. Did you proceed to decide what places ought to be closed chiefly because they would mostly improve the channel of the river?

A. No, I can not say that we did. The object that the commission had was as soon as possible, or as soon as they could get the money, to complete the line of levees throughout the whole length of the river. That was stated in the first report; that was what was meant when we referred to closing existing gaps in the levees. When they came to actual work, the consideration which ruled them, the very natural one, was to begin at the lower end of the river and work up.

Q. So your commission decided to build levees the whole length on both sides of the river, to begin with that—that is your plan if you have the money?

A. Certainly.

Q. The majority is in favor of it?

A. That must form part of the system recommended.

Q. You propose to build the new banks?

A. We proposed to close the gaps in the levees.

Q. Then afterward you proposed to build new ones on the new banks?

A. When they are completed. I do not say that is the opinion of the commission. That is my own opinion, however.

Q. But you began at the lower part and worked up?

A. Yes, sir.

Q. Did you expend all your money in Louisiana?

A. No, sir.

Q. Did you spend any part in Mississippi?

A. I said we began at the lower end and worked up.

Q. How much did you expend in Louisiana?

A. About $800,000, I believe.

Q. Will you close all the gaps in Louisiana?

A. We do not attempt to.

Q. Do you consider it necessary, according to your plan?

A. I say we do not attempt to. Our first idea was not to go below Red River, but on further consideration it was decided to allot a certain sum, $100,000, for work on the right bank below Red River, that is, to endeavor to close the various outlets leading toward the Atchafalaya.

Q. Well, on the left bank of the river, did you apply some money there to some works?

A. In Louisiana?

Q. Yes, sir.

A. Only to Bonnet Carré.

Q. Then in Mississippi?

A. In Mississippi the expenditures were along the Yazoo front.

Q. How much?

A. I do not remember.

Q. Have you got up as far on the right bank as Arkansas?

A. We have closed some breaks in Arkansas.

Q. Have you come further in Mississippi than the left bank?

A. No, sir; there are no levees above Memphis on the left bank.

Q. Then you have helped all the States that have had any levee work to do?

A. Except Missouri.

Q. You have really gone into partnership with them; is that it?

A. If you choose to apply that name to it.

Q. For channel improvement?

A. Channel improvement is our purpose.

Q. The difficulty I have is—the question I want to go into is, why, if you are working for channel improvement, and commence at the lower end and come up, why you did not finish at the lower end instead of giving Arkansas some and Mississippi some?

A. Well, we were disappointed in some respects. There are some gaps left open, but it was expected when the allotments were made that these would be closed.

Q. In the course of years back, say twenty or twenty-five, has the navigation of the Mississippi deteriorated?

A. That is the common statement of pilots.

Q. Have you any information yourself as the result of observation?

A. There is no other authority for it.

Q. Not as the result of measurement and soundings?

A. Nothing on record; no, sir.

Q. How can you account for that fact, if it be a fact?

A. It is a hard thing to account for. There are many causes that might be assigned, but how far they are valid I should hardly like to say; but whatever may be the cause, I think that at least an accompaniment of deterioration has been the widening of the river. That has been established, I think. Where widening of that kind occurs it simply means that the caving of the banks on one side is more rapid than the growth on the opposite by deposits.

Q. Then you do not speak of such widening as the water passing beyond the line of present levees? You do not mean in overflows?

A. I speak entirely of water within the banks.

Q. Then you think that the navigation has deteriorated because of the lack of maintenance of the levee system?

A. I think in some instances there is a good deal of evidence bearing that way.

Q. That is rather guardedly stated, major?

A. In these long reaches where navigation is difficult it is, I think, in every case associated with absence of levees or breaks in levees. For instance, take one of the list of shoal reaches—Lake Providence we will say. At the head of that reach is a large crevasse which, I think, was formed during the war, in 1862. It is called the Ashton crevasse. It lies right at the head of the shoal water. The people who live in that neighborhood assert very confidently that the deterioration of navigation has been going on only since that crevasse has been in existence. I know nothing more about it than that. The next reach in order as you go up the river is just above Arkansas City, what is known as Choctaw Bend. There you have a parallel case in the outlet from the Mississippi that is known as Cypress Creek. It is really a small drain coming down from the Arkansas; but in time of flood the Mississippi runs up this creek and passes out through a depression in the high ground which forms the southern border of the valley of the Arkansas. The water runs through this and then flows down into the Red River. It has always been quite a large outlet, and there has been no systematic maintenance of levees across it, although levees have been constructed there.

Q. When?

A. What year I can not tell you, but they have been down for some years, so as to leave open a continuous outlet and quite a considerable one. In the other reaches, Helena, for instance, there you have large outlets into the basin on the other side, the Yazoo basin, the old Yazoo Pass, for instance. Above there at Memphis, Plum Point, and New Madrid you have no levees.

Q. This influence of the want of a perfect levee system is not to be asserted with a great deal of confidence is it?

A. No, sir; I can not say that it is. It is of course only an inference.

Q. Major, I have examined with much interest your report of 1875. I do not find any such theory there.

A. No, sir; there is no reference made to it in that report.

Q. It is simply a conclusion of your own at the present time, as I understand you?

A. Not exactly at the present time. It has formed in my mind as my opportunities for observation have been extended.

Q. Then you do account for deterioration of navigation?

A. There are some other causes mentioned in that report which seemed to me at the time, and I think still are, probably of more or less value.

Q. Rather more likely to be sufficient than this other?

A. Well, I should hardly give them the preponderance of value at the present stage of the question.

Q. Do you contemplate after the new banks are formed with the levees on them a revetment of the banks?

A. Wherever it is necessary. The question as to whether it will be necessary is largely a matter of conjecture; yet, I think myself that with the river regulated, reduced in width in the way we have been speaking of, I think the necessity for revetment will be very largely reduced.

Q. Will there be any danger from the revetment on the banks?

A. I do not know that I understand what you mean.

Q. Would you expect any dangerous consequences from revetments in any way?

A. No, sir.

Q. Well, Major, I read from your report. After you have discussed sand bars and waves you say: "From what has been said it may be readily inferred that a wholesale revetment of the Mississippi banks would entail the gravest consequences; the bed would infallibly be raised by the accumulation of deposits and disastrous inundations would result."

A. That was written a good many years ago.

By the CHAIRMAN:

When was that?

Mr. ROBINSON. In 1875. I find that the commission referred to your report in 1875 as their opinion at the time, and you subscribe to it yourself.

A. I think the commission only referred to that as an index to shoals.

Q. Well, as an index to what is sounded; but you have abandoned that idea.

A. Yes, sir; I gave that up some time ago.

Q. Then, there is room for information to be gained in connection with the Mississippi River?

A. There is no mistake about that.

Q. And you would proceed with a great deal of reserve as to what would be proper?

A. On a good many points.

Q. What do you say at the present time as to policy of closing chutes?

A. My own opinion has not changed.

Q. You would not close them?

A. I would. In other words, concentration must be carried to its legitimate end.

Mr. ROBINSON. Still, I read——

The WITNESS. From that same report?

Mr. ROBINSON. From that same report.

The WITNESS. I shall have to say as I did before, my opinions have changed.

Mr. ROBINSON. But I will read:

"It must first be laid down as a cardinal principle that no work should be allowed which will interfere with the present navigation. As boats during high stages of water depend upon the use of the various chutes and other similar channels as an important means of saving distance it would manifestly be improper to project any works which would prevent this use, except in cases of absolute necessity, and it is thought that such cases will be very rare."

A. I must say in explanation of that, the plan of improvement recommended in that report, which is of course a very crude affair and written many years ago, was not such a plan as is recommended now. It was practically simply a low-water improvement, which at that time I myself, and I think probably everybody else, thought was the only one possible.

Q. Well, that is all that is needed for navigation, isn't it? When the river is confined within its banks, throwing out snags and the uncertainties of piloting, what is the trouble with navigation?

A. The trouble is not in navigation exactly, but the point is to retain control over the river. At the time that report was written, from which you are reading, the only work done on the Mississippi anywhere was in the vicinity of Saint Louis, and the engineers in charge of that followed the German and French practice of building solid stone dams and attempted to control the river by these means. They were enormously costly and in the end proved a failure, but at the time that was written we did not know of anything else; but you can readily see that it was not desirable to go into experiments of high-water improvement with structures of that character.

Q. You would consider work of revetment of the banks a very expensive one, would you not?

A. That is expensive, of course.

Q. Because of the want of material?

A. Yes; and on account of the extent. It is a character of work that is very expensive. It is unquestionably the most expensive work that we have to do.

Q. From what points do you get stone for revetment?

A. At present from the Ohio River.

Q. So the item of transportation is considerable?

A. Yes, sir.

Q. There is no other point within more convenient reach?

A. Not at which we will be able to get better terms. There are stone quarries on the Yazoo, in the vicinity of Vicksburgh.

Q. Well, when you recall what you said in 1875 you probably did not overstate it at that time?

A. In that report I am alluding almost entirely to dikes composed almost entirely of stone. The plan that is described there is enormously expensive.

Q. Something like $100,000 a mile?

A. Yes, sir, formed in that way.

Q. There is lighter material, that is, hurdle and piles. These are much cheaper, are they not?

A. Yes, sir.

Q. If the stone work was placed on a permanent foundation it would be permanent without revetment, would it not?

A. Well, the stone work so erected is in the nature of a revetment.

Q. Well, your new works will require this stone revetment?

A. No, sir; the banks we propose forming are on the concave side of the river.

Q. But on the convex sides?

A. There we have to take the banks that are already there. We do not propose to furnish new banks, with the exception of a distance at Plum Point. It is very rare indeed, however, that we have to contract the river on both sides.

Q. Does it ever happen that the water passes through the revetments and the interstices and unsettles the banks?

A. Only experience can test that question. I think with properly constructed brush mattresses it is not to be feared.

Q. Do you understand the commission in their report (Executive Document No. 58, Forty-sixth Congress, second session) as recommending that work should be commenced on one of the points as a test?

A. No, sir; estimates were made for six different localities.

Q. In the report of the commission of which General Barnard was president in 1879, in which report you joined, you recommend that work be commenced upon one of the bad places?

A. Yes, sir.

Q. Plum Point Reach is one of the worst reaches on the river?

A. Yes, sir.

Q. Economically considered, when so much is uncertain, would it not have been better to have applied the $1,000,000 given you to some one reach rather than scatter it along in a number of reaches?

A. No, sir. That is not my opinion. When you refer to the report of the board of 1879, I will say that I thought at that time that it would be so, but that was simply for the reason that the methods proposed by that board were at that time entirely experimental; in fact, so far as this improvement is concerned, with the exception of some of Mr. Eads's work at South Pass, nothing of the kind had ever been tried in this country to my knowledge, except some work I had done myself on the Missouri River, and while I thought, and other members of the board thought, too, that it was a very promising experiment, and if it proved successful would be a very important one, yet none of us could feel the least assurance of it. It was with that idea in view that we recommended that one reach should be selected and the work tried there. But almost immediately after that report was written the works below Saint Louis changed hands and the system was initiated there on a large scale. At the time that the commission made their report those works had progressed so far that anybody could see what the results would be, and we considered that it had passed beyond the experimental stage and was a fixed fact.

Q. You said a moment ago, if I understood you correctly, that the whole of the work of the river could be done for $25,000,000?

A. That is my own estimate.

Q. How much has been spent at Plum Point up to the present time?

A. I do not know, sir; General Comstock gave you the figures the other day, I think.

Q. One million two hundred and fifty thousand dollars?

A. Well, of course that is not all properly chargeable to Plum Point, because the plant, which forms a very large item in that sum, can be used in other places.

Q. Then $1,839,875 more will be required, according to the local engineer's estimate?

A. I do not know anything about that.

Q. You have no reason to question that, I suppose?

A. No, sir; I should not undertake to question it, because I have not the data.

Q. Then if revetment was also required, it was stated by General Comstock that $670,359 more would be required; that is, a together, $3,760,234 at that place?

A. I do not know of course exactly of what those figures are composed.

Q. And the estimate in the report which you signed was $736,000 for certain work, and to complete the works the same sum more, being $1,472,000?

A. Yes.

Q. You will find it to be now $3,760,234?

A. I say I can not speak for that estimate, because I do not know how it was made. Of course, in giving you a lump estimate for the cost of the entire improvement of the river I should not be understood as meaning that you can divide that sum by the number of miles to be improved, thus getting the average expense per mile, and that by expending that sum on every mile of the river you would get a complete improvement. I do not mean anything of that kind. Some points will need no improvement at all, some will need a little, others a little more, and others a great deal; but so far as is possible for any man to make estimates for his own guidance that is my opinion.

Q. But my difficulty was, if on your statement in 1880, as forming a part of the $25,000,000, you allotted $1,472,000 for Plum Point Reach, and which now amounts to $3,760,234, whether you will proportionately increase your estimates of $25,000,000 for the whole?

A. No, sir.

Q. Then you will leave other points a little short?

A. No; for the estimate was made after the estimate to which you allude there and with that in view.

Q. How do you get at that sum of $25,000,000?

A. I can not give any details because I never made them, and that estimate was simply from my own experience in works of that kind.

Q. Did you make any estimate as to details?

A. The detailed estimate is impossible, that is, going over it mile by mile; of course a person in a case like that, forming a rough estimate, has to depend upon their own general experience.

Q. Did you make any figures at all?

A. Yes, sir.

Q. Well, what figures did you make?

A. My idea was formed from the cost which I knew that work of a similar character had come to in other places, and that idea was formed at a very early stage in the game. I say that I have not changed it, and I have not. I still think that would be enough, but that is merely a matter of opinion.

Q. But are you now, with your present means of knowledge, able to state how much of the banks will have to be revetted?

A. No, sir.

Q. How can you state about that cost, then?

A. Merely as a matter of opinion.

Q. What proportion of the banks from Cairo down on both sides, in your opinion, will have to be revetted?

A. I think from Cairo to Red River the proportion of banks to be revetted will be between two and three hundred miles.

Q. How much per mile would it cost?

A. It is very difficult indeed to answer a question of that kind, because it will vary so much with locality; for instance, the protection of the bank for low water, as shown in the recent work that has been done at the points on the river, has averaged about $3 a foot. The protection of the bank above water, carried to the extent which they are doing it, as, for instance, near Vicksburgh at the Delta Point, has brought the total cost up about $14 a foot.

Q. A lineal foot, measured along the bank down the stream?

A. Yes, sir; in other words, there has been a cost of about $3 for work below and about $11 for work above the water. On some of the other reaches the cost is a little less; the aggregate is about $12 in the little work that has been done at Plum Point and Lake Providence, but in any case this upper bank protection forms by far the largest item. Now, anything that will diminish that cost will of course diminish very materially the cost of the entire work. My own idea is that there is entirely too much attention being paid to that. I think that the experience that will be developed will be in favor of dropping a good deal of that, but even taking it at $12 it is roughly about $60,000 a mile.

Q. At $14 a foot it would be $73,920 a mile?

A. Yes, sir; and that is for a revetment of a very substantial character.

Q. Such as you are putting in?

A. At the Delta Point.

Q. Did you take that into consideration when you made your estimate?

A. No, sir; I did not.

Q. Did you take that in when you got your $25,000,000?

A. If you count those figures you will find that it will not be far from that.

Q. I want the details of your estimate for the $25,000,000?

A. (Calculating.) The estimate which the commissioners made with their last report was for about $33,000,000. I believe that was taken, perhaps, in a way that would enable me to answer your question a little better than in the way I was trying; that was the cost that was estimated for the reaches of which we had maps approximately correct, at the time that first report was made. That cost was taken as the basis, and supposing that the cost per mile as given by those estimates was carried through the entire balance of the river as far as the mouth of Red River, would give that amount of $33,000,000, which was the estimate of the majority of the commission.

Q. In which you concurred personally?

A. I concurred in it, although I thought it was a little large.

Q. Did that include the repairs of levees, or is it only for the channel works—I will not put my question that way—say, works within the banks of the river?

A. Yes; it was only for them that the estimate was made.

Q. You would not be able to give me the details of the $25,000,000, then?

A. No, sir; that, as I say, was an estimate just formed from my own experience.

Q. I find that two hundred miles of revetment at $14 a foot would cost $14,784,000 and three hundred would be $22,176,000?

A. Yes, sir.

Q. In either case you would want more to complete the other works?

A. What other works?

Q. The contraction works.

A. They are not at all costly.

Q. What do they cost?

A. At Lake Providence they have cost inside of $4 a foot.

Q. About $20,000 a mile?

A. Yes; where you measure by miles.

Q. How many miles of that work do you expect there will be altogether?

A. That I do not know.

Q. These reaches will all require it?

A. Yes; but it is not the intention to carry a line of works the full length of them.

Q. How long is that longest one at Lake Providence?

A. I could not say.

Q. That is several miles long now, is it not?

A. I think it is.

Q. The work is going on at the rate of $20,000 a mile?

A. That is about the figure.

By Mr. THOMAS:

Q. Suppose that there are $3,100,000 expended there; about a million of that would be for a plant, would it not?

A. You mean if the work were starting anew?

Q. Yes.

A. Yes.

Q. Including the money expended for plant and that necessarily to be expended for a plant, it would amount to a million of dollars, would it not?

A. Very nearly.

Q. When these works are completed at least half of that plant would be good for other purposes?

A. Yes, sir.

Q. Then that would leave $2,600,000?

A. Yes, sir.

Q. Now, that would test the work on thirty-eight miles at Plum Point reach?

A. Yes, sir.
Q. Two million six hundred thousand dollars divided by thirty-eight miles gives about $70,000 per mile?
A. Yes, sir.
Q. I believe the largest estimate of river to be improved is two hundred and sixty miles, is it not?
A. I think about that.
Q. That makes only $18,200,000 for the complete improvement?
A. I think so.

By Mr. ROBINSON:

Q. Captain Knight is one of your officers in charge there, is he not?
A. Yes, sir.
Q. Is he a competent officer?
A. I presume he is.
Q. Have you had any occasion to oversee his work?
A. Only as a member of the commission; he has only been on the work a short time.
Q. You have had no opportunity to examine his work?
A. Only with the commission at the various inspections.
Q. Has he been so situated as to know what the work would cost at that reach?
A. So far as his experience goes. Pretty much all the work done there has been done under his direction.
Q. So that of the work done under his direction he would be a competent judge and a good witness as to the cost?
A. Certainly.
Q. And that would be better than mere speculation or estimates?
A. Yes.
Q. Have you known of your own knowledge what it has cost?
A. Only two little pieces of revetment had been put in there the last time I was there, one at the head of Bullerton Towhead and the other near Ashport. Neither of them is completed, but from figures given us at the time we estimated that the cost completed would be about $12 a foot.
Q. Do you know whether it is a fact that it has not cost double that sum?
A. It certainly can not have cost double, because they had only expended up to that time $3 a foot.
Q. But of what it has cost Captain Knight would be a good witness?
A. That was the cost at that time. They had only finished a portion of the work under water, and that cost $3 a foot.
Q. How much mattress work had they sunk there?
A. I think they had about 3,000 feet at Ashport and perhaps an equal amount at Bullerton Towhead.
Q. How often do you visit the work personally?
A. Whenever the committee on construction does.
Q. Personally how often do you visit it?
A. We have been down there pretty near once a month a portion of the time.
Q. Yourself?
A. I have never gone alone.
Q. Have you always gone when somebody else has gone?
A. Yes, sir.
Q. And when you have gone has it been in company with a majority of the commission?
A. Yes, sir.
Q. So that the commission has been present every time?
A. Not every time; there was at least one trip—two trips, I think—when they were not.
Q. How often in each year does the whole commission visit the works?
A. There is no fixed rule about that.
Q. How often have you within the last twelve months?
A. The full commission have made three trips since last May.
Q. By what method of transportation do you go when you inspect the works?
A. On our own boat.
Q. When was that boat obtained?
A. During the course of last winter.
Q. And used the last season for the first time?
A. Yes, in May.
Q. Was it built expressly for the commission?
A. It was built by the commission.
Q. Where?
A. At Saint Louis.
Q. At what cost?
A. The total cost I believe was $60,000; I would not be positive about that.
Q. That is a boat for the accommodation of the commission?
A. No, sir; it is a tow-boat.
Q. What is the name of it?
A. The Mississippi.
Q. It is used in the construction of part of the work?
A. Yes, sir.
Q. It is not then entirely for transportation of passengers?
A. That is merely an incident.
Q. In your very last report, which is now in process of printing, is there any revision of your estimate of that whole cost?
A. No, sir.
Q. Have you had that under consideration since last year?
A. No; I felt, and I think the whole commission did, that there was not enough data from the work that has been done to make an estimate, and, moreover, the maps of the river are not completed yet.
Q. With the $5,123,000 already appropriated there is not enough data and experience so that you can say what will be the limit of cost in the future?
A. No, sir; you see there is very little work done of the kind that is going to be costly.
Q. For how long a time must your work at Plum Point have to stand before you can tell about its success?
A. Do you mean the revetment?
Q. All that is necessary; and if that includes revetment, how long will it stand before you are certain it will be permanent?
A. So far as the revetment is concerned, I should say that a test of one flood would be pretty good evidence of that, at least for the portion below water.
Q. I gather from your testimony that you approve of the plan that is now being pursued?
A. Yes, sir.
Q. And have confidence in its successful result?
A. Yes, sir.
Q. What do you think of the outlet system?
A. I do not approve of it, sir.
Q. For much the same reasons that have been given quite at length by other gentlemen here?
A. Yes, sir.
Q. Have you examined the works at South Pass known as the jetties?
A. I have been there once. I was down there in 1879.
Q. Not later than that?
A. No, sir.
Q. Have you ever made any soundings of the South Pass into the Gulf, and have you knowledge as an engineer about the deposition of sediment there?
A. No, sir.

By Mr. THOMAS:

Q. You say that you do not approve of the outlet system for the same reasons that have been given at length. Will you state them briefly?
A. The principal one is that the system as a whole is opposed to the system of contraction and concentration, which is the main principle upon which the plans of the commission are based.
Q. That is the whole thing in a nutshell, is it not?
A. Yes.
Q. Do you know whether this estimate that has been worked out here by Mr. Robinson is a fair estimate of the amount of money that will be necessary to be expended at Plum Point?
A. I do not. I have not seen the details of it.
Q. It is an estimate that I understand was procured by General Comstock from the officer in charge of the work there. Do you know whether that estimate included the revetment and the work completed?
A. I do not, but I presume that it did.
Q. Would you think that the amount over and above $18,200,000 up to $25,000,000, which you estimate, would be enough to repair the levees, close the gaps, and restore a continuous line of levees?
A. No, sir; I should hardly think it would. In the estimate that I said I had made I had no reference to levees.
Q. You left them entirely out. What length of river do you contemplate improving—how many miles?
A. Well, the total distance is about eight hundred miles.
Q. I mean upon how many miles do you estimate that work would have to be done?
A. About two hundred and fifty miles.
Q. The balance of the river would require little or no expense?
A. Little or no expense.

By Mr. ROBINSON:

Q. How many of your corps are detailed to the service of the commission?
A. There are three from the Engineer Corps of the Army and one member of the Coast Survey.
Q. Please name them.
A. Of the engineers, General Gillmore, General Comstock, and myself; and of the Coast Survey, Professor Mitchell.
Q. You four have no choice as to whether you are on the board or not, have you?
A. No, sir.

By Mr. BURROWS:

Q. Your plan contemplates the protection of caving banks, does it not?
A. Yes, sir.
Q. Those must be protected?
A. Yes, sir.
Q. Do you know the number of caving banks?
A. No; I attempted to do it once, but I have lost the figures and do not remember what they were.
Q. How high up did you get in the figures?
A. I do not remember, really. It was not a fair count, as I remember, which some of my assistants were making; it took in every bank that ever had caved; but the point I am trying to make out is that in any one bend where caving of the bank of the river is going on it is not all caving at once. The caving goes on piecemeal.
Q. When you say two hundred and fifty miles are to be protected, do you mean two hundred and fifty miles of caving bank?
A. I should think they would aggregate that.
Q. Would you say there are not three hundred?
A. I would not like to swear that there are not.
Q. Would you say there were not five hundred, taking first one side and then the other?
A. I should not think it would run over the figures I gave.
Q. Would you say there were not five hundred miles?
A. I should say not; I am very sure of it.
Q. The current of the river strikes one bank, does it not, and caves there, and then strikes over on the other side, and caves it there?
A. Yes, sir.
Q. Does it not consume about half the length of the river in caving, counting both sides?
A. No, sir; I think not. Oh, certainly; I think I misunderstood you; of course it would approximate to one-half the entire length of the river.
Q. Would it not approximate to the entire length of the river?
A. I think not.
Q. How much short of it would it fall?
A. That would be something I should dislike to make a close guess at; I could not make a close guess at it. The point is that even in the banks that, from their position, are liable to cave, it is a very rare thing to find that the whole length does cave.
Q. But you have been down the river and noticed the caving; wherever the river strikes the bank as a rule the banks cave?
A. A portion of it does, but not the whole, as a rule, of any one of those caving banks; the caving is at least initiated at one point.
Q. Did you not find at different places where the current strikes the banks for a mile that there is caving and that trees were falling into the stream?
A. Oh, yes; for longer places than that; some of those bends are twelve or fifteen miles around.
Q. And the current eroding the bank all the way?
A. No, sir; that is the point I stated.
Q. Well, I want to know, now, if you are prepared to say that there are not five hundred miles to be protected?
A. Yes, I think I could assert that pretty confidently.
Q. Have you ever made any measurement to ascertain the fact?
A. No, I have never gone into it in much detail.
Q. Then it is guess-work?
A. It is guess-work.
Q. Well, if five hundred miles of bank is to be protected the cost would be increased, would it not?
A. It would cost whatever the cost would be. But even supposing the revetment had to be extended over a longer distance than that I am speaking of the cost of it would not come up to that $70,000 a mile, because that is only a very exceptional case.
Q. Does not the current change frequently?
A. At certain localities it does.
Q. Suppose you have a concave bank protected from the course of the current and the current should change and strike above your bank protection?
A. It would very soon disappear.
Q. What would disappear?
A. The bank protection.
Q. How would you save it?
A. It would have to be extended up-stream.
Q. And as the course of the current extended up-stream you would have to increase your bank protection?
A. Yes, sir.
Q. Then you can not estimate the cost even by your present banks, can you?
A. Yes; the caving of the banks, wherever that does occur, is due as a rule to the caving above, because usually bends follow each other. As the water crosses

out from the foot of one bend, it strikes over obliquely and downward into the next; it can not shift up in the second bend unless it is given such a direction by the bend it leaves; and that change occurs, as a rule, from the caving of the bank.

Q. Then your idea is——

A. That one bend will protect the next.

Q. That involves the doing of this work all at once, does it not?

A. Well, of course it would be much better to do it so, but that is impossible.

Q. If you are going to keep the protection at one bend you must put these protections all down at the same time?

A. It is desirable but it is not absolutely necessary to push it to that length.

Q. Suppose the current should leave the bank that you have just protected and strike the other shore immediately opposite, what would be the effect?

A. You mean if that bank were protected, or unprotected.

Q. It leaves the protected and strikes the unprotected bank directly opposite?

A. It would be very apt to start it to caving.

Q. And cause the sediment to fall in front of your work?

A. Yes, sir.

Q. And leave it inland a mile or two perhaps?

A. That would be rather excessive.

Q. Well, quite a distance?

A. Yes, there would be a deposit there.

Q. What are we to understand by "revetment"?

A. It is a mattress protection for the bank.

Q. Under water?

A. Under and above also.

Q. And of what material?

A. Brush.

Q. And on top of that?

A. Above water some portions of it would be covered with stone.

By Mr. ROBINSON:

Q. You find hard clay at certain depths in the bottom of the river, do you not?

A. I could hardly say that we do. I have not found any.

Q. There are instances within your observation in which portions of the bank of the river behind the front portion will go down, break down behind the front portion and disappear, trees and all?

A. Yes, sir.

Q. How do you account for that?

A. Wherever we have made borings we find areas of greater or less extent, where there is a pretty well defined stratification of clay and sand, sometimes quite a considerable area; layers of clay are a considerable feature, but with the layers interpolated with beds of sand; and the only explanation that I can give for a phenomenon of that kind is that from the action of the water the sand is washed out and then the whole mass sinks in the way you state.

Q. What would become of your works if located in such a place as that?

A. They would be washed out.

Q. That is not a very unusual occurrence on the river, is it?

A. Yes, it is rather unusual.

Q. One sees it in innumerable places in going down the river, does he not?

A. No, sir. If I understood correctly the phenomenon you referred to, where the bank some distance back from the river sinks, I have only seen two or three instances of it. Perhaps you refer to what are called slides, in which a portion of the bank, in greater or less extent, will begin to go down, with the trees and all standing, and gradually go down deeper and deeper, and finally go out into the river.

Q. No, sir. I am aware of that occurrence, but also I refer to that which you first alluded to.

A. That is a very rare occurrence. Of course if it should occur it would take out anything in front of it.

Q. Do you recollect any point on the left bank pretty well down the river—I should think perhaps two hundred miles above New Orleans—where it has happened in behind the bank at least a hundred feet, forming quite a lake there?

A. No, sir.

Q. Such localities as that would, as you said before, disturb any works that you might put in front of them?

A. Of course it would be necessary to find out what was the true cause of such action as that. The explanation I give may be a good one, and it may not; but of course it would be very difficult to prevent anything of that kind. For the ordinary slides that I spoke of, the best protection against them is in grading the bank.

Q. From your observation is the breaking down of the bank perpendicular or inclined?

A. Both, but the perpendicular is the most common.

Q. You speak of it as perpendicular; do you mean down to the water-line?

A. To the water-line; below that it is only a slope. It is caused by the undermining action of the current at the toe of the bank. It cuts in a few inches at a time, and then a slice falls.

Q. It is because the soil is so soft and yielding that there is nothing to sustain it?

A. It is sandy generally.

Q. Does the bank go down under the line of the water perpendicularly?

A. No, sir.

Q. In no case?

A. It must be a very rare occurrence; I never saw it.

Q. What is that angle?

A. I think in the steepest places it is about two to one, but it will run, even on concave banks, as high as three to one.

Q. What will you state is the height of the banks of the river above low-water mark?

A. I think the average height will probably be somewhere in the neighborhood of fifty feet—forty-five or fifty feet high.

Q. What is the range given in the height of water from low-water mark to high flood, on the vertical line?

A. The average approximates the same height.

Q. And what was that?

A. Forty-five or fifty feet.

Q. How wide over the valley does the flood extend at its height?

A. A flood like this last one would extend over the whole area of the valley.

Q. And what is its depth over beyond the crest of the banks?

A. That I do not know, but of course it is not a level line; the surface of the water as well as the surface of the ground slopes very rapidly from the banks of the river.

Q. But stating it roughly, about what?

A. My recollection of that is that it conforms pretty nearly to the slope of the ground, and that slopes back at the rate of about twelve feet to the mile.

Q. Then you find over the soil of that valley when the rivers are in flood a depth of water of twelve to twenty feet?

A. I have no doubt you would in places.

Q. And extended twenty miles wide?

A. Yes, sir.

Q. And your plan contemplates bringing that all together within a space of 3,000 feet, and keeping it there?

A. Not 3,000 feet.

Q. How many feet?

A. That is not a settled point yet.

Q. Twice 3,000 feet?

A. I could not answer that.

Q. It contemplates bringing it somewhere within defined lines and keeping it there, does it not?

A. Yes, sir.

Q. And you believe in the efficacy of that plan, do you?

A. Yes, sir.

Q. And you believe it is economical to carry it out as a work for the people of this country to engage in?

A. Yes, sir.

By Mr. THOMAS:

Q. This report of 1875 that you wrote was based mainly on the report of Humphreys and Abbott, was it not; that is, in reference to blue clay substratum underlying the bed of the river?

A. Certainly.

Q. And from Humphreys and Abbott's report up to the time that an examination was made by your commission that statement of theirs that there was a blue clay substratum was accepted as a fact?

A. I think it was.

Q. Investigations made by you have shown that they were altogether at sea on that point?

A. Yes, sir.

Q. How deep is the average alluvial deposit from Cairo down?

A. About one hundred and thirty feet.

Q. Is not the bottom of the river as easily eroded if the scouring force is brought to bear upon it as the banks?

A. So far as the erosion is concerned I presume it is; but in the case of the banks you have the weight of the overhanging banks to assist the caving.

Q. You have the atmospheric influences also; what I meant is they are made of the same material?

A. Yes, sir.

Q. As to the length of caving banks: suppose the bend is twelve miles around on the line of concavity, the point where the caving occurs is where the current finally culminates, at the point of the bend, is it not?

A. The point most generally attacked is the upper portion where the water begins to draw into it.

Q. That is where the greatest force of current strikes it?

A. Yes, sir.

Q. Now, in case of modification of the current above, it works down instead of working up, as suggested by Mr. Burrows?

A. It can not work up unless there is some obstruction.

Q. The working is almost always down?

A. Yes, sir.

Q. The tendency of the river being to cut deeper into the bend?

A. Yes, sir.

Q. Then it has happened that having cut through at one point they will drop the point of impact on the bend below?

A. Yes, sir.

WASHINGTON, D. C., *Monday, January* 15, 1882.

The committee met at 9.30 a. m. in the room of the Committee on the Territories, House of Representatives.

Present, the chairman, Mr. BURROWS of Michigan, Mr. ROBINSON of Massachusetts, Mr. HISCOCK, Mr. ELLIS, Mr. HOLMAN, and Mr. THOMAS.

The examination of Major C. R. Suter was continued, as follows:

By Mr. ELLIS:

Question. Have you devoted much time to studying the effect of floods and overflows upon the progress of the current of the river?

Answer. Yes, sir.

Q. Please state in detail what effect an overflow has upon the progress of the current.

A. The general effect is one of retardation. My attention was first attracted to the subject in the spring of 1881. We had a very remarkable flood on the Missouri River, of which I have charge, and I noticed it then for the first time. I do not know that any one had ever called attention to it before. I never found it mentioned. I thought it was so remarkable that I called the attention of the commission to it, and a special report was made, which was published in our annual report of last year. The general effect was this: As soon as the banks were overflowed, that is, when a general overflow of the valley began, the progress of the flood down the valley, as indicated by the progress of its crest, as determined by the hydrographs or records of gauges at the stations kept along the river, showed that up to the time at which the overflow began, that is, up to the top of the banks, *the progress of its crest was one of increasing velocity as the river rose.* The moment the overflow began, and culminated in a general overflow of the banks, *the conditions were reversed.*

Instead of being accelerated, the velocity was retarded so that the progress of the whole flood down the valley was much slower than would have been anticipated from the known rate of progress before the overflow began. We had a continuous supply coming in from above, while the progress of the main body of water was retarded. This caused a piling up of the water, as the supply from above was greater than could be carried off below. In that particular case there was no question whatever but that an abnormal height was reached by that flood. It *varied at different points from five to eight feet.* The actual height attained by the flood was greater by the amount flowing in the river. I reported that to the commission, and it was a subject of special report in the last annual report. After that I looked into the matter in connection with the gauge records of the Mississipi River to see whether the same thing was noticeable there, and I found at once that it was. We have records of gauges which have been kept up by the Engineer Department on the river ever since 1871. I got all these records and selected from them the data concerning all well-marked floods or rises.

I wanted to get at the law if possible. From these records we were able to trace the progress of each flood from the head of the valley down and to ascertain its rate of progress from gauge to gauge, all platted in. These rates of travel or times of transit from Cairo to each particular gauge were then platted to the gauge height reached by the rise at that gauge, and the mean curve was computed for that station. From these curves the mean rate of travel of crests of rises or floods of greater or less degree coming from above may be ascertained. I have had these diagrams prepared, but I have not got them here. Still I can give you the general results. They show that from low water up to high water there is a gradual increase in the rapidity of transmission of the crest of floods until a certain limit is reached, varying in different localities, which corresponds, as nearly as I can find out, very nearly with the point where the larger outlets begin to draw off water from the river. At that point the rate of progress begins to show a tendency to slow up.

As the river rises the outlet discharge becomes larger and the curve shows a further slackening. Then when the top of the bank is reached, or when a general overflow begins, there is an abrupt change, and from that on I find that as the river rises there is a constantly increasing retardation. The motion in extreme cases becomes very slight indeed. To give an illustration in figures I will say that prior to the great flood of last year, in November, there was a sharp and sudden rise which came out of the Ohio. Its elevation was just about the crest of the banks, about forty feet at Cairo; it was just about within its banks all the way down the river. The crest was perfectly well defined and sharp,

and well marked, so as to be traced from gauge to gauge without difficulty. *That flood passed from Cairo to New Orleans in just ten days.* The next rise was much higher and produced overflow. I do not now remember the precise figures, but it was slower in its rate of transmission to New Orleans, and so on with each succeeding rise until finally the crest of the highest rise of all *was over one hundred days in traveling that distance.*

Q. The crest that was within the banks went from Cairo to New Orleans in ten days, and the crest of the flood-wave that was over the bank was one hundred days?

A. Yes, sir; and that of course indicates an obstruction, an engorgement of some kind. There is an obstruction caused in the overflow by the falling silt.

Q. Then according to that, it retards the current 1,000 per cent. at that rate?

A. Yes, sir; but I would not venture to say that the deposit of silt by slackening the current caused retardation to that extent; the figures given only show the rate at which the mass of water is transmitted down the valley. The sequence of that is just here. If you have water in any channel like that of a river, flowing off at the lower end as fast as it is supplied at the upper end, you will have no rise of the surface at all. If the channel is obstructed, you will have more or less rise depending upon the extent of the obstructing. The explanation of this is that when the river is within its banks, even in those portions where its condition is the worst, you have a channel which is certainly better for purposes of discharge than when it extends more or less across the whole valley, and a large part of the section is obstructed by trees, bushes, and the thousand and one things which influence the flow of the water under these conditions. That being the case you must have retardation. It is impossible to expect anything else. The conditions are precisely the same, though varying in degree, as they are between a wide and shallow section where the relative proportion of resistance or frictional surface to area is greatest and what it is in the case of a narrow and deep section where the relation of area to frictional resistance is a minimum. When you have an overflow of the valley this frictional resistance is largely increased both absolutely and in its relation to the increased area. The area is not proportionately increased, and consequently you must have a retardation of the water. This study that I speak of has not been followed up to its logical end, which can only be done when we have the records of last year's observations. But from analogy and from the records of those floods on the Missouri, about which I have at present much more definite information, I am disposed to think that the height of floods which overflow the banks can be considered as an abnormal height.

Q. Are you very positive of that?

A. Yes, sir; I am very positive of it.

Q. Am I to understand you that the current increases from low water as the river rises, as it is piled up, until it reaches the banks, when it is still within them?

A. Yes, sir.

Q. Are you able to fix the percentage of increase?

A. No, sir; because that varies at different places. We have already the records of a large number of observation stations, not only upon the Mississippi River, but upon its tributaries. These observations have been in progress four years or more, but they have only been published in part; they have not yet been put in proper shape for thorough study. I have been studying them myself with the object of ascertaining the law, if there is one, which governs the whole subject—that is, the discharge of the river. I shall speak now only of such facts as have been sufficiently well established to admit of statement with any degree of accuracy.

We find that, taking the results of all our observations at any one station, and platting them so as to establish the relation between these velocities, areas, or discharges, whichever they may be, and the height of the gauge at the date of the observation, we find that they group themselves according to law, and that this law shows a progressive increase from the low stages to the high stages, which is quite regular. In this way can be ascertained the law of increase of velocity and area, and also the increase of discharge.

(Major Suter here referred to Appendix D, Plate 4, figure 1, under the title of "Relations between gauge heights and mean velocity water, and datum areas, and discharges" and explained: These were taken in 1879 and 1880 at Fulton, the lower end of Plum Point reach. It is in the Report of the Mississippi River Commission for the year 1881, found in Executive Document No. 10, Forty-seventh Congress, first session.)

The WITNESS (continuing). From this you will see, taking the discharge at the higher portions of the gauge, that is, when the river is near the top of the banks, that a very small increase of gauge-height makes a very large increase in the discharging capacity, and it seems a legitimate course of reasoning to say that if this law of increase of discharge holds within the limits of the actual measurements, which in the present case do not exceed the height of the existing banks, then if the banks were higher, so as to prevent any overflow and to keep the whole amount of water within their limits, the same law would hold as you went up. When we know the amount of water that passed down during the last flood, when we collate that information from the record of the various stations, we will know of course from the measurements what the actual amount of water was that passed down, and from the computed curves we can tell, of course, what the elevation of banks would have had to be to pass it off under the conditions assumed.

Q. What are the conditions of the river about Forts Jackson and Saint Philip?

A. We have there a very perfect river. It is about as nearly an ideal river as it is possible to imagine. The depth is great and the width is small, the section presenting great facility for discharge.

Q. What elevation of banks would be necessary to secure a greater increase of discharge?

A. I am not prepared to say. My understanding of the matter—I am not entirely familiar with matters so far down the river—but I understand that the extreme rise of floods passing through that section is about five feet.

Q. By increasing the banks five feet what would be the effect?

A. The effect would be that it would carry off all that water.

Q. In your judgment, how much would the discharge be increased by increasing the height of the banks five feet?

A. I could not answer that. That depends on local circumstances. That question could only be answered by knowing what the area and velocity are, and by knowing what is the law of their increase.

Q. Have you any information about it?

A. No, sir; I have not. I should be perfectly ready to say, however, that from the information which I have increase of bank height would increase the current. You have a low-water discharge there of about 100,000 cubic feet, and you have a high-water discharge at New Orleans of very nearly 1,000,000, and that we know will pass off with an elevation of the water surface not exceeding five feet.

Q. It would discharge the entire river?

A. All that we know is that it will pass off ten times the amount of the low-water discharge with an increased elevation of water surface of only five feet.

Q. Then the elevation of the banks five feet would increase the discharge ten times?

A. Probably much more than that, if you propose to increase it five feet more.

Q. Do you believe it possible to confine the river within its banks?

A. Following out the line of argument I have been indicating to you this morning, I think unquestionably that it is possible.

Q. Is there any question between the members of the commission?

A. I do not think there is.

Q. The commission are unanimous on that point?

A. I think they are.

Q. What effect has this retardation of current upon the bed of the river?

A. Any retardation of velocity in a river like the Mississippi must necessarily produce a deposition of sediment. That is the law of the river. Whenever a river is charged with sediment, as long as the current is kept up and it maintains a uniform velocity the sediment will be carried along. The moment it slackens up that sediment falls.

Q. From what you say, it is hardly any use to ask you what would be the effect of outlets upon the flood-line above?

A. The effect of outlets, crevasses, or anything like that, taking water from the river, will produce a deposit of sediment the moment the velocity is retarded.

Q. You do not think there is any doubt of that?

A. No, sir; I do not think there is any doubt of that.

Q. Then, as I understand you, your whole theory of the improvement of the Mississippi River is that of holding the banks?

A. That is really the key to the whole matter.

Q. Do you believe that it can be done?

A. Yes, sir; I am positive of it.

Q. Why are you positive of it?

A. I have seen a number of successful examples, and I have based my faith upon them.

Q. State any experience with which you are familiar in connection with holding the banks of the river; that is, experience upon the Mississippi River, or streams of kindred character, and by what plans or how long since this has been done.

A. My own personal experience lies on the Missouri River.

Q. Is there any material difference in the two rivers?

A. Nothing, except in degree. The Missouri River is more difficult to do anything with on account of the current.

Q. Then the Mississippi River is larger, but really presents no difficulties as great as those on the Missouri?

A. That is true.

Q. And that is on account of the greater rapidity of the current of the Missouri River?

A. Yes, sir; mainly on account of the greater rapidity of the current.

Q. State your experience in connection with work on the Missouri River.

A. I began that work in the summer of 1877. I began at that time putting in these brush mattresses—revetments. Some of the work done that year is still standing.

By the CHAIRMAN:

Q. Do you say that that was in 1877?

A. Yes, sir; at Saint Joseph, in the year 1877; and every year since I have had more or less work of that kind going on. I would not like to say that all the work has stood, because it has not; but it has stood long enough for me to feel pretty sure of the reasons why some of it has been lost, and the reasons have not been adverse to the employment of that method of protection. The way in which the work has been carried on on the Missouri has had much to do with the results. The appropriations were made for specific points. The money was appropriated in small amounts, and that was done contrary to the recommendations that I made and contrary to my opinion. We were obliged to spend small amounts of money year after year, and were often obliged to go over the same ground year after year. As a result we were not generally able to put in enough work to protect the work that was already done, as we had no chance or funds to do it. In the Missouri River, if you have a piece of caving bank and you go and put down one hundred or two hundred feet of revetment and leave it for a year, when you go back again you will not be likely to find it there. The banks may be a quarter of a mile behind where it stood. Consequently there has been a great loss of actual work put in, owing altogether to its incompleteness. But there never has been a case of loss in which I have not been able to trace it up to its true cause, and know why it was lost.

Q. Why was it lost?

A. Owing to incompleteness. But I can say that wherever a work has been carried to completion there has never been any loss. The work, or some of the work, put in in 1877 is there to-day; that is on the Missouri, and in the vicinity of Saint Louis, on the Mississippi, work has been put in of a similar character, but more recently. That seems to stand all right. On the Lower Mississippi, in 1878, work was begun at Memphis. The protection used there was of mattresses made in detached sections and sunk against the bank. There was no protection to the upper bank itself, but that work is substantially intact. We had it examined this year, and it was found that about the only damage that had been done was at the upper edge, where steamboats had landed against it and torn it. But the work which stands there to-day is substantial evidence of the fact that when in a completed state it will remain. The people there have built an enormous elevator right on the bank which, prior to the completion of the work, had been caving very rapidly. They built that elevator on the faith of that revetment. There was work done at Vicksburgh, and the greater part of that has stood very well. I believe there was some portion lost, but that has been explained by Major Harrod. That also was owing to incompleteness.

Q. At what point was that?

A. That was at Delta Point, opposite Vicksburgh. There was a gap left in the revetment, and the work was taken out by the river scouring in at the two ends of the detached portion. But I am not aware of any having been lost at Vicksburgh by any legitimate cause; that is, by scouring through it or under it. All damage has been done by the river attacking the revetment on top or at the ends. I am speaking now of the Mississippi River below Cairo. I spoke before of work in the vicinity of Saint Louis, but I should have also said that there were several other points along the river above Cairo where similar work has been done and proved successful. There is one in the rear of Cairo which has been alluded to here several times, and there are other points along the river.

Q. Your experiments, then, have led you to believe in the efficacy of these works?

A. I have no doubt of it whatever.

Q. What would be the result of leaving these works on account of failure to appropriate money?

A. I think it would be a very unwise thing to do, because the works would almost certainly be sacrificed. But not only that, for if the work was begun again at these points it would have to be begun on an entirely different plan, because conditions might, probably would, have changed completely. Moreover, there is another point of considerable importance, and that is, that any changes of channel which might result while the works were in an incomplete state would result in throwing these works into the channel and cause them to become dangerous obstructions to navigation.

Q. The idea of the commission in desiring the closing of the outlets and crevasses below Red River I suppose is to facilitate discharge?

A. Unquestionably.

Q. Do you regard the construction of artificial banks as absolutely necessary to your plan?

A. I think it is. In view of the continuity of discharge I think there is no possibility of avoiding the necessity of it.

By Mr. ELLIS:

Q. There is a single question which I would like to ask you: Have you any separate estimate of the number of miles of banks that are to be held in order to perfect this plan of yours?

A. It is merely a guess.

Q. What have you guessed?
A. I gave you that the other day.
Q. Well, I was not present. I will not trouble you to repeat it.

By the CHAIRMAN:

Q. I understood you to say that the key to your improvement is the holding of the caving banks?
A. Yes, sir.
Q. If that fails your work fails?
A. Unquestionably.
Q. There is no question about that?
A. No, sir; no question whatever about that.
Q. Why?
A. Well, sir, we are agreed as to the means to be employed to get deep water for low-water navigation; we have got to have concentration and contraction. We can not possibly have contraction unless we have something to contract against. It means that we must cut off a certain portion of the present river bed, and that necessarily throws the whole river either against one side or the other, and the bank on that side must be held.
Q. And if you can not hold the banks the whole thing will be a failure?
A. Yes, sir.
Q. That depends upon the strength, the efficacy, and the durability of your works?
A. Yes, sir.
Q. You say that work of a similar character was tried in 1877?
A. Yes, sir; the instance I mentioned was on the Missouri River at Saint Joseph.
Q. Was that on a caving bank?
A. Yes, sir; that was on a caving bank; a very rapidly caving bank.
Q. And a bank that was overflowed?
A. Not as a general rule. There has only been one instance of its overflow within my knowledge. The banks of the Missouri River are as a general rule above overflow.
Q. The caving banks at Plum Point reach and at Lake Providence reach we are protecting. Are they subject to overflow?
A. Yes, sir.
Q. Then in that river they are different?
A. They are different in that respect.
Q. Were the works that you put in at Saint Joseph the same as the works that you put in at Plum Point?
A. The same general character of work, although the details are different. It was not nearly as perfect work as we do at the present day.
Q. You put down mattresses?
A. Yes, sir. The mattresses used at Saint Joseph were made of fascines; that is, bundles of willows, willow saplings tied up in bundles and fastened together.
Q. How thick?
A. About ten inches.
Q. How much of that work was put in at Saint Joseph?
A. I do not remember. I think that particular year we put in about half a mile, perhaps. We only had a little money to spend and could not go very far, and I do not think there was more than half a mile put in at that time.
Q. What was the character of the bank as compared with the character of the bank at Plum Point?
A. Do you mean with regard to stability?
Q. Yes, sir.
A. Very much softer.
Q. Has that work, since 1877, been overflowed?
A. Yes, sir; in the great flood of 1881.
Q. To what extent?
A. The water was seven or eight feet above it.
Q. You say that such work has been lost in the river?
A. Yes, sir.
Q. How much?
A. I would not undertake to say that. It extends over several years and every year we lose pieces here and there.
Q. Did you lose any there in 1877?
A. No, sir.
Q. In 1878?
A. No, sir; in 1879 was the first loss.
Q. How much bank-work did you lose that year?
A. Several miles. The pieces of work done along the river rarely exceed a mile in length.
Q. Now, if you will tell me the number of miles of bank-work lost in 1879, and the reasons for the same, I will be obliged to you?
A. The total amount did not exceed two miles. That is, there was about one mile lost opposite Omaha, and a similar amount at Nebraska City.
Q. There was a mile lost opposite Omaha?
A. Yes, sir.
Q. Which bank?
A. The left bank of the river.
Q. What kind of a bank was that?
A. It was nearly pure sand.
Q. It was a caving bank?
A. Yes, sir.
Q. Does it overflow?
A. It does in great floods. In fact, at Omaha it overflows every year to a certain extent, a foot or two feet, perhaps.
Q. Was this a protection by a mattress?
A. Yes, sir.
Q. How wide was the mattress?
A. The mattress was about forty feet in width.
Q. How high was the bank above the water?
A. The bank was about fifteen feet high above low water.
Q. When was that work begun?
A. It was put in in the previous fall, in 1878.
Q. Was it completed?
A. No; it was not completed. When I speak of completion I mean the whole bank that was caving was not protected, because we had not money enough to do it. The work as far as it went was completed.
Q. When did it go out?
A. In the spring following.
Q. Did the entire work go out?
A. Well, it was so seriously damaged that we had to rebuild it.
Q. Where did it go to; did it go down the stream?
A. Yes, sir; it went down the stream. Some of the mattresses were caught I believe at Memphis. That work was built upon the theory of the pilots.
Q. What was the cost of that work?
A. The cost of it was about $2.25 a foot. I wish to explain the remark which I made a moment ago. There is a common superstition among the pilots on the Mississippi River that at high-water the whole bed of the river comes bodily up, and at low water it goes bodily down. That is a fixed belief among them, and prior to our beginning the works on any of these rivers, we had always accepted it as an article of faith, and on the strength of that, when I began the work on the Missouri, I built several miles of revetment with that understanding. I suppose, in other words, that in low water, when the water was low in the channel, that the pools the banks of which needed protection were excavated to the greatest amount that they ever would be, and that at high water I would get seven or eight feet fill, so that there would be no necessity of providing for greater depth. After I had built several miles I found that I was mistaken. At Nebraska City I had put in revetments at a low stage, the water being about fifteen feet deep. I put in revetments forty feet wide from low water down, and I thought I had ample margin. The first flood that came the next spring the bottom scoured out forty feet below the mattresses, and naturally the whole revetment slid into the hole. Before I got through I had mattresses one hundred and forty feet wide at the same place.
Q. Then, in other words, you went to work and made this expenditure without making an examination of the real situation of affairs?
A. I had no chance. I made what investigation I could.
Q. Then, without making a personal examination?
A. There was no personal examination of any kind that I could make that would have thrown any light upon the subject without losing at least a year.
Q. Without determining the question scientifically whether the high water would lower the bed or elevate it, you took the common statement of pilots and worked upon that principle?
A. Yes, sir.
Q. The theory of the commission is right with reference to that subject now, I suppose?
A. Yes, sir.
Q. The high water lowers the bed and low water lifts it up?
A. Yes, sir; that is the general rule.
Q. The higher the water the lower would be the bed?
A. Yes, sir.
Q. Did that work go out at once in a single day or night?
A. No, sir; it was of course progressive, but it went pretty rapidly.
Q. Were you present at the time?
A. No, sir.
Q. What information have you about it?
A. I have the information of my assistant, who was on the ground at the time.
Q. Did he explain to you how it went out?
A. Yes, sir.
Q. The river cut in from above, as I understand you?
A. Which are you referring to now?
Q. I am talking of the one opposite to Omaha.
A. In that case the damage was principally from above, from the upper part of the bank. The water cut in on top of the revetment.
Q. The water then overflowed this work?
A. No, sir; it did not overflow.
Q. How could it cut in then?
A. The flood which came in brought down the ice from the upper portion of the river, great masses of ice, and very heavy ice at that, and when they struck the upper bank, which had been but lightly protected, it cut right through the light protection which was all that had been thought necessary above low water. We had merely put a thatching of brush on the bank, and the fields of ice cut through this. Then the water, flowing along the upper edge of the mattresses, as the river was still rising, cut in behind them and they were finally all carried away.
Q. In other words the mattress was cut in behind by the flood?
A. That was the ultimate result; yes, sir.
Q. Now you have completed the explanation of the manner in which that went out?
A. Yes, sir.
Q. Then their going out was not by reason of the mistake of the ancient mariners?
A. The case which I gave you as an illustration was at another place.
Q. Well, I am talking of this place.
A. Well, I do not think it was. I think it took place before that cause had time to act.
Q. Has that work been put in again?
A. Yes, sir.
Q. And any more?
A. A good deal more.
Q. How much?
A. Well, nearly three miles in nearly the same locality, extending up the stream from the old works.
Q. Then the old work has been renewed?
A. Yes, sir.
Q. When was that work completed?
A. It was completed about two years ago; the last work was put in about two years ago.
Q. Is that built of the same kind of mattress used at Plum Point?
A. Not exactly; the same general character.
Q. How does it differ?
A. That particular mattress is composed of wires that run the whole length of the revetment. It is built on continuous wires, which run out over reels on the mattress boat, and brush is laid on them and sewed down to them with wire. It is a continuous mattress.
Q. How thick were those mattresses?
A. About eight inches.
Q. How wide?
A. About ninety feet.
Q. And this extended down for a distance of three miles?
A. Yes, sir.
Q. Suppose the current should cut in at the head of that?
A. It would undoubtedly go out the same way that the other did.
Q. How is the mattress protected above the bank?
A. On the upper portion of the bank a woven mattress is made, lapping over the lower one and extending up to the crest of the bank. It is made something like basket-work.
Q. And that extended to the crest of the bank?
A. Yes, sir.
Q. In the last flood did the water overflow that bank?
A. In the great flood of 1881 it did,
Q. It extended over the crest of that bank?
A. Yes, sir.
Q. How much?
A. I think about four feet deep.
Q. Do you extend the works at Plum Point to the crest of the bank?
A. Well, that is a matter that has not yet been fully settled upon. I do not think that it will be necessary.
Q. Well, you have not done so?
A. No, sir.
Q. What was the value of the work that went out?
A. It cost about $2.50 a foot.
Q. That would make it about $15,000?
A. In that neighborhood somewhere.
Q. That was independent of any plant?
A. Yes, sir; that is just the net cost of the work itself.
Q. Have you lost any at other places on the river?
A. There has been some lost at other places.
Q. Where?

A. There was a piece of work lost at Nebraska City during the great flood of 1881.
Q. Of the same kind?
A. No; that had been lost, as I told you before, in 1879.
Q. It was renewed then?
A. Yes, sir.
Q. You say there had been work lost at Nebraska City in 1879?
A. There was about a mile lost in 1879.
Q. Was that of the same kind and character of work?
A. Yes, sir.

By Mr. THOMAS:

Q. The same kind of what?
A. It was of the same general character.
Q. The same general character of the work that had gone out in the flood before it?
A. Yes, sir; in the flood of 1879.

By the CHAIRMAN:

Q. What caused that to go out?
A. That was caused by underscour.
Q. That lifted the mattress out—took it out?
A. No, sir; it went down into a hole. The water washed the ground away underneath and the mattress went right down.
Q. Well, that was done upon the theory of the mariners, too, was it not?
A. Yes, sir.
Q. Did it all go out together?
A. Yes, sir.
Q. What did the work cost?
A. That was cheaper; that only cost $1 a foot, there was a loss of some five or six thousand dollars there.
Q. Do you know where that went to?
A. No, sir; that was heavy wood that would not float, and I think it staid there.
Q. You built another work there?
A. We were working at it while the other was going out.
Q. When was it completed?
A. The same season—in 1879.
Q. Where is that?
A. That is gone too. That went out in 1881.
Q. How much?
A. The same amount—about a mile.
Q. You are still working on the theory of the "ancient mariners?"
A. No, sir.
Q. You did not put in the second work upon the theory of the "ancient mariner," but upon the theory of the commission?
A. Yes, sir; the reason in this case was that the river cut in far above it, and the whole thing was flanked out.
Q. It does that, then, sometimes?
A. Yes, sir.
Q. Then the second work, completed in 1879—that went out in the flood of 1881?
A. Yes, sir.
Q. The whole thing?
A. The whole thing.
Q. How did that go out; just explain it?
A. Well, sir, during that flood the whole country was overflowed. The work was eight feet under water. The work lay at the foot of a long bend twelve or fifteen miles around. The river began cutting a mile and a half or more above where the works terminated. This cut went on widening as it came down stream. When it reached our works it was a quarter of a mile or more wide, and as that slice came down it took the work out.
Q. Did it take it out and carry it down the stream?
A. Well, I do not know about that. When it disappeared I lost all interest in it.
Q. You do not know what became of it?
A. I presume it is buried somewhere in the bottom of the river.
Q. Could you stop the flood from doing that?
A. Well, we might of course have stopped it if we had had the money; but that is a contingency that we have to encounter in this work.
Q. Well, what should you have done provided you had plenty of money—you had the Treasury at your back; what would you have done if you saw it was cutting in a mile and a half above your works?
A. We would have begun revetting the banks at the point where it was caving. That is what we did in 1879.
Q. And commenced sinking mattresses at the bend?
A. Yes, sir; in that way we should have attempted to arrest it.
Q. Suppose you had work on hand at a dozen different bends, and the river should attempt to cut in behind, could you take care of it all.
A. If we had money enough we could take care of it.
Q. That is if you had money and men and plant and time?
A. Yes, sir.
Q. I think you stated what the cost in the first place was?
A. Yes, sir; that was about $5,000.
Q. And have you put in any other?
A. No, sir.
Q. You concluded to quit with that?
A. We concluded to wait until we had money enough to extend the works a little further.
Q. Did you think, when you had the work done a second time, that it was done far enough?
A. It was done as far as our money would allow us to go.
Q. Well, when you laid the mattresses down you thought it was liable to go out?
A. If there was any change in the direction of the current higher upstream.
Q. Were you compelled to spend this money?
A. Yes, sir.
Q. You were compelled to spend this money, then, even if you knew that it was liable to go out?
A. I do not mean to say that I knew so. It would only be liable to go out in certain contingencies.
Q. You had already had experience, and yet you built it in accordance with your first theory?
A. In the first case it was lost by such very obvious means, and we thought that by extending it and making it wide and allowing for scouring it would be successful.
Q. When you made the first work you had reasonable belief that it would stand?
A. Yes, sir.
Q. And you have continued work at that point?
A. At that point? Not exactly at that locality. We have been working this season in the same bend, but we began at the other end. I did not propose to let it get in behind me. I began at the upper end and I worked down.
Q. Well, then, you suppose that if you could begin at the source of the river—that is, if you could find the spring—and follow the river down to the Gulf, and build these works all the way, as long as the water would not get behind it would be all right? Now, is it not true in the case of any of these works that if the water gets in behind it will take it out?
A. There is no doubt of that.
Q. Did you lose mattresses at any other places?
A. Another place was at Leavenworth.
Q. When was that built?
A. That was built in 1878.
Q. How much?
A. Two miles.
Q. When did it come out?
A. Eighteen hundred and eighty-one.
Q. The whole of it?
A. No, not all of it; I think about one mile and a half.
Q. What made that go out?
A. That was built also on the pilots' theory.
Q. That was built on the pilots' theory instead of on the theory of the commission?
A. Yes, sir.
Q. That was before the commission had any theory?
A. Yes, sir.
Q. Did that go out?
A. That was scoured underneath. I had some more work in the same place. I said two miles; I had three miles in place, and about half of it was lost. The balance was built on sounder principles, and that staid.
Q. That was built at the same time?
A. No, sir; the next year.

By Mr. ROBINSON:

Q. That was built after the fall of 1877?
A. Yes, sir; all these works were done after that.

By the CHAIRMAN:

Q. How much did that work cost?
A. About $2.30 or $2.50 a foot.
Q. And a mile and a half of that went down?
A. Yes, sir.
Q. Have you rebuilt that?
A. No, sir; I have not had any money.
Q. What became of the balance; did that stay there?
A. Yes, sir; that is there yet.
Q. Is that on the upper or lower portion?
A. That is on the upper portion.
Q. And have you lost mattresses in any other places?
A. No, sir; not of any consequence. There have been slight damages done here and there, but that has generally been done by ice.
Q. How is it done? Have you lost mattresses at other places?
A. No; it was done in the manner I have been describing. There have been damages from various causes; for instance, the lower end of the work would be attacked and a pocket formed and cut in.
Q. What would be the result of that?
A. It would result in cutting it out.
Q. How many instances are there of that sort?
A. That occurs occasionally. A pocket is formed at the lower end of the work and cuts in behind; when it does that it takes the works out as far as it extends; it does not generally extend very far.
Q. You spoke of some works being lost at Memphis; what was the extent of the works lost there?
A. I would not be able to state positively. I said there had been some damage done.
Q. How was that done?
A. The steamboats land against the work, and as they came in at low water they would punch their bows through the mattresses.
Q. Then it would not do for steamboats to land where this work is built?
A. That could have been prevented by covering the work with stone.
Q. Well, has there any damage been done at Vicksburgh?
A. Yes, sir; in the way I have described. The work was isolated.
Q. Who built that?
A. Major Benyaurd had it in charge.
Q. Do you know how much was lost there?
A. I do not.
Q. And you do not know personally how it was lost?
A. I have always understood that the work was isolated, and that it was attacked from above and below and lost in high water.
Q. You do not know the extent?
A. No, sir.
Q. You speak of danger to these banks, these revetments, by reason of steamboats landing at their sides; they generally land, do they not, whenever there is a barrel to be taken on or put off?
A. That does not constitute any very great danger.
Q. At these places where they land, would it be necessary to make the protection strong?
A. Well, if you should put on a little stone at that place it would be all right; it would overcome that difficulty.
Q. It is your judgment, you say, in reply to a question that has been asked, that if you leave these works, say at Providence reach, at the close of this fiscal year, they will be in danger of being destroyed?
A. I should consider so; yes, sir.
Q. Could you not put it in a condition that it would be protected if nothing further was done?
A. I should consider it very doubtful; that is, with the money we now have available.
Q. Well, could you by any process of engineering, without extending the work of bank protection, tie it up as it is in its present shape and preserve it?
A. I do not think we could.
Q. Well, then, another point: Having put in a piece of work, you must complete it, or it will be in danger of being destroyed?
A. That is my idea.
Q. What will it cost to complete the work after you have used the present appropriation?
A. I can hardly answer that question. I do not remember exactly the amount of work that has to be done. Without knowing that, I could not at this moment answer the question; but it certainly is necessary to protect those two bends lying above the Lake Providence reach; I mean the Louisiana bend and Carolina bend.
Q. In order to protect these would it be necessary to go through the Lake Providence reach and construct the works commenced?
A. The works at the upper end are still in an unprotected condition, and there is danger arising from the causes I have suggested above.
Q. Can you tell the amount that it will cost to complete the works at the two bends which you have mentioned?
A. No, sir.
Q. You do not know what the damage would be if it should not go on?
A. The damage would occur at points below. If these bends are not protected the river will cut in behind the piling, you have seen, and destroy the work already done.

Q. Have you any data as to the probable cost of completing the works at these two bends?
A. No, sir.
Q. How about the work at Plum Point; what will it cost to complete that after the work for the present fiscal year is completed; how much will it take to complete that work?
A. At Plum Point there is a considerable amount of bank revetment that will have to be done in order to complete the work that is in, and also to protect some extensions that will have to be made. I shall have to give the same answer that I gave in reference to Lake Providence; I do not think I could answer it from my present information. In the first place, I do not know how far the work is likely to be carried this season; but there are several miles of work yet to be done.
Q. Some one, I think, has testified that three-quarters of a million of dollars would complete the works at Plum Point?
A. I did not testify that; I have never heard such a statement. I do not know the estimate on which it is based.
Q. It would not be necessary to commence work at other reaches or districts in order to complete the work at Plum Point?
A. No, sir.
Q. If you do not commence the new work you will not have to buy new plant? You will save in that way?
A. Yes, sir.
Q. Now, if the work at Lake Providence reach can be protected, what would you think of the wisdom of completing the work at Plum Point according to the ideas of the commission, and giving it a test of one or two floods; what would you think of it as a matter of wisdom?
A. I should consider it entirely unnecessary.
Q. Your theory is to go on the whole length of the river and commence improving the caving banks, wherever that may be necessary?
A. I think that it is perfectly safe to do so.
Q. So far as you are concerned you want no further trial of the efficacy of the plan?
A. No, sir; but I, of course, expect that experiments and further experience will reduce the cost.
Q. You say that an outlet decreases the current and forms bars below?
A. Yes, sir.
Q. Is this statement true that General Humphreys made before the House Commerce Committee in 1882, speaking of Bonnet Carré outlet and the shoaling, wherein he says: "That matter was very carefully examined into by myself when I took charge of the surveys of the Mississippi River. There is not a single fact that goes to show that any shoaling whatever has been made below any of these crevasses?"
A. I know that was the opinion held by General Humphreys.
Q. Is he correct?
A. I would not undertake to say so, but I think he is mistaken.
Q. Is this statement correct: "The Bonnet Carré crevasse was a great one, and it was stated that the river had shoaled below the crevasse; but there is no doubt that it had not?"
A. That has been denied by perfectly trustworthy and well-informed people.
Q. Then he was in error about that?
A. I think that probably he was.
Q. Is this statement correct: "The whole discussion as to the shoaling of the river between an opening grew out of certain theoretical views propounded by Italian philosophers?"
A. I do not know that that can be said. The views have been advanced on both theoretical and practical grounds, and I think there is a great deal of practical evidence tending in the same direction in which the theory tends.

By Mr. ELLIS:

Q. You started at one point of your cross-examination to give some reason for the loss of the mattresses in the Missouri River; will you recur in this connection to that point and give the other reasons for the loss of these mattresses?
A. I gave it substantially; it was caused by being attacked from above, and by the fields of ice that were coming down the river.
Q. If the work had been completed above the point of impingement would that loss have occurred?
A. If it had been more substantial it would not.
Q. Are the banks of the Lower Mississippi as liable to destruction as on the Missouri?
A. No, sir.
Q. And there is less danger?
A. Yes, sir; there is less danger.
Q. You spoke of a bend where you lost mattresses by the caving of the bank above?
A. Yes, sir.
Q. If the work had been commenced above the point of impingement would it have been lost?
A. No, sir.
Q. If it had been completed it would have resisted the action of the current, would it not?
A. Yes, sir.
Q. Have you ever lost any work at points where the current took the works themselves?
A. No, sir; not where it was properly finished.
Q. Then all the loss you have had has been upon uncompleted works that were built upon false theory?
A. That is about it.
Q. I suppose that men navigating the Mississippi River would be supposed to know something about this marvelous uplifting?
A. I supposed at first that they had means of knowing.
Q. The consequence of leaving these works, then, in an uncompleted condition would be the same as that which attended the uncompleted works on the Missouri River?
A. There would be great liability to that.
Q. And the prime cause of the loss was the folly of the Government in giving you an insufficient amount of money to do miles and miles of work?
A. Yes, sir; that was the cause.
Q. And is not that rather singular conduct on the part of the Government that has given $423,000,000 to aid in building railroads in different sections of the country?
A. It is not my place to criticise the action of the Government, sir.
Q. Have you ever estimated the carrying capacity of that river; and have you ever estimated how much it would be greater than that of ten or fifteen tracks of double line of railway?
A. No, sir; I have not.
Q. That is all I have to ask.

WASHINGTON, D. C., *January* 27, 1883.

Mr. James B. Eads sworn and examined.

By Mr. ROBINSON:

Question. You are a member of the Mississippi River Commission?
Answer. Yes, sir.
Q. Have you been such since the organization?
A. Yes, sir.
Q. You constructed the works at the South Pass known as jetties?
A. Yes, sir.
Q. When was that work completed and the channel secured?
A. In July, 1879.
Q. Since that time your work has been for the maintenance of the channel?
A. Yes, sir.
Q. Under the provision of the contract requiring maintenance for twenty years?
A. Yes, sir.
Q. Since July, 1879, have the jetties been extended in length out into the Gulf?
A. No, sir.
Q. They have been raised in height?
A. Some parts of them.
Q. For what reason?
A. To prevent the deposits of the shoals on the outer side of the jetties from being brought over by wave action into the channel.
Q. Has the water of the Gulf setting around behind the jetties and forcing up against them in the rear thrown a shoal on each side of the jetties, on the east side particularly?
A. There is an extensive shoal on the east side. During heavy storms waves roll over that shoal and stir up the deposit of which it is composed, and in that way a very considerable quantity of material was brought into the jetty channel which the current of the river was required to discharge again; and to prevent that, a line of concrete work on top of each jetty was built in conformity with the original design of the works. It was raised on the east jetty from two to five feet above high tide. On the west side the storms are not so severe, and owing to the prevalence of the easterly wind the currents of the Gulf sweep the deposit to the west. Storms rarely come from that direction. Consequently the work is not so high above the surface of the water as it is on the east, and it is not necessary to make it so, as the servitude to which it is exposed is much less on that side.
Q. The shoal you speak of on the east side of the jetty is how far distant from the outer end of that jetty line?
A. The outer end of the jetty line forms what might be called the apex of a triangle. It is very narrow there and very close to the jetty, but does not extend out to the end of it. In fact there is deep water around on the outside of the east jetty for some considerable distance—at least a few hundred feet. The shoal grows wider and wider as it approaches the land, and the west side of it is close to the jetty.
Q. Was that shoal there in position before the jetties were built?
A. Yes, sir. It has altered the shape somewhat since the jetties were built.
Q. Been enlarged?
A. It has been enlarged toward the land and reduced in width toward the sea.
Q. That is owing to the action of the waves of the Gulf?
A. Yes, sir; I think the alteration is caused by the modified effect of the waves under the influence of the jetty line. If the waves come at all diagonally against the line of the jetty they have a tendency to be depleted along the line of the jetty (shoreward I mean), and that creates a wash and tendency to lift the sediment and deepen the shoal and carry the material further back landward. This shoal has come above water. It was not in sight at the time that the jetties were first built. The east jetty was commenced from the point where the land in sight terminated, and it extends out about two miles. Since then this wave action, together with the escape of water through the willow work of the jetties, which occurred during the construction of the work, has increased the area of the shoal and the land, which is now above water and which is covered with vegetation, extends above one and a quarter miles further down the line of the jetty, leaving a mile or thereabouts of the jetty line beyond it as the only thing in sight in the sea. This shoal tends of course to consolidate and protect the upper line of the jetty through this mile and a quarter. It has done so to such an extent that I have thought proper to take the stone off that part of the work and transfer it to where it was more needed, further down at the sea end. The vegetation and deposit has acquired such height and depth upon it that this new land is above high tide, and being out of reach of the waves of the sea the stone is no longer necessary.
Q. That land-building process outside and east of the jetty line is, in your judgment, a continuation of the building process that was going on before the jetties were built, is it not?
A. Not exactly, sir; before the jetties were built a comparison of maps thirty or forty years old with those of 1874 and 1875 revealed the fact that the bar in the South Pass was extending at the rate of about one hundred and ten feet annually (I think some three inches per day on an average). The engineer officers of the Government have made surveys annually to ascertain whether this bar was still advancing. The prevalence of the east winds there creates a current in the Gulf which sweeps the sea-water to the westward, and the river discharge meets that at right angles and the sea-water passes under the river discharge; and it has the effect of deepening the outside of the bar in front of the river and beyond the jetties. In making these surveys the engineers have taken a very large area. At the mouth of the jetties it is 3,000 feet across, 1,000 feet being the jetty channel, and here this area extends a thousand feet on each side of each jetty, widening out seaward until it has attained a width of a mile and a quarter, the distance across this area from the end of the jetties to the outer line of observation being about one mile, thus inclosing probably an area a mile or a mile and a quarter square, in which they have made annual surveys to ascertain the average amount of deposit.

You will remember the fact that this area extends a thousand feet on each side of the mouth of the jetties. Here a large portion of the deposits of the river are naturally thrown to the west over this area by the cross-current of the sea; and I maintain that it ought not properly to be brought into this examination. I make no objection to it at all, but to ascertain really whether any deposit has formed outside of the mouth of the jetties; it seems to me that it would have been proper to have started the side lines of this area right at the ends of the jetties, spreading them out a mile or a mile and a quarter and taking that area. If that were done I think there would be no average increase of deposit over the area. So far as my recollection serves me, Captain Brown stated in one of his reports that the soundings on this area, especially on the outer margin of it, were in material so soft that it was very difficult to arrive at any accurate conclusion as to whether a deposit in excess of that which was there when we commenced had really occurred, because the plummet went into the bottom in some places ten feet; it sunk down into the mud, because it was so soft. Then there are Gulf currents there that are not visible on the surface, caused by the tides and winds. These currents prevent the lead-line from being exactly vertical. You will see the difficulty of making an accurate sounding under these conditions. At one time of the year those currents may be quite different and the lead-line may be quite plumb. At another time it may be swept off by them out of plumb very much without the knowledge of the engineer.
Q. I suppose it is within reasonable probability that engineers can ascertain whether there is a deposit there or not, is it not?
A. When you reduce the results obtained over this large area during six or seven years, and only get a difference of one or two feet, I think any careful engineer would hesitate to say positively that there has been an average shoaling on this area.
Q. You are aware that Captain Heuer states that during three years there has been a deposit of four feet?
A. I don't remember his stating so much as that; but I think that involves a

larger area than what I allude to. Recently the soundings have been extended out four or five miles.

Q. There must be, according to the nature of things, a deposit there of greater or less depth?

A. Most assuredly. Ultimately the Alleghany and Rocky Mountains will probably be washed down and carried into the Gulf.

Q. So that in the future, more or less distant, it will require an extension of the jetties or clearing out at the mouth?

A. I think that is likely. Although where jetties have been used in the Baltic and in front of silt-bearing rivers, such extension as that has not appeared necessary, especially in the mouth of the Dvina, in Russia. I was told in the department of public works at St. Petersburg that those jetties were so old that they had no record in the department of the time they were built—certainly one hundred years ago, but they maintained the channel without any extension. The bar outside of them had six feet on it before they were built, and the depth when I was there was eighteen feet.

Q. Those are matters of record in scientific reports, and although they may be used as illustrations, still there are varying conditions in every stream, and we may expect different results in the Mississippi, where to the casual observer the conditions were the same perhaps?

A. At the mouth of the Coatzacoalcos River, on the Isthmus of Tehuantepec, which I have had occasion to examine, it is a well-established fact that the bar has not advanced materially since the white man knew it, since the earliest surveys have been made. Some of the Spanish surveys date back many hundreds of years——

Q. (Interrupting.) If you will, please keep to the Mississippi River——

A. If you will pardon me a moment, I will say that that river discharges quite as much sediment in proportion to its volume as the Mississippi does. There are conditions there in the Gulf that prevent the delta of the Coatzacoalcos from extending; there is a sea current in front of it.

Q. It is a fact that the bar, previous to the building of the jetties, was advancing in the Gulf?

A. Yes, sir.

Q. The land was advancing in front?

A. Yes, sir.

Q. And it appears that there is a land-building process going on?

A. I am not willing to admit that there is any yet ascertainable in front of the jetties.

Q. If the engineers certify so upon their measurements and you have not measured it, do you believe them?

A. I have not the least doubt about their measurements being taken in good faith and as accurately as possible; but I claim that a large portion of the area examined ought not to be included. There is a very large portion of the discharge from Pass à l'Outre that is swept by the sea current westward in front of the small pass at which I was compelled to place the jetties. During one year there was a difference of eleven feet of deposit discovered off to the seaward and eastward corner of the area under examination, and the discharge from the South Pass certainly could not produce any such deposit there. That deposit can only be accounted for as coming from Pass à l'Outre, as it is entirely out of the line of the discharge of the little pass. My opinion is that the effect of the jetties is to stop the advance of the bar at the mouth of the river, or to greatly retard its advance.

Q. Still the shoals on the east side of the jetties have been growing and advancing northward all this time, as I understand you?

A. That shoal is made up more largely from the deposits from the Pass à l'Outre than from the South Pass.

Q. It is from the deposits that accumulate in the Gulf from the various passes?

A. I think it is from the South Pass and Pass à l'Outre.

Q. Your theory that it comes from Pass à l'Outre may mainly be a sound one, and may operate if the current sets that way. With regard to the rate of advance of deposit in front of the jetties, and a probability that the extension of the jetties will be required, what is your judgment as to the time in the future that any such work will be necessary?

A. I do not think that the extension of the jetties will be required in one hundred years.

Q. What has been done since 1879, if anything, toward the protection of the jetty works against damage by storms or wave action?

A. A very large amount of work has been done in that direction. During the last twelve months I have expended $110,000 in that way, in the neighborhood of $20,000 more than I was paid by the Government. In other words, I have been charged with certain little deficiencies of the channel for which my annual pay for maintenance has been reduced. Supposing that this payment which is now withheld and submitted to the Attorney-General as to my obligations to maintain the channel in the pass itself——

Q. (Interrupting.) We will come to that. I asked you about the work that had been done on the jetty walls, if any, since 1879 for their protection against the effect of storms or wave action.

A. You do not want anything about the cost of it, but the extent of the work?

Q. Yes, sir.

A. Since 1879 a large amount of concrete work has been done. I am unable to state from memory the exact extent of it. On the east jetty it extends one mile in length. On the west jetty it extends half a mile.

Q. When was that done?

A. My recollection is that part of it was done in 1878 and it was finished in 1879. You ask what extent of work has been done since. I have put out some fifty groins seaward from the east jetty. They may be called short spur-dikes capped with very heavy blocks of concrete weighing perhaps eighty or one hundred tons each.

Q. On the inside or the outside?

A. On the outside, the sea side. I did that because in 1879 or 1880 (I forget which) a severe hurricane attacked that side of the work and injured some part of the concrete capping of the jetty and broke some portions of the parapet and disturbed some of the foundation blocks of the concrete. This I repaired, and then placed these groins out to break up the force of the waves and to stop the racing of the waves along the outside line of the jetties shoreward which occurs in severe storms. After that work had stood for a year or more—up to last spring, I think—I ordered a new line of jetty to be built on the batture or deposit which formed on the inside of the jetties, about one hundred and twenty feet from the line of the east jetty, and this forms a new line of jetty inside next to the channel. I had this line of work extended down to probably within 2,000 feet of the end of the jetties, when this terrible hurricane occurred last year, in September, 1882. I ordered this work to be done in the spring of 1882, previous to my going to Europe for my health. I did it thinking that if another hurricane should occur that would damage any part of the original jetty line, this interior line of work would arrest the transportation of any sediment over into the channel and thus insure the maintenance of the channel and give me a new line of work still more substantial than the outside line to resist these storms. And I had that work, fortunately, completed so far down that when this hurricane came in September, 1882, it did protect the channel from the damage which I had foreseen might occur. During this hurricane the wind attained a velocity of over one hundred miles an hour. A United States signal station is at the jetties. This line of new work has been extended down as far as the weather would permit me to do it. I will have to wait until calmer weather now, because it has extended as far down seaward.

Q. That was put inside one hundred and twenty feet distant from the east jetty?

A. Yes, sir. The original jetties are about 1,000 feet apart.

Q. If I recollect the act, they must be seven hundred feet apart?

A. But the jetties are 1,000 feet.

Q. But if you keep them seven hundred feet apart you are within the terms of the original act, as I understand it?

A. I do not think the original act now has any bearing on the maintenance of the channel. The channel which I am to maintain is of specified width and depth, and if it should be found that the volume flowing into that pass is not capable of maintaining thirty feet deep and of specified width without being reduced to six hundred feet, I don't think there is any question of my right to do it.

Q. You think, then, that you are not confined by the terms of the original act of 1875 to keep the jetty walls seven hundred feet apart?

A. The original act provided for the construction of the jetties and required them to be built at least seven hundred feet apart.

Q. And provided for the maintenance also?

A. They were built a thousand feet apart. The work to a great extent was experimental. It was impossible for me or any other engineer to have told exactly how wide a channel could be maintained of thirty feet deep. The question of putting more water into the pass was one that was very seriously discussed by committees in Congress, and they took a great deal of expert testimony on the subject, all of which went to show that it would be injudicious and dangerous to increase the flow into that pass. It discharges one-tenth of the water of the river and it would be dangerous to make it discharge more. It is absolutely necessary to make it discharge more if you have to maintain a channel of more than thirty feet of water.

Q. We will come to that later. But you have built an inner wall, and, without going into the reasons for your opinions, it is your view that, notwithstanding the terms of the act of 1875, you could bring in the walls of the jetties even to a distance of five hundred feet apart if in your opinion you thought that necessary to the maintenance of the channel?

A. If it were necessary to maintain the width and depth required by law. There is no reason why the jetty channel should be any wider than the pass channel. The pass is ten or twelve miles long, and as long as the jetty channel is as wide as that there can be no injury to commerce. I do not suppose the Government would require me to do an impossibility; but there is no necessity of reducing the jetty width to six hundred feet, or even to seven hundred.

Q. What work have you done in or about the jetties since 1879 to maintain the prescribed width and depth of channel?

A. I have built some wing-dams and repaired others that were built, and endeavored to correct the alignment on each side of the channel, and to encourage the deposit of sediment on the sides of the channel, so as to maintain the depth within it. Occasionally I have had to dredge the channel where the required depth was not sufficient. In respect to dredging, I will say that my recollection is that the dredge-boat has not been used once during the last four months. We have not had to dredge the channel at all in that time.

Q. Prior to the four months ago, during the year 1882, was the dredge-boat used in the jetties?

A. Yes, sir. All information of that kind will be found in the engineers' reports.

Q. These reports state the facts in regard to the jetties. You find it necessary to use a dredge-boat more or less in the jetties in order to maintain the channel?

A. I have found it necessary up to within the last four months to do so occasionally. The work which I have been putting in the channel on each side of the jetty channel between the original jetties has been placed with a view to the maintenance of the channel without the aid of the dredge-boat at all.

Q. Whether that will obviate the necessity of using the dredge-boat hereafter will be determined by experience?

A. Yes, sir. If I did not believe it would save me the expense of using the dredge-boat, I should not put them in.

Q. What has the dredge-boat been made to operate upon?

A. The bottom.

Q. And is that the deposit formed by the stream?

A. We find by observations made by the Mississippi River Commission in the main river a phenomenon not previously noticed, or in fact known, viz, that sand waves move along the bottom of the river. That phenomenon I have noticed in the jetties. When the river is largely charged with sediment, sand will accumulate in the form of a wave two or three feet high at places on the bottom and move along down the river much slower than the current. It may be compared to the movement of the sand dunes or hills in Egypt or Holland, or places where the sand is exposed to the winds. Hills of sand form, and the wind prevailing in one direction carries the sand over the top of the hill and deposits it on the leeward side, and in that way the entire hill many feet high moves along slowly. The sand is moved by the current in contact with the bottom, and it is transported up on the upper side of the sand-wave and dropped below; and by that process it moves on down. It will take probably a week or two for one of those waves to pass through the length of the jetties. Such deficiencies of the channel as have occurred have been from that cause. When the slightest deficiency occurs my pay is stopped by the Government, and to prevent such loss of pay I use the dredge-boat and remove the difficulty. It is an error to suppose that the channel is enlarged by dredging. The size of the channel depends wholly on the volume of water flowing through the jetties. This volume does not always maintain the form of cross-section required by law, and the dredge is then used to correct it.

Q. Now you are putting in the wing-dams with a view to contract the channel and securing a greater force of water that will remove those waves more rapidly?

A. It is with a view of further contraction of the width of channel, and a better alignment of it, that is, of the sides of the channel, to make it more regular. This line of work which I put in one hundred and twenty feet from the east jetty gives a straight alignment instead of the irregular one which was caused by wing-dams five hundred or six hundred feet apart.

Q. In the case of wing-dams in the space of 1,000 feet, it would not without the action of the water give a channel parallel with the sides of the jetties, would it?

A. No, sir; for the reason that I would like to explain. Your supposition would be that it was owing to the want of volume passing through the jetties a thousand feet wide; but it is because of the tendency of silt-bearing streams to form their banks and to reduce their width in proportion to suit the volume. But unfortunately near the sea we have the effect of strong winds and waves inside of the jetties, and when these battures or deposits are formed on each side of the channel in calm weather and thus narrow the channel, they are swept up by the waves in storms and the material is taken up and carried into the main channel. This gives the force of the river so much more work to do. Now it is to protect these natural deposits on each side of the jetty channel, and to allow the jetty channel to take that shape which it would naturally take in the upper part of a river of that size and protect it against the action of the waves of the sea, that these dams and interior works are being built.

Q. What is the width and depth of the channel required in the jetties under your contract?

A. A channel two hundred feet wide on the bottom in which there shall be no depth less than twenty-six feet, and through the center of that channel there shall be thirty feet of water.

Q. That channel will be more or less a winding channel through the jetties, even after the wing-dams are put in?

A. No, sir; it will not be a winding channel, it will be a very direct channel with a very slight curve due to the original alignment of the jetties to bring the discharge of the river at right angles with the shore current of the Gulf.

Q. If you were constructing the work over again, would you build the jetties much nearer together?

A. I should not put them more than eight hundred feet apart, because it would be cheaper to get the specified channel with eight hundred feet than to get it with a thousand. But, having placed them a thousand feet apart, the work will be much more substantial and permanent in character by being afterward reduced within the original line of the jetties to the width required for the volume of water discharged by the pass.

Q. On that I would like to know your judgment better. If the jetties had originally been placed five hundred feet apart with the same degree of strength of construction, would they have been as permanent?

A. No, sir; they would not be, for the reason that that would create too deep a channel and be in danger of being undermined. I would place them a thousand feet apart again for the greater safety.

Q. Putting works inside of the present line of jetties would secure the same results?

A. Yes, sir. I had the jetties a thousand feet apart originally to prevent any possibility of undermining them by too deep a channel. The material upon which they are built is, of course, the most recent deposit of the river, and is unstable in character. If you piled too much weight upon it, and got too great an angle of slope upon the sides, the banks would be in danger of sinking.

Q. Since your works were finished in 1879 the question of whether you could within the terms of your contract use the dredge-boat as an instrument of maintenance of the channel has been submitted to the War Department and the Attorney-General?

A. Yes, sir.

Q. And it has been decided that that may be considered as one of the auxiliary works for the maintenance of the channel?

A. Yes, sir.

Q. And so in the line of that construction you are continuing to use the dredge-boat?

A. Whenever it is necessary.

Q. Payments are deferred over the number of days in which you fail to maintain the channel of the jetties of the required width and depth?

A. Yes, sir.

Q. Have there been such failures in each year during the terms of maintenance so far?

A. Yes, sir.

Q. That deferring of payment by the construction of law is to require you to give twenty full years of maintenance, without regard to the time of failures?

A. Yes, sir.

Q. So that you do not get your pay at regular recurring periods except that during the time you have maintained the channel, as, for instance, in any six months if you fail for fifteen days to maintain the channel you would not receive your pay until you had maintained it for fifteen days longer?

A. That is so, sir; I have maintained the channel from July, 1879, three years and six months, and supposing that this payment was made to me, which is now in dispute, I should have been paid for four months less time than I have made a substantial maintenance of the channel. I have been discounted in this pay for the most trivial deficiencies. There were no injuries in the world to commerce, and I consider it a hardship that no other person occupying a similar position toward the Government has ever suffered from. For instance, if you made a contract to deliver a lot of square piles to the Government with clean square edges there is some one in the employ of the Government who has some discretion in the matter, so that if there is a little deficiency in some one or more of them which does not unfit them for the purpose intended they are not rejected. Ship timber is purchased by the Navy Department with the distinct declaration that it shall be clear of all sap, yet there is some one who has the authority to say, "There is a little sap on this piece or that, but it will be cut off in the construction of the vessel," and it is accepted unless grossly defective. But if there is an inch of deficiency in my channel in a single sounding through the whole length of it my pay is deducted.

On one occasion, over a mud lump which I had twice dredged down to the required depth about half an hour with the Government launch was required to get one single sounding eight inches too little. That was the only sounding that could be found where it lacked the required depth. Any ship's bottom would have swept this off if it had touched it. But it was three feet deeper then than the draught of any ship that has used the channel. I think my deduction for that was about $2,500 or $3,000.

Q. You think that the Government officers there are faithful?

A. Certainly.

Q. They watch closely?

A. They have to report just what they find.

Q. And they watch closely to find?

A. Yes, sir, they do. I will state that this whole proceeding in the discharge of this obligation of mine to the Government, has been characterized very much as though the Government was betting against me that I could not do this thing, and taking every means to hold me up to the strictest letter of the law; to the very pound of flesh, instead of giving a liberal construction to the law.

Q. It is the fact that under the act of 1875 you did leave in the hands of the Government as a guarantee $1,000,000?

A. Yes, sir.

Q. That you were to maintain the channel for twenty years, and if you did you were to receive a certain sum semi-annually, with interest at a certain rate, and if you did not maintain it, for so many days as you did not maintain the channel at the prescribed width and depth you were to have no pay?

A. No pay for maintenance.

Q. Now, the Government, through its officers, requires you to live up to your contract?

A. They require me to live up to the exact letter of the contract, and wherever the spirit can be construed against me it is done. Wherever the letter of the contract can be quoted against me I have no benefit of the spirit of the law. The letter and spirit are both construed against me. You alluded to the million dollars that was reserved as a security. The law distinctly says, in one article distinct from the others, that the Government will pay me 5 per cent. semi-annually upon that million dollars so long as it or any part of it remains in the hands of the Government. It declares that I shall have $100,000 per annum for the maintenance and be only allowed for the exact time I maintain it. The law is so construed that the interest on this million dollars is stopped also, which I think is a gross injustice. I have no appeal except to go to Congress for it, and any gentleman who is familiar with Congress knows the difficulties that beset one in doing that. I came to Congress in 1865 to get a balance of $60,000 on two gunboats, which is still unpaid, though fully certified to.

Q. I object to that. I wish you to confine yourself to answering my questions, not for the purpose of preventing you from saying anything you wish to say, but I have a course marked out in my own mind, and I will give you an opportunity afterward. I want to bring your attention simply to the elements of width and depth in the channel in the jetties. The Government officers, as to these two points alone, require you to maintain, according to the terms of the contract, a channel of the prescribed width and depth before they pay you; is not that it?

A. It is more than that. The law says I shall be paid if this width and depth of channel through the jetties is maintained. They declare that through the jetties means through the pass, and my pay is stopped if the depth fails to exist in it also.

Q. We will go to the pass. What work have you done since 1879 from the head of the passes to the upper end of the jetties?

A. I have put in some wing dams at two places in the pass itself. Up to the time of your visit I think I had put in some of those only at once place. If I remember correctly, I have since ordered some in another part of the pass. The pass is unusually wide at these two places. Those were put in for the purpose of reducing the width of the pass. You will understand that they were not put in from any obligation on my part to maintain any specified depth in the pass.

Q. That is your construction of the law?

A. That is my construction of the law.

Q. But the Attorney-General's Department construes it differently.

A. These works were not put in because I recognized any obligation to maintain the depth in the pass, but to facilitate the flow of the water through the pass. When you come to discuss the question of the improvement of the Mississippi River, I desire to explain the influence which the friction of the bed of the stream has in retarding the flow of the water through it, and if it is brought to a uniform width the friction is decreased, and in that way I will increase the flow and get a more rapid current in the pass, and so will be able to maintain the channel required by law through the jetties without using the dredge-boat.

Q. That is, you regard whatever you have done in the South Pass, under your construction of the law, has been done for the improvement of the jetty channel, precisely as you did at the head of the South Pass and Pass à l'Outre when you put sills there?

A. Yes, sir.

Q. What channel do you understand that the Government officers insist that you should maintain in the South Pass itself?

A. They require me to maintain twenty-six feet of water.

Q. A navigable channel of twenty-six feet?

A. Yes, sir.

Q. Without specifying any width?

A. Yes, sir.

Q. And has that channel been maintained since 1879, through the South Pass?

A. Yes, sir.

Q. With some interruptions?

A. The present payment is withheld on account of a question of that kind.

Q. Were there any interruptions up to this present time?

A. No, sir; there was claimed to be an interruption because the plane to which the soundings were measured was an incorrect one, and the level was made higher, or proved to be higher than the one referred to.

Q. Has the dredge been used any since in 1879, in the South Pass?

A. Yes, sir.

Q. In each year?

A. I am not able to say that; I do not think it has been during the past year.

Q. Was it last year, 1882?

A. I do not remember, but I think not.

Q. What was the object of its use?

A. I forbid its use in the pass.

Q. When?

A. I do not recollect exactly, but soon after the decision was made that I must keep the channel through the pass. I have been sick so long I have forgotten the exact time. It was before I went abroad.

Q. During the last year?

A. Yes, sir.

Q. Up to that time you had used the dredge-boat and conformed to the requirements of the War Department in keeping a navigable channel of twenty-six feet in the South Pass?

A. No, sir; I am not willing to admit that.

Q. Without making any admission, what is the fact?

A. The fact is just as I stated it.

Q. That you had used the dredge-boat?

A. Yes, sir; but very seldom.

Q. For what purpose?

A. For a very small period of time.

Q. For what purpose in the South Pass?

A. As a matter of course, to deepen the pass at the point where it was used.

Q. And to secure the navigable channel of a certain depth?

A. It was used as a part of the method of facilitating the flow in the pass, and because there was a move on foot to get the Great Eastern to come to New Orleans, and I was anxious to have ample depth in the pass for her.

Q. This controversy about your payment upon the condition of the maintenance of the South Pass is not a new one this year, is it?

A. No, sir; it arose last February, I think, sir.

Q. The engineer, in reporting upon the maintenance of this work, has reported also upon the condition of the channel in the South Pass as well as through the jetties, has he not, each time?

A. Yes, sir. My counsel, Mr. Cochran, calls my attention to the fact that the earlier reports only report the depth of water through the jetty channel and through the shoal at the head of the pass. It is only more recently, I think, that instructions were given to report the depth through the pass itself.

Q. This question in controversy was submitted to the Department of Justice as far back as 1881, was it not, by him?

A. Yes, sir; not by him, but by the Secretary of War.

Q. It went through the Attorney-General's Department, and there was an opinion rendered recently, and your counsel, Mr. Cochran, has filed a protest?

A. Yes, sir; he filed at that time a protest against the decision of the Attorney-General, that I was under obligation to maintain the channel through the South Pass.

Q. Have you received your pay ever since until the present time?

A. Yes, sir. There has been no deficiency in the pass since then until the present time.

Q. Because you have used the dredge-boat to the present time?

A. No, sir.

Q. The pass has been satisfactory to the officers, has it?

A. Yes, sir; they reported that there has been twenty-six feet of water in it. Recently they reported six-tenths of a foot short for eight days and one-tenth of a foot for twenty-three days, and that is what my pay is stopped for now.

Q. Do you take issue as to their right to retain the payment because of any failure, as they assert, in the South Pass?

A. I take issue with the Government that they refuse to pay me because I have not maintained twenty-six feet for certain days.

Q. But you assert that you have maintained a channel of at least twenty-six feet?

A. Most assuredly, and because the South Pass was twice reported upon by two different commissions as entirely adequate for the purposes of commerce, it is evident that it was not contemplated by Congress or myself that I was to maintain any specific depth of water in it.

Q. What was the determination by the acts of Congress, and the contract made in pursuance of it?

A. The acts of Congress constitute the only contract. The evidence that is used against me upon all occasions when it can be to my disadvantage certainly should be used in my favor when applicable. General Barnard, president of the commission of 1876, declared that there was nothing in the act that related to the obtaining of a channel at the head of the pass, except in the forfeiture proviso of

the act, that if I did not have a channel twenty-six feet deep through the pass, which they construed to mean through this shoal at the head of the pass, Congress might forfeit the act, and Attorney-General Taft declared that there was nothing in the act which required me to secure a channel through the pass, except that proviso for forfeiture; that if I did not have it within thirty months after the signing of the act, Congress might forfeit the grant.

Q. Don't you understand that under the act of 1875 alone, if that had not been changed, you would have been required to maintain that depth?

A. No, sir; never. It was never contemplated by either committee charged with the bill.

Q. Don't you rely upon the amendment that you say was adopted in the year 1879?

A. Yes, sir; because this question of maintenance through the head of the pass or shoal at the head of the pass had been raised, and, to make that perfectly clear, that language was used in framing the bill of 1879, namely, that my payments should depend upon the depth and the width through the jetties. It was clearly shown to the committee that the pass had been declared to be entirely adequate for the purposes of commerce, and there was nothing in the report of the commission that indicated any improvements would be required in it. The commission of 1874 and 1875 spoke of a shoal at the head of the pass, and estimated some $330,000 for the reduction of that shoal; and it was understood that I took this work at the estimate of that commission. Five millions and a quarter was what I was to be paid for the work, and their estimate was almost identically the same, being $5,340,000. Their estimate contained no estimate or amount whatever for work in the pass itself, that having been declared by this commission to be entirely adequate, and it was explained to the committees in Congress that it was dangerous to put more water in the pass than naturally passed in it, which it was necessary to do in order to get greater depth in the jetties; and for that reason the act was changed regarding the size of the jetty channel. Instead of requiring me to maintain an enormous channel thirty feet deep and three hundred and fifty feet wide through the jetties it was reduced for the safety of the jetties.

I stated to the committees that framed the bill of 1870 that I had the sills laid across both of the great passes, and, if they insisted, very little expense would enable me to throw more water into this pass, which it would be dangerous to do. Generals Barnard and Wright and other engineers were called to testify, and the commission of 1874 was referred to in proof that it was not advisable to put more water in the pass. Unless I put more water into the pass or did work in it there is a possibility of its getting at times an inch or two less than twenty-six feet deep, and that happened to occur a short time ago. I will state further that the estimate of the commission of 1874 for the maintenance of the jetties was $130,000 a year; there was not in it a single item that referred to the maintenance of the pass itself or to the channel through the shoal at the head of the pass, and I agreed to undertake that maintenance (that is, of the jetties) for $100,000, thus saving the Government $30,000 on that estimate for doing the special work of maintaining the channel through the jetties; and the law says when I maintain the specified channel through the jetties I should be paid, and now the Attorney-General states that it was undoubtedly the intention of Congress to have a deep river from the Mississippi River to the Gulf, whereas the words of the act are "from the South Pass to the Gulf of Mexico." It is going directly in violation of the letter of the law. Under this ruling I would be bound to maintain a deep channel if it should be less than twenty-six feet anywhere up the river. I feel the decision is most unjust and that I have been wronged by it, and I can not speak calmly upon the subject.

Q. I would like to ask a question. I read a section from the act of 1875; but before I read that, I will say we agree, as I understand it, that in 1878 there was a modification as to width and depth.

A. They were modified in 1879.

Q. Not a less depth; giving a less width?

A. Thirty feet was the depth; yes, sir.

Q. Was that not intended to be thirty feet on the bottom over the whole width of the channel?

A. No, sir; the thirty feet was to be three hundred and fifty feet wide originally.

Q. Now it is to be only two hundred feet wide?

A. No; it is to be thirty feet, without respect to width; it is a 30-foot channel.

Q. But it is only twenty-six feet all through that channel, except in certain places, now?

A. Probably I can make that plainer with a diagram.

Q. You just state in your own words what the former act required in depth and width, and then what the amended act requires.

A. It required a maximum channel of three hundred and fifty feet wide which should not be less than thirty feet in any part of its width. It was shown to the committee that that could not be, without greater flow in the pass.

Q. And the act of 1879 amended it so as to give the channel the width and depth indicated by you formerly in your testimony?

A. Yes, sir. It did not reduce the depth; it simply reduced the width of the channel, but it did not reduce the central depth of it. In other words, a 30-foot channel was required through the jetties; the other required a 30-foot channel three hundred and fifty feet wide, and now it requires also that a 26-foot depth shall be maintained that shall be two hundred feet wide.

Q. I read from the law of 1875: "That after said channel of thirty feet in depth and of not less than three hundred and fifty feet in width shall have been secured, $100,000 per annum shall be paid in equal quarterly payments through each and every year that said channel of thirty feet in depth and three hundred and fifty feet in width shall have been maintained by said Eads or his associates by the effect of said jetties and auxiliary works aforesaid in said pass for a period of twenty years, dating from the date on which said channel of thirty feet in depth and three hundred and fifty feet in width shall be first secured; provided, however, that no part of such annual compensation shall be paid for any period of time during which the channel of said pass shall be less than thirty feet in depth and three hundred and fifty feet in width as hereinbefore specified." Isn't that pretty plain that it referred to the channel in the pass?

A. You are reading from the act of 1875?

Q. Yes, sir; that is very plain.

A. If I am required to maintain a channel through the pass under that clause which you have just read, I am required to maintain a 30-foot channel three hundred and fifty feet wide through it. Is that not equally plain?

Q. That is from the act of 1875?

A. You are reading from that. That is a very strong argument in my favor, and it has been totally ignored in the recent decision of General Brewster. If I am required to maintain that channel through the pass at all, then I am required to maintain a channel three hundred and fifty feet wide and thirty feet deep in the pass. Now, I have never been required to obtain a channel over twenty-six feet through the shoal at the head of the pass by any construction, and Attorney-General Taft says that the only clause in the act requiring me to maintain twenty-six feet through the shoal is in the proviso of forfeiture. That clause says distinctly, unless I commence the work in eight months, and unless I secure a navigable channel twenty feet deep through the pass within thirty months from the approval of the act, and unless I secure two feet additional depth each year thereafter until twenty-six feet shall have been secured, Congress may annul the act. General Taft says "through the pass" means through the shoal at its head as well as through the pass, in which there was already over twenty-six feet, and if I have done this within the time specified I am then entitled to be paid for the jetty channel of the specific width and depth required. I have never forfeited my grant by failing to secure twenty-six feet in time through the shoal. I am entitled to my pay for maintaining the channel through the jetties. The maintenance of channel relates wholly to the channel through the jetties. The forfeiture clause relates wholly to the construction of the work, as you will see by the plans and estimates of the commission of 1874 and 1875.

Q. Coming to the act of March 3, 1879, which modified the conditions of the former acts, I will read the section: "The $100,000 per annum, provided by said recited act to be paid to said Eads and his associates during the period of twenty years, shall be paid at the times and in the manner therein provided, upon the maintenance by said Eads and his associates of a channel through the jetties of not less than two hundred feet in width and having through it a central depth of thirty feet without regard to width." Then follows a section which provides that in all other respects than as amended by this act, the original act of 1875 shall be held to be in force. You maintain now that that language of 1879 act makes it very plain?

A. It was in part intended to correct and make plain the question of the maintenance of the channel through the pass and to relieve me wholly from it. The clause you first read from the act of 1875, relating to the maintenance of the channel for twenty years, made the meaning obscure because it used the words "through said pass" instead of "through said channel." I was relieved from it because: First. If I had to maintain the channel through it I must necessarily maintain one thirty feet deep and three hundred and fifty feet wide through it, which was absurd. Second. Because it was explained to the committees in 1879 that there would not be any less channel through the pass than then existed, because I must have that much water flowing in it to maintain the requisite channel through the jetties. Third. Because the pass itself had been declared entirely adequate for the present and prospective wants of commerce by the commission whose advice was followed in framing the act of 1875. Fourth. The commission furnished a plan and estimates to show the extent of the contemplated improvement, and this plan and estimates simply referred to the jetties and to the removal of the shoal at the head of the pass. Nothing can be plainer. No fair-minded man, with that question fairly and fully before him, can fail to coincide with me on this point. The commission submitted two estimates, one for the cost of the works, and the other for the cost of maintenance of the jetties, their extension, and the possible dredging away of mud lumps. There was not a dollar in either estimate for work in the pass itself, which is ten miles long, nor for the maintenance of the "adequate" channel through it.

Q. When this act of 1879 was under consideration by the two Houses, in the debate that was had upon that bill, was the change of language from the words "through the pass" to the words "through the jetties" plainly stated?

A. It was clearly understood by every member of each committee.

Q. Without regard to the committee, was it alluded to in the debate?

A. Do you mean in the House and Senate?

Q. Yes.

A. I don't know. The reports of the debates will show.

Q. Were you present at the Capitol during the time the subject was under consideration by the committee, while it was pending before the two Houses?

A. Yes, sir.

Q. The payment that is now deferred or withheld was due, according to your understanding, at what date?

A. On the 9th of December.

Q. Was there any failure to maintain the channel during the time prior to that through the jetties?

A. No, sir; not during that quarter.

Q. So that it entirely rests upon the construction of the law with reference to the pass?

A. Yes, sir; entirely so.

Q. In connection with the claim for the payment which is now withheld, has the opinion of the present Attorney-General, as you understand it, been required?

A. Yes, sir.

Q. And you understand that he has also decided that you are requested to maintain the navigable channel of twenty-six feet through the pass?

A. Yes, sir.

Q. What is the number of days that it is asserted there was a failure during the last quarter to maintain the channel through the pass?

A. Twenty-three days when the deficiency of depth was one and one-eighth inches (one-tenth of a foot) over a space of two hundred and fifty feet, I think, and eight days a deficiency of six-tenths of a foot over the distance of five hundred feet, throughout the entire channel, and about twelve and a half miles long, from the river to the Gulf.

Q. In all, thirty-one days?

A. Yes, sir; amounting to nearly $13,000.

Q. That is to say, if a ratable deduction were to be made?

A. Yes, sir.

Q. But under this construction by the terms of the contract it is simply postponed for thirty-one days?

A. It is an absolute loss of nearly $13,000 to me.

Q. Yes, it works that way—a loss to you of $13,000. But the Government does not make a payment to you pursuing the policy of making a ratable deduction, but allows the quarter to go on until so many more days have elapsed?

A. Yes, sir; and right there I would be glad to say that it is not simply the ruling of the Department that works me a great hardship, but for these ninety days, if it continued, I would get nothing at all with which to pay the expense of maintaining the works during that time; but if the deficiency alone were deducted and I was paid at the end of every quarter, I would be certain of receiving more or less during each quarter.

Q. That course was adopted upon the opinion of Attorney-General Devens, was it not?

A. I think it was. That $13,000 that I allude to is not only the maintenance that is deducted, but the interest on the $1,000,000 also, both amounting to about $411 a day.

Q. During thirty-one days?

A. Yes, sir.

Q. In the language of the original act of 1875 with regard to interest, I think there has been no modification of that provision?

A. No, sir; I was to be allowed "interest at 5 per cent. per annum on the same, being payable to said Eads, his associates and legal representatives, semi-annually, from the date when a channel of thirty feet depth and three hundred and fifty feet in width shall have been first secured, so long as said money or any part thereof is held by the United States."

Q. And your theory is that under that provision you should be paid the interest, notwithstanding that there is a failure to maintain the channel?

A. Yes, sir; so long as this money is in the hands of the United Stats it should pay that interest.

Q. Suppose you decline to go any further in the maintenance of that channel, would you consider that you had a permanent lien against the Government for that interest?

A. If I should decline to maintain the channel it would be a fraud, and I suppose the Government would have a right to confiscate that million dollars. The act in effect declares that it is so much money loaned by me, and it belongs to me; and so long as the Government has use of it it should pay interest on it as it promised. It has reserved the right to pay it off whenever it pleases, and your idea of my having "a permanent lien against the Government for interest," if I ceased to maintain the channel, is, I think untenable.

Q. And would it not also have a right to stop the interest?

A. It would have a right to apply that million dollars to the maintenance of

the channel if I forfeited my agreement by gross neglect, probably, but I hold that I would be entitled to interest upon the money, just as though it held a million dollars in bonds drawing 6 per cent. interest as a security instead of furnishing bondsmen. I would be entitled to the interest so long as the Government held it. I did not agree to put up a million dollars and the interest on it also as security. On the contrary, the act expressly stipulates that the interest shall be paid to me on the million every six months, and I have been mulcted out of at least $16,000 of this interest by this decision already. The Government agrees to pay me $100,000 per annum or $274 per day, for maintaining the channel. For every day I have failed to maintain the channel I have been made to lose $411. This is the kind of justice that is meted out to me, who saved the Government from going into the costly blunder of the Fort Saint Philip Canal, and whose jetties are saving at least $100,000,000 annually to the country.

Q. Passing from the consideration of the jetties to the general work of the improvement of the Mississippi River from Cairo to the head of the passes, does the committee understand that you approve of the plans and works of the Mississippi River Commission?

A. I approve of the general plan adopted by it.

Q. Without going into details at length, your views are stated clearly and fully in the minority report which you made last year?

A. Yes, sir; and at the meetings of the commission.

Mr. ELLIS. Your minority report, dated April 12, 1882, signed Washington, D. C., appears as Executive Document No. 10 of the Senate, part 2, Forty-seventh Congress, first session?

A. Yes, sir; I understand the last question to relate to the general plan of improvement adopted by the Mississippi River Commission?

Q. Yes, sir; and you also testified at length in the last session of Congress, before the Committee on Commerce and the Committee on Levees and Improvement of the Mississippi River, of which Mr. THOMAS is chairman?

A. Yes.

Mr. ELLIS. I only want to ask you if you reiterate that report?

Captain EADS. Most assuredly I do. There are some matters I would like to have an opportunity to speak to the committee about. But I now ask to be excused to-day, and I will appear before the committee some other day when it is convenient for the committee.

Adjourned to Monday, 9.30 a. m., January 29, 1883.

WASHINGTON, D. C., *January* 29, 1883.

The committee met in the room of the Committee on the Territories, House of Representatives.

Present, the chairman, Mr. BURROWS of Michigan, Mr. ROBINSON of Massachusetts, Mr. THOMAS, and Mr. HISCOCK.

The examination of Mr. James B. Eads was continued, as follows:

By Mr. ROBINSON:

Question. In your majority report you stated your views, and those views you now reaffirm in regard to the importance of levees in connection with the improvement of the low-water channel of the Mississippi River, do you not?

Answer. Yes, sir.

Q. And you state them at length in that report, because you differ from the other members of the commission in regard to the degree of their importance?

A. I think you are stating the case rather strongly as regards some of the other members of the commission. I don't understand that my position is different from General Gillmore's, Professor Mitchell's, Major Suter's, Major Harrod's, or Mr. Taylor's on the importance of the levees. I have seen nothing to indicate such different views recently. When my minority report was written nearly a year ago, there was some difference of opinion as to the importance of closing the gaps in them, but I believe all that I have named were convinced that the retention of the flood waters within the levees would accelerate the progress of channel development. I think my views and those of General Gillmore (the president) and Major Suter have, on the levee question, been in full accord from the first day the commission met. I have, however, never advocated raising them, but simply closing the gaps in them.

Q. Your views are quite different from those of General Comstock?

A. As you will see by my minority report, it was written partly because a paragraph in the report of the commission was to the effect that further study was necessary in determining the real value of the levees as a factor in this improvement. I will state that I returned from Mexico two or three days after the report of the commission had been sent on to Washington, and too late to discuss the matter with the commission. As I thought it was very important that the gaps in the levees should be closed, I at once wrote my report on the subject. Another reason why I prepared the report was that it was suggested in the majority report that further time should be taken for the study of the treatment at the mouth of the Red River; whether it would not be proper to divorce the Red River altogether from the Mississippi River and turn it down the Atchafalaya.

Q. Has that been determined upon by the commission?

A. I do not think it has. My health broke down after having to testify here at considerable length before the Committee on Levees and the Improvement of the Mississippi River, and the Committee on Commerce. I was urged most strenuously by my physician to give up all work and go abroad. I left here in the latter part of April, and since then I have been unable to attend any meetings of the commission.

Q. Below the mouth of Red River there is at present no practical difficulty in the navigation of the Mississippi River, is there, until you reach the head of the passes?

A. Yes, there is. I was told by the commander of one of the largest cotton-boats some three years ago that he could not take full loads of cotton down from Vicksburgh and Natchez during the lowest stage of water because of some of the bars below the mouth of Red River.

Q. The universal testimony of the steamboat captains on the river is that at all stages of water there are ten feet of water, or more, and that they find no difficulty in navigation. Are you so informed?

A. No, sir; my information is that at extreme low water there are bars on which there are not more than ten feet of water, and this is not sufficient for the largest steamers when fully loaded. I don't know of this depth of my own knowledge, but I have been assured of it by what I consider very reliable authority.

Q. Do you advise building levees below the mouth of Red River in order to remove these bars that you have now alluded to below Red River?

A. I have never advised building levees. I have urged the great importance of closing the gaps in the levees now built, above and below Red River, for the purpose of improving navigation.

Q. Below Red River?

A. Yes, sir.

Q. The levees that are below Red River extend far down below the position of any bar that has been alluded to?

A. I think the proper correction of the river involves the controlling of the flood-waters of the river within its banks, or within the levees, until the banks are high enough, or rather until the service of the river is low enough, to dispense with the use of levees.

Q. Are the levees below Red River solely for the improvement of the portion of the Mississippi River below Red River, or will they have a beneficial effect at all above Red River? What is your theory about that?

A. That involves the question of the advisability of closing Bayou Atchafalaya. I will state that the measurements of the commission, as given in their annual report of November, a year ago, show that there was one-sixth of the volume of the Mississippi River passing out through Bayou Atchafalaya when in flood. Now, I presume that there is not a gentleman on this committee whose examination of the jetties has not satisfied him that the depth and width of the channel there is due to the volume of water that goes out through South Pass; and that if that volume is diminished the channel which is formed by the discharge of South Pass through the jetties will be diminished also. The discharge of South Pass is about one-tenth of the volume of the Mississippi River passing New Orleans, and if that volume be diminished one-sixth it must follow, I think, without any argument to show it, that one-sixth of the volume that would otherwise go through the South Pass has been lost. I see by a chart here, prepared recently by the Mississippi River Commission (it is the first time that I have had an opportunity to see it), that the loss of flood water at Red River Landing is placed at 550,000 cubic feet per second. That is over 40 per cent. of the total flood discharge of the Mississippi River. I state very emphatically in my minority report that it is a matter of vital importance, in my judgment, to close the Atchafalaya for the benefit of navigation. I believe now if it is left alone that the whole Mississippi River will go out through it. Such radical changes in the principal mouths of rivers are by no means uncommon. The Vistula is a notable instance of it; the Adour is another, and many other instances could be cited if my memory served me at this moment. There are some matters connected with the principles which control this question that are necessary for the committee to understand clearly in order to have a proper comprehension of the dangers that are to be looked forward to if the Atchafalaya is left unclosed.

I wish to draw the attention of the committee to the diminution of the size of the river bed which results from a diminished flow of water through it. In the minority report I call attention to the two forces which are in opposition to each other in the flow of water in all streams: one is the force which creates the current and which results from the fall of the water from a higher to a lower level, and the other is the force of friction, or the resistance which opposes the flow of the water. This friction is unlike the friction of solids. It increases just in proportion to the surface in contact with the water which is flowing, regardless of the weight or pressure on the bed, and this is proven by the fact that you can not discharge as much water through a pipe, with a given slope, when it is quite full as you can when it is nearly full.

Q. You mean that a pipe half full of water will carry more water than a pipe full?

A. No, sir. I mean that when it is nearly full it will discharge more than when it is entirely full. I submit this diagram for the purpose of proving the fact that the friction increases in proportion as the surface in contact with the water increases. The flow of water through a partially full pipe and through a full one demonstrates this [pointing to the diagram]. This curve will show the increased flow which occurs when a portion only of the whole frictional surface is in contact with the water; when the water is about twenty-two and a half inches deep in a pipe twenty-four inches in diameter it will discharge more water than it will when it is entirely full.

Q. Do you ever have a condition of the channel of the Mississippi River so that you can say that a pipe is a fair illustration of it?

A. If you will excuse me until I have finished the answer to your question. You asked me what my theory is as to the use of levees below Red River. I wish to submit another diagram to show that the ratio of friction increases as we diminish the size of a river's channel. [Pointing to the second diagram.] These two circles represent the diameter of two pipes, one one foot in diameter and the other four feet in diameter. The frictional surface in contact with water flowing through the two pipes would be as their circumferences, that is, as one to four; but the quantity of water held by each pipe is as the square of its diameter, or as one to sixteen. It follows, then, that there will be really one-fourth as much friction in proportion to the volume in the large pipe as in the smaller one, because it has sixteen times the capacity and but fourfold friction. If we give to these two pipes the same inclination and let each be kept half full of water they will fairly represent the beds of two rivers, and it will at once be found that the current in the smaller one will be more sluggish than that in the larger one, because the ratio of friction is greater in the small pipe. To make the current in each the same you must make the slope of the small one steeper. This steepening of the slope is precisely what all silt-bearing streams have the power to do, because certain velocities of current are required by them to carry the silt on to the sea, and if the stream fails from any cause to have that velocity, part of the silt is left in the bed and it is raised higher and higher until the necessary velocity is attained, and then the steepening process stops. The small pipe in this illustration will fairly represent the South Pass and the larger one the Southwest Pass. South Pass falls three inches per mile and Southwest Pass but two inches. South Pass discharges but one-quarter as much water as Southwest Pass, and it has 50 per cent. greater fall to overcome the greater frictional resistance in it. Now, it is a well-known fact that as a channel in a silt-bearing river is robbed of its volume (as by the Atchafalaya outlet) the flow is more sluggish below, and the river proceeds at once to diminish the size of its bed below the outlet. Each flood extends this diminution of its size down toward the sea. The ratio of friction increases as the diminution extends, and causes the water to flow more slowly in it. This sets at work the steepening of the slope process. The navigation suffers by the reduced channel and the height of the floods is increased.

This process is now going on below the mouth of Red River to the injury of the river navigation, endangering at the same time the jetty channel and involving additional heights for the levees. I am safe in saying that those levees will require to be at least six or eight feet higher than they are at this present day. Diminishing the volume of the main river will increase the amount of shoaling and lessen the depth of water over the bars now existing below the mouth of the river. But this is not all. The slope of the river can not be steepened below Red River except by raising the Red River end of the slope, as the other end is fixed by the Gulf of Mexico. If it be raised at Red River it will react to the injury of the river all through the alluvial basin above Red River. If you raise the flood line (or slope) say five feet at Red River, you will have just that much less slope in the river above. I think there is no problem before the Mississippi River Commission, or before the country, or before Congress, connected with the Mississippi River, that is more important than the closure of Bayou Atchafalaya, for its discharge is rapidly increasing and will continue to increase, and, if it be not promptly checked, the whole Mississippi River will go out through it. I speak with all the earnestness I can command on this matter. I will now be glad to answer any other questions.

By Mr. THOMAS:

Q. If the Atchafalaya be closed, and all the volume of the Red River turned into the Mississippi River below that point, what effect would it have on the Mississippi River above the mouth of the Red River?

A. It will have the effect to ultimately lower the slope of the river or flood line from Red River up through the alluvial basin of the river wherever its channel is not controlled by a rock bottom, for the reason that the restoration of the volume of the Red River into the Mississippi River will reduce the ratio of friction (as just explained), which will induce a more rapid discharge of the river. A stronger current will be maintained, and this will carry more sediment. The excess of silt due to the increased velocity will be taken up from the bottom of the river, and thus it will deepen its bed and lower its slope until this abnormal velocity is reduced to a velocity only sufficient to carry the sediment without loss or gain. When this velocity occurs the lowering of the bed will cease. The result of this will be, in my judgment, a lowering of the flood line at Red River

fully five feet, and this reduced elevation will extend on up through the alluvial basin of the river and make the necessity of levees to control the flow of the river for the benefit of navigation so much less necessary. I will state that a few years ago the Atchafalaya was practically closed by a floating raft which extended many miles down through it. In this condition it furnished an illustration of the flow of water through a full pipe, and through one partially full. The water had the friction on the top as well as in the bed, in passing under this raft, to diminish its discharge, and then it discharged very little in comparison to what it is discharging now. This raft was removed by the Government a few years ago, and since then that much frictional resistance to the flow of the water through it has been removed, the current has been greatly increased in it, and it is now rapidly enlarging.

Q. Is it not true that the Mississippi River reaches the Gulf by the shortest route known, to deep water?

A. No, sir; it would reach it through the Atchafalaya; the water coming down from the Atchafalaya would be a shorter route.

Q. To deep water in the Gulf?

A. Yes, sir; I think to deep water. Although there is a delta at the mouth of the Atchafalaya, it is like the delta in front of the Mississippi; it extends out only a few miles to deep water. I think the route through the Mississippi from Red River to the jetties is probably twice as long as through the Atchafalaya to equally deep water.

By Mr. ROBINSON:

Q. What you stated in regard to pipes and the flow of water through them is quite elementary knowledge, is it not?

A. I would like to know what you mean by "elementary?"

Q. If you do not know, I will not ask any further questions upon that.

A. If you mean that it is didactic in me to give such an explanation, I am willing to admit it, because I am before such an intelligent committee, and of course it is familiar with these principles. But I presume this testimony will be for the use of Congress and a large portion of the public who, I take it, are not all so familiar with the science of hydraulic engineering as you are. As familiar as I am myself with these principles, I had quite forgotten the fact that a full pipe does not discharge as much water as it does when it is only partly full, until my attention was called to it by a very able hydraulic engineer, Colonel Flad, a few days ago.

Q. Is it or is it not elementary knowledge in the science of hydraulics?

A. The question of friction?

Q. The flow of water through pipes, such an illustration as you have given here this morning?

A. I do not think it can be called elementary, as I understand the term. The force of gravity is elementary, and friction is elementary. The knowledge that the first causes the current and that the last retards it is certainly "elementary knowledge." But the knowledge which is acquired by, or deduced from, an observance of the various phenomena resulting from the varying relations of these two elements or forces, as exhibited in the flow of water in pipes and in river channels, and which knowledge can only be understood, even after explanation, by those who have an elementary knowledge of hydraulics, should, I think, be estimated as at least a few degrees beyond mere "elementary knowledge."

Q. The Mississippi River channel is bounded by sides and bottom, is it not?

A. Yes, sir.

Q. It has no top over it?

A. No, sir; it has a surface not in contact with anything to resist its flow but the air.

Q. It has no top over it, has it, as it has bottom under it?

A. No, sir; none. The Atchafalaya had, however, when the raft existed.

Q. Taking the whole Mississippi River, then, your illustration of the pipe will answer only so long as you keep up to what you may consider the horizontal diameter of the pipe, will it?

A. Oh, no, sir.

Q. Do you ever in the Mississippi River find a condition of things in the channel which will answer to a pipe?

A. Not to a pipe full of water.

Q. To a pipe two-thirds full of water?

A. No, sir.

Q. To a pipe more than half full of water?

A. No, sir.

Q. Then of what use is your illustration as to the whole upper portion of your pipe, the portion above the horizontal diameter, with reference to this problem?

A. Simply to furnish a proof that the increase of frictional surface in contact with the water increases the resistance to its flow.

Q. There could be no doubt about that in anybody's mind—that an increase of surface would give an increase of friction, and that an increase of friction would retard the current?

A. I think that such a doubt might very reasonably come into the mind of any one. I think it would be a natural conclusion in the mind of any one that the greater the depth of water, and consequently the greater weight on the bottom, the greater would be the friction.

Q. How in speaking of the sides and bottom of the channel?

A. There is no better illustration of friction acting in proportion to the surface in contact with the water than is shown in this diagram [pointing to diagram]. In my own study of the river problem I could not at first believe otherwise than that the weight of water modified the amount of friction. If this were so, then doubling the width of the bed, or wetted perimeter, would not double the friction of the water, and it was only after a study of the flow of water through pipes and the results of experiments made with them that the conviction of this fact was forced upon me. This is a graphic illustration of the fact in question, and I wish to submit the diagram with my testimony.

Q. More graphic than pertinent to the case in hand, is it not?

A. That is for the committee to decide.

Q. You are not contemplating a channel in your illustration of the pipes that will have a top as well as a bottom, are you?

A. No, sir.

Q. You always contemplate an open and exposed surface of the Mississippi River?

A. Most assuredly. I am not contemplating anything that would be deemed impracticable by others. But I want to make the statement to the committee that if we double the width of the surface of the bed of the stream we will double the friction; and I want to present this diagram to prove it, so that the statement will not simply rest on my word, but that it can be demonstrated scientifically, and therefore that there is no getting over it.

Q. Doubling the width of the stream doubles the amount of friction, you say?

A. No, sir; I do not say that.

Q. What did you say?

A. Doubling the surface in contact with the water—doubling the wetted perimeter.

Q. But that perimeter, that circumference, will never be so much that it will become a complete circle, in connection with your theory?

A. No, sir.

Q. Then what I want to know is, how is your illustration pertinent at all when you speak of a pipe two feet in diameter, in one condition full, having twenty-four inches diameter of water, and the other condition twenty-two and a half inches of water; why is it pertinent in this discussion to present that illustration when you never pass in this problem a horizontal diameter?

A. Because it shows that a very small additional quantity of water may bring in a very large frictional surface in contact with it, and that the flow will be retarded in consequence. When the water is twenty-two and a half inches deep there is a large frictional surface above the water not yet touched, but it requires only a little more water to bring this surface into the illustration. When this is done the ratio of friction to volume is increased and the current is at once reduced in velocity.

Q. But that condition only occurs when you come to complete the circle above?

A. Excuse me, that is not my answer at all. It proves that if the frictional surface in contact with a given volume of water be increased, whether it be widened out or whether it be made into a circle, the velocity will be diminished, and *vice versa*. If the 2-foot pipe were opened out to represent the lower half of a 4-foot pipe it would hold twice the volume of water without any increase of frictional surface, and with no greater inclination it would have a much more rapid current, because the ratio of friction to volume would be diminished one-half. But if it were still more widened out, it would hold less and less water, with the same frictional surface; therefore the ratio of friction to volume would be increased as it became flatter and flatter, and the velocity of the current would be less and less. I think the pipe is, therefore, a good illustration of the matter we are discussing.

The committee adjourned to meet this evening at 7.30 o'clock.

EVENING SESSION.

WASHINGTON, D. C., *January* 29, 1883.

The committee met pursuant to adjournment. A quorum was present.

The examination of Mr. James B. Eads was continued, as follows:

By Mr. ROBINSON:

Question. I repeat the question that I asked you in the morning session: Are the levees below Red River solely for the improvement of the Mississippi River below Red River, or will they have a beneficial effect at all above Red River?

Answer. The maintenance of the levees below will ultimately have a beneficial effect above Red River.

Q. In what way?

A. By retaining the entire flood volume within the river below Red River a deepening of the bed all the way down to the Gulf will occur, and this will lower the slope.

Q. Lower the slope of the bed of the river?

A. No, sir; when I allude to slope I invariably allude to the flood surface of the river unless otherwise stated; and it is generally so understood by engineers, unless expressed differently.

Q. The reason I made the suggestion at this point was that you just spoke of its lowering the bed.

A. The slope will only be lowered as a result of the deepening of the bed.

Q. You mean that the effect will be by lowering the bed of the river to deepen it, consequently the surface of the slope will be lowered too?

A. Yes, sir. The slope of the bottom, except through long distances, has, apparently, very little to do with the surface slope of silt-bearing streams. The slope of the bottom of the river below New Orleans is actually an uphill grade to the head of the passes; at this place it is only thirty feet deep from the surface of the water to the bottom, while at New Orleans, one hundred miles above, it is in the neighborhood of one hundred and fifty feet deep. The flood slope from New Orleans falls in this distance less than fourteen feet, while the slope of the bottom actually rises about one hundred feet. This proves that the slope of the surface of water is the true indication of the force of gravity which is acting to produce the current. The irregularity and paradoxical profile of the slope of the bed in some places seeming to make the water run up hill is mainly due to the irregularity in the width of the river. The profile always rises where the wide places occur.

Q. If that be the condition of things, what gain will there be in securing the deepening of the bed of the river from Red River down, say to New Orleans, if the water when it leaves New Orleans must run up that hill which you describe as marked by the bottom?

A. It seems actually to run up hill. The bottom of the river certainly inclines up toward the passes from New Orleans. I simply refer to that to show that the slope of the bottom of the river has very little to do with the velocity of the river. The velocity results wholly from the flow of the water from a higher to a lower level, the surface flow.

Q. Let me state it as I understand it and see if we agree about it: The confinement of the water within the levees over the natural channel of the river will cause a greater volume of water?

A. Yes, sir.

Q. And an increase of velocity?

A. Yes, sir.

Q. And that increased velocity will act upon the bed of the river to deepen it and lower it. Is that right so far as I have gone?

A. I think you are entirely correct, sir.

Q. Now, what will be the effect of that lowering of the bed of the river?

A. The high places in the profile of the river's bottom will be cut down lower, and as these are the shallowest places, an improvement in the navigation will result. The first effect of the increased volume which will result from keeping the levees in repair will be to increase the current. A still greater volume will result by closing the Atchafalaya. The water when its current is thus increased will not be charged with the whole amount of sediment due to its velocity. It will take up the additional quota due to this increase of velocity, from the bottom, and so long as this process continues the bed will be deepened. As the bottom deepens, the surface slope is lowered and the normal velocity of the stream results. What I mean by the normal velocity is that velocity which is sufficient to carry the sediment without loss or gain. That may be more rapid at one time than it is at another, owing to the stage of the river and the quantity of sediment discharged by the tributaries into the main river. Do I make myself clear?

Q. I understand you perfectly.

A. Now, as that surface slope lowers it affects the river above Red River. You can understand at once that if the surface slope above Red River was near the top of the levees, and by any operation of art you reduced the lower end of that slope to a lower level at Red River, you would have a steeper slope immediately above Red River. A more rapid current would occur throughout the extent of this steepened slope, and the lower level existing at Red River would be gradually extended above Red River by the deepening of the bed that would result from this steeper slope and increased current. This deepening process would in this way extend on up the river until it would finally lower the slope throughout the whole alluvial basin as much as it was lowered at Red River.

Q. Then there is, in the first place, an acceleration of the velocity and an increase of scouring?

A. Yes, sir; an increase of sediment-carrying capacity.

Q. And so an increase of scouring?

A. Yes, sir.

Q. And that goes on until, as the result of the scouring, the flood surface falls and so restores what you call the normal velocity, slackens the current, and you say it carries that slackening until it reaches the point where it neither deposits nor scours. How do you know that the Mississippi River is going to behave in that way—that it will go just to the critical point of scouring just enough to get the current accelerated and then retard just enough to prevent the scouring, and

not prevent deposition from the great tributaries flowing from it over the country, and which generally have an effect upon the stream?

A. When the discharge from the tributaries is large it creates a greater current in the main trunk of the river. It gives it a greater sediment-carrying capacity, and when the discharge is small it has a less sediment-carrying capacity. My own opinion is that as the river begins to fall half a foot, there is a general deposition as far as the reduced current extends of the excess of sediment which is in the water, and which the slackened current is unable to carry. This deposition may occur within a few days throughout the entire length of the river; but it amounts to very little, and is no doubt nearly all taken up again in floods when the current is accelerated. Now, I know that the river will act in this way from my own experience at the South Pass and elsewhere on the river. I am putting in to-day in two places, where the pass is unusually wide, works to reduce the width of the pass at these two places. The reduction of the width will reduce the frictional resistance of the water because it will make a smaller wetted perimeter or cross-section of channel.

The acceleration of the current will cause a removal of the shoals which exist at these two places. They are the only two places in the pass where the water gets so shoal as to have only twenty-six feet of depth. I think probably out of the whole ten miles there are certainly seven miles through which there are from thirty-two to thirty-five feet of water in the pass. I am very certain that if I reduce the width of the pass at these two points I will increase the depth to thirty-two to thirty-five feet. The works have already produced an effect which justifies me in this belief, if I needed any additional assurance. I am very certain that when I reduce that width to the width of the pass, where thirty or thirty-five feet of water exists, I will have equally deep water. How can it be possible to get this increased scouring power in the pass when I do not turn any more water into it? Because I lessen the friction of the water now flowing through it, and this gives me the scouring power. By lessening the friction the discharge of the pass will ultimately be increased, because at each one of these wide places in the pass the slope of the surface is unquestionably steeper to overcome the greater frictional resistance. It requires a steeper slope over them to overcome it, and I know that that exists. Now, if I reduce that friction steeper slope falls, because it is no longer needed to overcome the extra friction. As the channel deepens through these wide places thus narrowed the surface above each one falls until the same slope exists throughout the pass. The gain in slope reduction extends from the first up to the next wide place where there is another one of these steeper slopes or grades in the slope of surface. But when that is narrowed also and deepened, there will be an additional gain in the direction of lowering the surface, and that will extend up to the river. What is the result? More water will flow in from the river to the pass, because the surface of the pass will have been lowered clear up to the river. I will thus have lessened the resistance of the flow out into the Gulf, and will thus get a greater volume through the jetties.

Q. At what stages in the water do you get the deposit?

A. The greatest deposit is of course in flood times in places where the current is sluggish.

Q. Does that continue along down after the flood has receded, we will say to a depth of perhaps ten feet below the crest of the natural bank?

A. Well, you would have to locate the place where you would apply the question, because the rise and fall of the river is so great that ten feet at New Orleans would be two-thirds, almost, of the total flood of the river, while ten feet at Natchez would be only one-fifth.

Q. That is the object of my question—that it shows a condition of things varying at different points of the river, does it not?

A. The rise and fall of the river is less as you go down toward the lower end of the alluvial basin. Not to any great degree, however, from Cairo to Natchez, seven hundred and fifty miles. My recollection is that the rise of the river is equal to fifty-two feet at Cairo, and I think it is about fifty at Natchez.

Q. What is the fall from New Orleans to the Gulf?

A. From New Orleans to the Gulf it is only about sixteen feet.

Q. Do you expect to have a fall from New Orleans to the Gulf greater than seventeen feet?

A. I have no question that it will be greater than seventeen feet, if the volume of Red River is allowed to be obstructed from the Mississippi River.

Q. That is, it will increase the flow if you turn the Red River away from the Mississippi River?

A. No, sir; it will increase the slope of the river, and the same height of levees will not retain the floods.

Q. If you take the water out of the Mississippi River the slope will be raised?

A. Yes, sir; ultimately. If you take the water-escapes by an outlet, the first effect is to lower the surface of the river in the neighborhood of the outlet. The permanent effect is, however, just the opposite, as it was in building the jetties. The first effect of the contraction of the outlet there was to raise the surface of the water above the jetties in the pass. If we had depleted the pass by an outlet in its side, the first effect would have been to lower it, of course. Here it is the opposite. We narrowed the outlet, cramped it in width, and the first effect was to raise the surface above it. That gave a greater force and a greater current through this contracted part, and what it lost in width it recovers by deepening; and when it is deepened down it lets down the head of water which was above, that is gone; but an abnormal current still remained, because in contracting the mouth of the pass by the jetties we reduced the frictional resistance, and the old slope was then sufficient to maintain a more rapid current than before the jetties were built. I am satisfied that the South Pass to-day with the same quantity of water passing through it, does not attain as great a height, by several inches, at the head as it did before I commenced the work, because of the reduction of frictional resistance to the flow over the bar.

Q. The effect of the work in the South Pass, the jetties, has been to take hold of the banks and build them up closer together and pile the water on itself and make it deeper?

A. Not in the pass.

Q. The jetties have contracted the channel to 1,000 feet in width?

A. You speak of the pass, or of the bar in front of the pass?

Q. I allude to the jetty works.

A. The contraction was not made in the pass, you understand.

Q. It might be said to be equivalent to it, because it is made on the end of the pass. You may draw together, as it were, the banks of the river as making a narrow channel for the water?

A. There were no banks where the jetties are located.

Q. Might they not be the same if you really had built the jetties in the lower part of the pass itself and contracted the water way there?

A. The pass if contracted would have recovered in depth what it lost in width, or so much as would be sufficient to re-establish the normal velocity.

Q. By contraction of the river you pile the water on itself?

A. Yes, sir; it is backed up to a certain extent, according to the contraction.

Q. And make it deeper?

A. Yes, sir.

Q. And that acts with a scouring force upon the bottom?

A. Yes, sir.

Q. Below the city of New Orleans do you contemplate putting in the banks of the river any works of that kind for contracting the natural banks?

A. No, sir.

Q. Then we will assume all the time the present width of the stream?

A. Yes, sir, below Red River.

Q. With the current of the surface of the water below the natural banks of the river, how could you get an acceleration of the current if you have no narrowing of the water way? I am asking the question with reference to flood-time.

A. I explained that an increase of volume decreased the ratio of friction, and we can increase the current in two ways. We can increase it by increasing the slope of the surface, the fall from a higher to a lower level, which we do by increasing the volume. This increase of volume can be obtained in two ways also: first, by closing the gaps in the levees; and, second, by closing Atchafalaya and making the Red River discharge into the Mississippi. The second way of increasing the current is by decreasing the friction. When we narrow the river (as before explained) this is done.

Q. You are not to contract at New Orleans, so we will leave that element out, if you please?

A. I am not prepared to say that there are no places in the three hundred miles below Red River where it may not be necessary to make contraction to secure twenty feet at low water, but I think not.

Q. I say from New Orleans down?

A. I do not know of any place where it will require any contraction below New Orleans.

Q. Then, there being no contraction from New Orleans down, how will you get acceleration of the current, when the river is not above the crest of the banks?

A. Suppose that one-sixth or one-third of the river escapes at Red River, in one case we get an acceleration of current, if we prevent that loss of volume by the levees now existing if they are intact.

Q. Now, the water being in this condition at all times, while below the natural banks, and accelerated, you say, by the inflow of the current from Red River by one-sixth or one-tenth, you will then have an increase of scouring at the bed of the river, resulting from the acceleration, and then a retardation of that velocity, and a tendency to deposit, but not a deposit; is that your theory?

A. A retardation would occur as the channel was enlarged to suit the increased volume; but the retardation would not go to the extent of a deposit. That is what I mean, because there would be nothing to carry it beyond that point. But it is proper in this connection to explain that the magnitude of the channel is determined by the maximum floods of the river and not by ordinary stages of water. When I speak of the water being within the river banks, it is not in that condition always to increase the magnitude of the channel. The great scouring force or excavating force of the river is exerted with the greatest energy during the maximum floods, and then it produces its maximum channels.

Q. I thought you said a deposit was going on at the time of the flood?

A. Excuse me, I did not make such a statement. I said that during floods the largest amount of sediment was transported, as the river was then most highly charged with sediment; but the deposit was not made then except at places where the current was slackened; the current in flood, if checked by any means whatever and in the slightest degree, will throw down some portion of its burden of sediment. I stated six or eight years ago that the friction of a fish-net stretched across the channel would cause a deposit. This was verified a few years later on the Missouri, where wire screens with meshes one foot square have been stretched across the current to induce deposit with great success.

Q. Does the river run faster when it is at the height of the flood, or when it is at the medium stage?

A. It runs faster in flood, of course, than it does at the lower stages of the water.

Q. Does it when it floods so that it is over the bank; if the force is being lost over the bank?

A. I am not prepared to say that it will run faster than it runs when bank full; but if the flood be retained within the levees it will undoubtedly run faster. I show in my minority report facts that prove undoubtedly that the river with a difference of only 6.8 feet in its height, when it was above the banks within the levees, doubled its discharge, the river being at the time about 115 feet deep. This is a stubborn fact and is on record as one of the results of careful measurements made by Humphreys and Abbott over twenty years ago.

Q. A river filling its channel pursues a meandering course so long as it keeps within its natural banks, does it not?

A. Yes, sir; generally speaking.

Q. The general course of the river is very winding, is it not?

A. Yes, sir.

Q. With a river bank full, the current is confined to the channel, and so winds about, going, you might say, at a rough estimate, two miles for one over the whole valley. If you put on five feet of water above that level of the natural banks will the water then run faster on the surface than it did run when the water was confined within the natural banks?

A. Yes; not only on the surface, but all through to the bottom in the channel.

Q. Is it not a fact that when the river rises over the tops of the natural banks it begins to slacken the current at once?

A. Are you speaking of its being confined within levees?

Q. It may be confined within levees and yet not be within the natural banks.

A. That is true. And whenever the levees are unusually wide there will be a more sluggish current in the shallow water over the natural banks. If the levees followed the curvature of the river and were near the banks, the current in the channel would be more rapid.

Q. Is the water more sluggish than when it passes the limits of the natural banks, and there is water enough not only to fill the natural banks but to overtop and run down the whole length?

A. No, sir; it would not be more sluggish, because it would have a greater depth within the channel as the result of confinement of the river by the levees, and that is just the force that I want to retain. That is why I advocate the maintenance of the levees during the process of this river improvement. The result to which I look forward, and which I am confident will follow the complete improvement of the river, will be the lowering of the flood within the banks above the Red River so that the levees will be absolutely unnecessary, and below Red River down they will be only necessary to a limited extent.

Q. Let me suppose two conditions to illustrate it. Take the distance between New Orleans and Vicksburgh. A steamer shall start, carrying one hundred and fifty pounds of steam, if you please, to make the trip up the river at a time when the water is just even with the natural banks. To make the passage between New Orleans and Vicksburgh with that pressure and that stage of water, the same steamer shall later, when the river has risen into flood, and the water is eight feet higher and above the natural banks, with the levees as now located, and the gaps closed, with the same pressure—I say she shall make the same journey. Which one will she make the quicker?

A. Against the current?

Q. Against the current.

A. She will make the one quicker when the river is lower and within the natural banks. The higher the river rises the greater the velocity of current that she will have to contend with, other things being equal.

Q. Other things being equal, you will expect her to have to struggle more with the current when the river is in flood?

A. She will not make it so quick, because the slope from New Orleans to the sea will be increased nearly one inch per mile, which of itself is sufficient to greatly increase the current, and the increased volume reduces the ratio of frictional resistance, which is another element to increase the current. In Humphreys and Abbott's report of measurements at Carrollton it is stated that on March 19, 1851, when the river was 14.9 feet above low water at that place, it discharged 1,149,398 cubic feet per second, and the mean velocity was 6.19 feet per second. When it was 6.8 feet lower, and discharged only 572,388 cubic feet per

second, not quite one-half what it discharged at the higher surface, the velocity was only 3.38 feet per second, which was a loss of over 40 per cent. of that velocity. A diagram and complete statement of this is shown in my minority report of the River Commission above referred to.

Q. I included in my question the condition of the levees in their present location, with the breaks closed; would there be an acceleration of velocity, leaving out that element in your consideration, when the water was eight feet above the crest of the natural banks?

A. With the levees conforming to the curvature of the river.

Q. With the levees in the condition they were in last year, for instance, before any repairs were made on them?

A. Wherever an escape of flood volume is made through any of the breaks in the levees there would be a loss of current.

Q. Just as at that place?

A. Below that place.

Q. But that won't affect them sensibly the whole length of the river at, for instance, between New Orleans and Vicksburgh?

A. Of course one crevasse would not immediately affect that, but a permanent outlet kept open at Vicksburgh would undoubtedly affect the velocity of the current all the way down, until deposits in the bed of the stream raised it and gave that part of the river a steeper slope, and thus restored the velocity.

Q. Suppose there were no levees at all now; we wipe them all off, and take the channel and fill it up with water, and it has a certain velocity, and then we have a flood eight feet above the crest of the natural banks. Now, which surface will move faster, the one which is even with the natural banks, or that which is eight feet above?

A. It will be impossible to get such a condition, because the flood volume could not escape eight feet over the natural banks throughout the whole length of the banks.

Q. It was eight feet over the Mississippi Valley last year, was it not?

A. It might have accumulated in the swamps and lowlands eight feet deep after passing through some of the crevasses; but that would produce a different effect from that of an overflow over the banks having no levees whatever.

Q. But without levees there is sufficient water in time of flood for the water to pass over the banks and form a much wider stream of greater depth than it is within the natural banks?

A. A stream of greater depth?

Q. Yes, sir.

A. I am not prepared to admit that. A greater depth is possible in the alluvial basin outside of the channel.

Q. We have a map here which shows the overflowed region during the last flood—the ground covered. Now, from the point a little below Memphis it is apparent that the flooded portion covered a space, by the scale of the map, varying from twenty to seventy miles in width. You have information, probably, to the effect that it was to the depth of a good many feet over a large portion of that flooded space?

A. Yes, sir; there were places where it was very deep, no doubt, in the depressions in this area; but you speak of forming a river outside of the river—outside of the Mississippi itself.

Q. You misunderstood me. Take it as represented by the colored portion of the map and the width shown there, covering not only the space the natural channel occupies but also miles on either side of it. I would like to know when the water is at that stage of flood whether it is moving down the valley as fast or faster than the water is moving within the natural channel?

A. The overflow water moves much more sluggishly than the water in the channel.

Q. How does the water just above the channel move at times of flood?

A. It has the velocity of the water in the channel.

Q. Then that runs as fast at least as the water in the channel?

A. The water immediately above the channel?

Q. Yes, sir.

A. That is part of the channel water, I should call it.

Q. No matter if it is above the actual banks, it partakes of and shares the motion?

A. Water will flow through banks of water as easily as it will through banks of earth.

Q. Sure?

A. I feel quite sure of it.

Q. Then if anybody should call that statement into question you would doubt his knowledge, would you not?

A. I know that we have the best illustration of water flowing through banks of water in connection with the Gulf Stream. The direct contact of flowing water with quiescent water or with permanent banks of earth would create no more friction between the water confining the stream than would exist between the stream and the banks of earth. The quiescent water, however, in contact with the stream in the first case, would have a motion imparted to it by the current, and whether the force taken from the current to do this would be greater than what the same stream would have to lose by overcoming the cohesion of its atoms with the fixed banks of earth, is a question I can not answer positively, but I do not believe it would be greater in the one case than in the other. Hence I believe that water will flow through banks of water as readily as it will through banks of earth. I do not know the fact positively, nor do I know of any disproof of it.

Q. But you have no doubt that that statement is sound which you have just made?

A. I believe it to be so.

Q. That water will flow through banks of water as easily and rapidly as through banks of earth?

A. I have no doubt of that fact myself, but I do not know that it has been demonstrated as a scientific truth; I merely give my opinion. Water from the Mississippi River, that passes out through the jetties in flood-time, has its current well defined in the Gulf of Mexico for many miles out; but the waters of the river being lighter than the water of the Gulf, they have a tendency to rise and spread over the Gulf water, and as it spreads the frictional resistance to its flow increases and it gradually loses its velocity.

Q. Taking the height indicated by this map, and the space from New Orleans to Vicksburgh to be made by that steamer I have spoken of, and there are no levees we assume, will she have to contend against a stronger current at that time of flood than if the water was just even with the banks?

A. I think she would.

Q. No levees at all?

A. No levees at all. In other words, the larger and deeper the channel is the more rapid that current will be, whether it is flowing through banks of earth or banks of water on each side. If it have banks of water to flow through, there is a tendency to drag that water along with it and give it motion, and if it is shallow water laying over the banks of the river, it will have so much friction it can not move with the velocity of the other; therefore, this water will drop its sediment on the natural banks which it covers, and in that way the river builds up the banks within the levees.

Q. Then there is no doubt that the water above the natural channel at the time of flood, without regard to levees, moves with a greater velocity than when the water is just even with the banks?

A. I think it would move with greater velocity, of course.

Q. And so would have a scouring force greater on the bottom of the river, would it not?

A. It would have a greater scouring force.

Q. And wouldn't that be sufficient without building up levees for the improvement of navigation?

A. It would be impossible in that condition of things to have permanence in the channel. So long as the wide places exist it would be eternally caving its banks and creating new shoals at new places. My views upon the levee question are easily stated, and I think they can be readily understood.

I do not pretend to say that the improvement of the river for navigation alone and independently of any protection of the banks against overflow can not be accomplished ultimately without the maintenance of the levees. I will say even more, namely, that if there were no levees to day in existence below Cairo I would not recommend the building of them as a part of the system of improvement, adopted, because to rebuild the 2,000 miles of them as they now exist to their present height would cost from sixty to seventy million dollars. But as they are already built, and three or four millions will close the gaps in them and thus give us a much greater scouring force to deepen the channel through our works and will maintain and deepen other parts of the river that would become troublesome to navigation if the crevasses are left open and which are not yet under treatment, I feel fully warranted in urging with the greatest earnestness the closure of the gaps in them and their maintenance in good condition during the progress of the improvement of the channel. I urge this as a measure of economy, and a very important one. I feel perfectly sure that the cost of the channel improvement will be three or four fold greater than the cost of this levee work, if the levees are allowed to remain in bad repair or such condition as they were in a year ago. In this condition the effect of the crevasses is to increase the shoals in the channel and make many miles of channel works necessary that would not otherwise be needed, and this in portions of the river now needing no such treatment. As the places now under treatment are deepened the flood-line will fall, and in a few years the maintenance of the levees will be unnecessary above Red River. Below there some small height will probably be needed even after the improvement is completed, but the maintenance of them, if Atchafalaya be closed, will be very inexpensive. I have no personal interest to serve in this matter. I have no lands to protect with these levees, and have no more interest in the restoration and maintenance of them than that of any one member of this committee. I have my reputation as an engineer at stake in expressing these views, and will be glad to have it judged of in the future by the results which will follow a rejection or acceptance of them. I do not advocate the raising of the levees to a greater height than they were at the close of the war.

Q. Do these banks cave during floods?

A. To some extent.

Q. Much?

A. No, sir; not much during the flood, but during the subsidence of the flood. During the flood the bottom at certain localities is deepened so as to make the bank steeper, and when the water falls the bank loses the supporting pressure of the water, and, being too steep, caves in.

Q. Then there is no danger from caving banks during floods?

A. Not much. It is not when the river is high but when it is low that difficulties occur in navigation.

Q. But if the current is accelerated when it gets above the banks without levees, and gets greater scouring force, why do you not build levees to restrain the water for the purposes of navigation?

A. In the first place you could not get the water a foot or two higher on an average than the banks are without levees. You would have 1,000 miles on each side of the river for the water to go over, and it would be simply impossible to get an average of over a few inches, and this would be but a small increase of scouring force.

Q. It is not square miles, I suppose you mean?

A. No, sir; a thousand lineal miles measured along the stream on each side of it over which the flood water would be escaping, and you could not maintain it six inches deeper than bank full on an average, without levees, consequently it would make very little difference in the acceleration of current in the main stream. It is when the stream is in flood that it exerts its greatest channel-making power. A big stream makes a big channel, and a little stream makes a little one. If its flood waters are not permitted to escape the bed will be deepened. If you rob it of its quota of water, its channel at once begins to diminish. Its cross-section becomes smaller, and, like a smaller pipe, it will require a steeper slope to produce the same velocity.

Q. The river would do good scouring work; that is, good on the bed of the river, if it could be kept within its bank, would it not?

A. Yes, if its floods were not permitted to escape.

Q. Bank full of water, it will do good, will it not, digging out the bottom?

A. Under certain conditions. You may have it bank full, where the water is three or four miles wide, and it won't do good digging. If you have it confined to a normal width, say half a mile, or 3,500 feet wide, then it will, if you carry the whole of the water through the contraction.

Q. But the water within the natural banks will be doing it naturally, even if the other is loafing around?

A. Yes, sir; in proportion to the volume.

Q. That in the central portion of the river is attending to the bottom, no matter what the rest is doing? It may be at play; but that water in the middle or center of the stream is doing its work?

A. I admit all that.

Q. Haven't you got an effect on the bottom, a scouring force of the water on the bottom?

A. That would be sufficient if the width of the river is confined to 3,000 feet.

Q. But suppose that that overplus of water is not confined?

A. Then there is a loss of that much channel-making force. The overplus would not be at work in the interest of navigation. It would simply be devastating the lands adjacent to the river and leave the channel works to more slowly effect their object.

Q. Why is not that condition of channel sufficient to do the work when the channel is full of water?

A. Because it is not sufficient in flood time. There is no law that is more clearly established in silt-bearing streams than the fact that the slope diminishes with the increase of volume, and the reverse is equally true, that the slope steepens with the reduction of volume.

Q. We understand that. If I get your idea, it is that with this increase of velocity and so great a scouring force there is a deepening of channel, then with a retardation of velocity there is a stopping of scouring and possibly a deposit, and so the bed is formed, a seesaw down and up, or up and down, as the water fluctuates; am I right?

A. You may be right, but I don't clearly understand you. The bed of the river deepens in certain places where the channel is confined, that is, where it is narrow, as is the case at the piers of the Saint Louis bridge. In flood the bottom of the river between them is considerably lower, many feet lower than when it is low water. The bed fills up then. The bottom comes up as the surface of the water goes down. It is not a seesaw; the bottom and the top of the river come together during low water, and they are wider apart by the lowering of the bottom of the river in flood time as well as by the rise of the surface of the river.

Q. Then there are two seesaws instead of one; the bottom goes down and up, and the flood comes up and then down, so my illustration is a good one?

A. The trouble is in the wide places of the river; as long as they remain they are sources of disturbance in the channel.

Q. Now we have supposed in my last discussion that there would be no levees. We will now return to the condition of things with the levees in their present

locations and in good order in time of flood. If the levees are of sufficient height you will have the water confined within these artificial banks, and so you expect to have a greater current and a great scouring force?

A. Yes, sir.

Q. That great scouring force will be exerted all over the space between the levees, will it not, however far apart they might be?

A. No, sir.

Q. Why not?

A. Because the water over the natural banks has less depth, and is therefore more retarded by frictional resistance.

Q. It is a question of degree?

A. Yes, sir. You never find the water flowing over the banks with anything like the velocity that you do where the stream is deep; and as the stream rises up and spreads over such wide places as may exist within the levees it has no scouring power. On the contrary, there is a deposit occasioned, because the water is overcharged with sediment as it overflows, and it loses its velocity and deposits on the banks within the levees, and thus the overflow has a tendency to build up these banks between the levees higher.

Q. In all of that space?

A. Certainly. In all the space between the levee and the river.

Q. Supposing the levee to be set back some distance from the river. The levees are two or three miles apart, are they not, sometimes, where the river may not be more than a quarter of a mile wide?

A. I expect there are instances where that distance between them exists; but none where the river is only one quarter of a mile wide. The normal high-water width of the river from Cairo to New Orleans is about 3,500 feet.

Q. So you expect that intervening space to be filled up in course of time between the natural banks and the levees?

A. (The witness here illustrated by the first diagram in his minority report, and in explanation said): My view of the levees is that the maintenance of the levees intact (not the raising of them) is all that is necessary to cheapen and expedite the work of channel improvement so far as the levee question is concerned; and every year, as this work progresses, it will be less and less necessary to maintain them. By keeping them intact you will facilitate the improvement of the river by bringing greater scouring power within the line of the works of improvement. You will hasten the improvement and very much lessen the cost of it.

Q. You look forward to the time when in the greatest floods of the Mississippi River the water will all be below the natural banks?

A. Yes, sir; I have no doubt that if the greatest flood that ever occurred be repeated the surface water will be entirely within the banks from Red River up, when the proposed improvement is completed.

Q. And now levees will be required?

A. Yes, to hasten the improvement.

Q. In saying that you now contemplate a flood as great as that which extended over seventy miles in width, and you expect to get all that water within the space of the width of the natural channel and to keep it there?

A. It is evident, from the height of the river above Memphis, that that flood was no greater than other floods, and not even as great.

Q. Leaving that out of the question, take that flood as being one of the greatest, yet you look forward to the time when you can take all that water and keep it there within the natural banks so that the house of the cottager may be as safe immediately on the banks as houses that are built on the Chickasaw bluffs?

A. I have no doubt of it.

Q. How much will it cost to bring about that condition of things?

A. That will depend upon the skill that is exercised in the location of the works and in their construction. I think it ought not to cost over $30,000,000.

Q. And that will give you how much water to Cairo?

A. I do not think there will be less than twenty feet.

Q. And that will give you a ship-canal all the way to Cairo?

A. Not necessarily. I do not think that it would be necessary, or that it would pay to have a ship go up to Cairo. They are so vastly more costly than the river craft.

Q. It would be safe for them to come?

A. Yes, ocean steamers could go up to Cairo then; it will, however, make a cheaper channel for river craft, and be one of the safest for barge transportation that can be found in the world.

With respect to lowering of the surface of the floods within the banks, I call your attention to the fact that from New Orleans to Red River the slope is only one and eight-tenths of a foot per mile. That is three hundred miles and over. I speak from memory. I think it is three hundred and thirty miles from the jetties or from the head of the passes.

Q. To the mouth of Red River?

A. Yes, sir. In the sixty-nine miles immediately above Red River the slope is almost double in steepness. It is three and two-tenths inches per mile.

Q. Now, you speak of the slope of the surface at flood line?

A. At the high stage; yes, sir. That is from Red River to Natchez. Now, there is a reason for this, undoubtedly, and the reason is found in the numberless obstructions to the flow of the water above Red River. I would like to call your attention to the maps of the river recently published by the commission. The first maps, which show the river below the mouth of Red River, exhibit a very remarkable uniformity of width of river. But above Red River the character of the river changes; from there up the greatest irregularity in its width is to be seen, and the multitude of islands, chutes, and bayous constitute the bed of the river. From Natchez up the slope is still greater. Now it only requires a lowering of one-quarter of an inch per mile in the slope from Red River to Cairo, eight hundred miles, to lower the flood at Cairo sixteen feet. At every one of these wide places we find a steeper grade to the slope, owing to the frictional resistance the flood has to overcome. It deposits its sediment and builds up its bottom and gets a steeper slope at every island and wide place in the river; and each place you correct will produce just the effect that I shall accomplish by narrowing the two wide places in South Pass. It will produce a lowering of the flood slope at each one which will extend above all the way up to the rocky bottom at Commerce, thirty miles above Cairo, where the Ozark spur once barred the river, and which constitutes the upper limit of the Mississippi Delta or alluvial basin. I have no question in the world of the fact that this cumulative lowering of the slope will bring the floods down entirely within the banks of the river during the greatest floods that will occur. From Red River down the gain must necessarily be less because it is so near the sea.

Q. What is the reason the water runs from Cairo into the Gulf of Mexico?

A. The force of gravity. Because it is flowing from a higher to a lower level.

Q. You mean by that what you say in popular language is water running down hill?

A. Yes, sir.

Q. If it were not a winding stream, but were a perfectly straight line of a certain slope, you would have a certain velocity of that stream?

A. You would have a greater increased velocity, yet the result would be that it would dig itself a deeper channel and destroy navigation above, and the excessive velocity would tone down to the normal.

Q. If the lower end of that channel should be fixed, as I suppose it is, by the level of the Gulf of Mexico, then all the digging out process would result in lowering the upper portion?

A. Yes, sir.

Q. That would retard the current, would it not?

A. There is no man living who can retard the current of the Mississippi River permanently. Engineers can increase or decrease it temporarily. Nature has given it the power to regulate its own current. It does it by this scouring and depositing action. It does it because it carries this sediment in proportion to its velocity, and if its velocity is too great it will take greater loads, deepen its bottom, lower its slope, and thus reduce its current.

Q. Then the Mississippi River having by nature been provided with that power to regulate its own current, don't you anticipate that it will deal somewhat with the works that you have put in the stream, and that it will thus give an exhibition of its power?

A. Yes, sir. There is no doubt it will act precisely in this way. The works are designed to make the river do what we want.

Q. And in a small degree you count on this tremendous power of water in time of flood?

A. Yes, sir; we limit the degree of the force in the plan of the works. When we get the river to a comparative uniformity of width we will get a comparative uniformity of depth, and that will give us a comparative uniformity of velocity; and that comparative velocity of current will give us a comparatively uniform charge of sediment; and being charged with that it can not carry more, and it can not therefore attack the bottom or banks, and therefore they will cease to cave in and thus form new shoals.

Q. Now, you propose to create a uniform width of 3,000 feet?

A. Three thousand or three thousand five hundred feet at low water.

Q. You say if you make a comparatively straight and direct channel of 3,000 feet wide, all the way from Cairo to the Gulf, the water will not after that maintain that same channel and preserve it?

A. It will lower it so much that you will have enormously high banks on each side and destroy their utility.

Q. More than that, with the soil peculiar to the valley of the Mississippi, it will throw itself into the wandering course it has now and assert its power laterally?

A. It is a doubtful question to what extent it will do that. To straighten the river as you are proposing is an impossibility.

Q. I am supposing what engineers suppose. They are in the habit of assuming something which pleases their fancy and making their plans to suit them.

A. You are building a man of straw then and asking me to knock it down.

Q. I am building you banks of earth that shall be separate and uniform in width. Is it not a fact well stated by the best engineers, as applied to such a channel as that, that through such a soil as the Mississippi River flows, the river would go across from side to side, as it does now, wandering over the valley, and then strike against the banks and carry them away and take an entirely new course?

A. I think to a great extent that would be so, because of the different characters of the soil through which the river runs.

Q. It not being entirely homogeneous?

A. Yes, sir.

Q. When you have your banks only 3,000 feet apart will not the river assert its power to meander?

A. We can only judge by the facts which exist. There is, as you will see, a very great bend [referring to Coast Survey chart No. 94, Mississippi River] at Fort Jackson. There is a place where you would naturally expect the Mississippi River to cut away its bank, because the whole volume of the river is there directed against that very short bend. Since the white man has known it, however, there has been no change in it. Why? Because the river is comparatively uniform in width above, and it is so charged with sediment that when it comes down here it can not pick up any more from the bottom or undermine the banks. It is simply because it is of uniform width of body for many miles above. If you had just above it a wide place, some of the lake-like places which are common on the Upper Mississippi, it would be cutting away that bend immediately. It is one of the most recent deposits of the river, and of the most unstable character; yet with a uniform width of river above it, this bend is almost as stable as a rock.

Q. There is comparatively little erosion of the banks below New Orleans?

A. Very little; very little below Red River, because of the great uniformity of the depth and width of the river.

Q. And there is a little less current there, is there not?

A. Very little less current.

Q. It runs slower down above New Orleans than from Cairo down, does it not?

A. The difference in the velocity is very little. I do not think it is one quarter.

Q. The difference in slope is how much?

A. Very great.

Q. Doesn't that make a difference in velocity?

A. It would, were it not for counteracting forces. The slope of the South Pass is three inches per mile, and the slope of the Big Pass two inches. The Small Pass being smaller, has a greater ratio of friction to overcome, and needs a steeper slope.

Q. From the mouth of the Red River down to the head of the passes, the slope is not so great as from Cairo to Red River?

A. No, sir; it is not.

Q. Doesn't that slope down from Red River give greater velocity than it does above? With a much greater slope between Cairo and Red River than between Red River and the head of the passes, isn't there much greater velocity of the stream above?

A. Not much greater. The mean velocity down here would probably be six or six and a half feet per second; and up in the upper part, where the slope is nearly two and a half times greater, it is only about eight feet per second.

Q. I thought the whole theory of this improvement was, that by increasing the slope you were thereby going to have a greater velocity, and now we find that we have a greater slope and not so much velocity?

A. There are some things that look like paradoxes in nature, but which admit of easy solution.

Q. Well, we will have the solution.

A. The question you have raised is one often discussed by hydraulic engineers; that is, that the slope of a river is always less near the sea than further from it, and a satisfactory solution of it I do not think has ever been published. The question was raised in the commission one day, and I proposed a theory to explain it. I attributed it to the acceleration of velocity in falling bodies. All water falling from one level to another acquires this acceleration, other things being equal. In one second of time it falls a certain distance, the second second through a greater one, and the third through a still greater. This is an acceleration of velocity, and is easily noted in waterfalls. If we consider that the water up the river above Cairo once fell over a precipice three hundred and fifty feet high, there must have been an enormous acceleration of velocity in the lower part of the fall. If you slant out from the precipice a vast deposit of earth, we would bring in the element of friction to retard the velocity, but the accelerating force would remain. There would be still a greater velocity at the lower end of the incline, if it were straight, than at the upper end, and this would be due to this acceleration of velocity, as exhibited in bodies falling through the air.

Q. Is that a good illustration—the fall of a body through the air?

A. Yes, sir; it is. Then comes in the silt-bearing character of the stream, by which it regulates its own current and produces that current necessary to preserve its channel from being filled up or too deeply excavated. As this acceleration of velocity is felt on down toward the lower end of the river, a lower slope will produce that normal velocity which is necessary for the stream to have in its higher reaches. When I speak of normal velocity, I mean the velocity necessary to carry sediment without loss or gain.

Let us suppose the incline from the top of our ancient precipice to be a perfect plane to the sea; that is, a regular slope from a height of three hundred and fifty feet to the Gulf. The accelerating force alluded to would create a more rapid current as it traveled on toward the sea. This would give too great a silt-carrying power to the water, and the result would be a deepening of the bed at the lower end of the river and a lowering of its slope. The slope would not remain uniform from the precipice to the sea, but if the width of the stream was uniform the slope would doubtless be a parabolic curve, with its flattest end at the Gulf, and the bed at that end would have greater capacity with less current.

Q. What is the average velocity of the current from Red River to the head of the passes?

A. I think in flood-time it would be about six and a half feet.

Q. What is the average velocity of the river at the same stage of water from Cairo to Red River.

A. The average would not be over seven and a half feet; but from Cairo down to Memphis it would probably be eight feet per second. It is not materially greater. When you get up into the Missouri you have a fall there of ten or twelve times as great as it is here per mile, but the mean current is but rarely, I believe, more than eight or nine feet per second.

Q. All this velocity gives greater increase in scouring power?

A. That depends upon where it is located.

Q. Well, we are talking about this Mississippi River now. I will stay right in that river.

A. You lose sight of the power of the river to produce its own velocity.

Q. I do not think so. I adapted your statement to the conduct of the river itself.

A. I am at a loss to see how you come to such a conclusion, because you say although the slope from Cairo to Red River is much greater than from Red River to the head of the passes, yet the velocity from Cairo to Red River is substantially no greater than from Red River to the head of the passes.

Q. Your theory is that you increase the slope, and by that you get acceleration of velocity whereby there is no increase, and there is no acceleration of velocity. If you increase the slope you said you would get an acceleration of velocity?

A. That is one way to increase the current, but we get our acceleration by decreasing the friction; that is, by contracting the narrow places. We want to lower the slope, not to raise it. One reason of the greater slope above Memphis and above the mouth of Red River is because of obstructions to the flow of the water—those islands and wide places. There is no possible explanation in the world of such an increase of slope as exists from Red River to Natchez and on up to Cairo, except these obstructions. We propose not to increase the slope, but to reduce the resistance to the flow of the water by reducing the wide places. This will give us a more rapid current, and it will deepen the stream through these wide places, where the obstructions to navigation also exist. I will state in this connection that at Karlsbad, last summer, I had the pleasure of meeting the chief hydraulic engineer of the Prussian Government, Mr. L. Hagen, to whom I submitted my minority report and also the first report of the commission. I have a letter from him, in which he says that the principles on which the plan of improvement adopted by the commission is based are recognized by the engineers in Germany as correct, and their works for the rectification of the Elbe, the Rhine, Weser, and other rivers, are based upon the same theories.

Q. There is considerable controversy between foreign engineers with reference to river works, is there not?

A. I think so.

Q. That last collection of works translated by Lieutenant Merrill of the distinguished Russian engineers, Janicki, Jacquet, and Pasqueau—do they not question a good deal the system of rectification of water ways in France?

A. I have not had the advantage of reading them yet.

Q. That is a work that you will find, and for free distribution, at the War Department: and I have no doubt that you will find it very interesting, and that you will get a great deal of information out of it.

A. Is it a recent publication?

Q. Yes, sir. Last year, upon the examination of all these theories, these prominent engineers considered the plan of rectification as applied to several rivers, and they have finally returned to the old system of canalization.

A. I have personally examined at least eight hundred miles of the improvements of the Danube and one hundred and fifty miles of the Theiss River, in Hungary, and portions of the Elbe, the Rhone, the Oder, the Vistula, the Rhine, and several other rivers in Europe, and the rectification of these rivers is conducted upon very similar methods to what we are using, except that they do not use brush mattresses to any great extent; they use more expensive stone dikes.

Q. Referring to your anticipation respecting the works to be done on the Mississippi River, and to your belief that you have a lowering of the bed, and so bring the water down to the level of the natural banks, will you permit me to say that I think you have on other occasions instanced the Rhine as an example of what might be accomplished in the way of the avoidance of floods in the Mississippi River to the extent that they have been avoided on the Rhine. The late accounts which we have from the Rhine would lead me to judge that that river has failed to keep its contract. They have had a very large inundation in that country, and it would appear that these works have failed to meet the demands of the flood.

A. That is a failure of the levees.

Q. But your theory is that the levees will not be necessary when the works are completed: and these have been completed a long time, have they not?

A. No, sir. They will require eight or nine years to do that. I think the dikes in Holland have not given way, and there is where the levees and dikes are the highest. I am unable to speak with any accuracy or from any personal knowledge of these inundations on the Rhine. The inundation at Szegedin, on the Theiss, in Hungary, by which that city was destroyed, was investigated by me.

Q. (Interposing.) I want you to keep to the Rhine.

A. With respect to the Rhine, the improvement I alluded to was below Cologne. It extended some forty miles, I think. I remember loaning one of my essays to Colonel Flad, explaining my plan for improving the Mississippi River, seven or eight years ago; and, when he returned it to me, he said that it was similar to the plan by which the Rhine was improved below Cologne. When he came out of school, that was the first work he was employed on. He proposed to get me the official account of it and its results. He said it produced remarkable results; and the report showed that the surface of the river in floods had been lowered six feet, and the depth of the channel had been increased about two meters, or six and a half feet.

Q. These observations were taken at the time when there were no floods?

A. They must have been taken at the time of floods. There is one there almost every year.

Q. And this year it has gone all over the country, destroying the habitations of the people along the banks, inundating towns, and rendering the people homeless, so that all America has been called upon for contributions to aid the sufferers. And this effect, it seems to me, shows apparently that that work is not at all sufficient for any such results as you anticipate here.

A. The work Colonel Flad referred to was below Cologne. These recent floods are, I understand, far above there. It does not follow that they have carried the works to completion there. On the contrary, the chief engineer of the Prussian Government, to whom I referred, gave me two official reports on these rivers (which I have had translated for the Mississippi River Commission), describing the improvements on the Rhine, the Vistula, the Elbe, and some French rivers; and I recollect distinctly that he said that the works on the Rhine would yet require some eight or ten years to complete, and an expense of I forget how many million of marks.

Q. How does the Rhine compare in volume with the Mississippi River?

A. It is very much smaller, of course.

Q. Not one of these rivers which you have mentioned is as large as the Mississippi River?

A. I think not. The Danube drains about one-third of the area drained by the Mississippi.

Q. Then what would answer for a stream like the Elbe or Theiss might be insufficient for the Mississippi?

A. Very true.

Q. The tests upon a small stream of water are not very satisfactory for a current like that of the Mississippi River?

A. The currents of the Rhine and Danube are as rapid as that of the Mississippi. The only means of judging of the probable effects are by noting those which are produced upon smaller streams, and by a thorough knowledge of the laws which control all rivers.

Q. Would it not be a better thing to put down works at one place—say, for instance, at Plum Point reach—and perfect the works there according to the plans of the commission, and then wait through a season of flood and test the efficacy of this work?

A. If there were any doubt as to the absolute result of such works there might be some wisdom in doing that; but they are so thoroughly verified by observations and by scientific deductions from well-established laws that they are just as certain of producing their results as it is certain that if you stand a pole out in the park and the sun shines upon it it will cast a shadow.

Q. You do not anticipate any failure in the matter?

A. Not at all. I think it would be very unwise to suspend work at any of these points where it has been commenced. It would result in great loss. It would cause a decay of plant, a disorganizing of the force employed at each, and many other expensive things.

Q. If the work on a given reach should turn out to be a failure, the plant would probably drift into decay, and there would be no need for preserving it for another day?

A. There is no probability of its turning out a failure to justify such a suspension.

Q. Your commission are not unanimous in regard to their opinion as to the absolute perfection of their theory?

A. They are, with the exception of General Comstock, and I don't know that he goes so far as to condemn the work. In the first report he dissented because he thought there were certain principles laid down in the report which he did not think had been sufficiently demonstrated to be recognized as established facts; but I think that General Comstock has not had that experience in the construction of works of this sort that some other members of the commission have had.

Q. He does not agree with some of you in regard to the efficacy and importance of the levees in connection with the low-water navigation?

A. No, sir; he does not think they are an essential factor in the improvement of the navigation.

Q. During the last year, did you participate in the consultations of the commission in regard to the works?

A. No, sir; I was sick and absent.

Q. You did not take any part, then, in their deliberations?

A. No, sir; I was out of the country at the time.

Q. So you only know by hearsay why allotments were made in one place or another; you only know from what other members of the commission have told you?

A. I know by what I have read in their proceedings. These I have received and read. But you have had all that information from those members themselves in their testimony here.

Q. So you would not be able to give any additional information of your own knowledge?

A. No, sir; nothing so reliable as that. The reasons for the allotments, I think, are given in their report.

By the CHAIRMAN:

Q. Take a place where the river is 5,000 feet wide and bank-full, and suppose you could bring the banks to within 3,000 feet instantly, what would be the first effect?

A. The raising of the water above and lowering it below; cutting off a portion of the supply of the lower part of the river would lower the surface there, and the damming effect would tend to raise the water above. It would therefore greatly increase the slope between the part below this narrowing and the part above it.

Q. That increase of slope would produce a very rapid and abnormal current. Wouldn't that scour out the channel and bring in into the banks?

A. I presume it would, as you say the river would be only bank-full.

Q. Now, when that is accomplished, will there be any addition in the velocity between a stream 5,000 feet wide and one 3,000 feet wide?

A. The velocity which would be produced would be the normal velocity; that is, that velocity which is sufficient to carry off the sediment.

Q. Wouldn't the velocity be the same?

A. Practically it would be the same. I was going on to say, if the river is bank-full, the raising of the surface above would cause a loss of all that force due to the raising of a head of water above the contraction, because it would overflow the banks, and it would take longer to deepen the channel through the contraction on that account.

By Mr. ROBINSON:

Q. I intended to ask you a question or two in regard to the other passes at the mouth of the Mississippi River. When you commenced the construction of the jetties, or after you proceeded with your work, did you stop in any way, partially or wholly, either of the other passes, or both?

A. The Southwest Pass is now perhaps a little smaller at the head in cross-section, where I laid a sill across it, than it was when I commenced the work at the jetties, and Pass à l'Outre is a little larger. Observations made by the engineers at the jetties last year, I understood from my manager there, revealed the fact that there was about the same quantity of water passing down the South Pass now that there was previously—that is, before the jetties were built; so that if less should go through the Southwest Pass there must be more through the other.

Q. Is there a sill now in position at the South Pass?

A. Yes, sir; there is a sill across the head of each one of these passes?

Q. What is the height of that sill?

A. About two feet.

Q. And the purpose is to cause a greater amount of water to go down the South Pass?

A. No, sir; the purpose was to hold these two passes in the shape I found them in when I commenced the work.

Q. Was there any purpose to furnish more water for the South Pass?

A. No, sir. It was never my intention to put more water through it than naturally flowed into it when I commenced the work. And these sills were placed there purposely to prevent any enlargement of these two passes, so that I should have no less in it. The works that I built at the head of the pass for the purpose of deepening the shoal that obstructed the entrance into the South Pass were of such a character as to form an obstruction to the flow of the water. Water follows by "the line of least resistance," and that was down these two

passes after the works were built. They stood on each side of these works with their channels wide open to receive the slightest accession, and I found that the Southwest Pass and Pass à l'Outre had both deepened under the influence of it. An enlargement always occurs at the upper end and works down; and this enlargement had commenced there, and to prevent any further enlargement I put these sills in, and it practically resulted in causing the same sized cross-section as when the work was commenced, because they had only deepened about two feet, which was the thickness of the sills.

Q. No damage could result to the Southwest Pass by being deepened?

A. No, sir.

Q. And therefore it was to hold it in proper shape?

A. Yes, sir; the South Pass under the influence of this loss of water had lost a part of its cross-section at the upper end, and it was officially reported by engineers hostile to the work down there—Major Howell, who had charge of the dredging operations at the Southwest Pass and who originated the Saint Philip's Canal—that the South Pass had been seriously reduced in its capacity as the result of the jetties checking the flow of water into it, and that the whole thing would be a failure from that cause. It did lose 6 per cent. (I am not sure but it was 10 per cent.) of its cross-sectional area under the influence of the works at the head of the South Pass, which prevented the water from coming in freely. I received letters from General Barnard and from General Alexander, in California, Colonel Merrill, and other of my engineering friends, urging me to remove the works at the head of the pass and let the water in, as otherwise they feared I would have serious trouble.

Q. But instead of removing the works at the head of the pass——

A. (Interposing). I left them intact.

Q. The object in putting the works there was to deepen the shoal that was there?

A. Yes, sir.

Q. And that was done about the time you made the jetties?

A. It was commenced very soon after I commenced the jetties.

Q. As a part of your jetty contract work?

A. I recognized it as a part of my duty to deepen that shoal, because an estimate for it of $380,000 was contained in the estimate of the commission's report, which Congress adopted as the basis of their contract with me.

Q. If you regarded that work as necessary at the head of the pass; if you regarded that as a part of your contract, and also regarded the work at the outer end of the South Pass, where you put the jetties, why is not the entire South Pass as much a part of your work as the two ends of the pass?

A. If it is a good reason to assume that I was bound to do that because it was included in the estimate, it is an equally good reason, I think, to suppose that Congress did not intend me to maintain the pass channel also, because it was not in the estimate. The commission made an estimate for the cost of the works, and they furnished a plan, and the plans and estimate showed just exactly what work was contemplated to be done, and the maximum depth to be maintained, by the advice of the commission, was twenty-five feet, and they estimated that it would cost $380,000 to reduce this shoal; and they estimated that it would cost $130,000 to maintain the jetties and extend them. I took the work of maintenance for $100,000, $30,000 less. There was not a single item that showed an estimate for the maintenance of any channel through the pass, nor the maintenance of the pass. On the contrary, they declared that the pass when improved was entirely adequate, and the improvement which they alluded to was shown by the plans. It was to deepen that shoal; not to deepen any part of the pass at all. And I think that it is a gross injustice that I am required to maintain a channel through the pass, because I am not paid for that work.

Q. The consideration of your obligation to maintain a channel through the shoal was early maintained, was it not, by the Department?

A. No, sir; the question never came up about my obligation to maintain a channel through the shoal or through the pass until it was decided by Assistant Attorney-General Philips a year ago. The question of my obligation to secure the channel through the shoal was passed upon by Attorney-General Taft; that is, to obtain it.

Mr. ROBINSON. That is what I meant to say.

The WITNESS. Attorney-General Taft said in his decision substantially that there was no clause in the entire act that required me to deepen the shoal at the head of the pass, except that which was contained in the forfeiture proviso, and that is, if I did not have a channel through the pass at a certain time Congress could forfeit the grant.

The committee adjourned to meet at the call of the chairman.

Professor Henry Mitchell was sworn and examined.

By Mr. THOMAS:

Question. I will get you to state your name, age, and business.

Answer. My name is Henry Mitchell; my age is 52 years; my business that of surveyor.

Q. Are you a member of the Mississippi River Commission?

A. Yes, sir.

Q. How long have you been a member of that body?

A. Since its organization.

Q. What was your business prior to your appointment as a member of that commission?

A. I have been about thirty-one years in the United States Coast Survey.

Q. Had you experience on the Mississippi River prior to your appointment as a member of the Mississippi River Commission?

A. Yes, sir; I had been a member of the jetty commission.

Q. Since you have been a member of the Mississippi River Commission how often have you been up and down the river examining its condition?

A. Well, we usually have had meetings out there about ten times in the year.

Q. What do you mean by "out there?"

A. I mean at Saint Louis, on the river, and at New York. We receive reports of the officers in charge of the surveys and works of the river, and go over their balances.

Q. Are you a member of the executive committee or the committee on work?

A. No, sir.

Q. Were you a member of the sub-committee to formulate a plan for the improvement of the Mississippi River, or was that determined by the whole commission?

A. I think by the whole commission; but I am not sure.

Q. Since the adoption of the present plan by the commission have you had reason to doubt its efficacy, or are you yourself satisfied that the plan of the work for the improvement of that river is the correct one?

A. I think my confidence in the plan has steadily augmented with our experiments. The theory that we had for the care of that river is no new theory. It has been used from time immemorial, as far as I am aware.

Q. You speak of time immemorial. Will you be more specific and give us instances—where it was employed first, and come along down the pathway of time since that immemorial period you speak of?

A. I think I could carry it back to Alexander's mole across the chute at Tyre.

Q. Well, that is beyond the Constitution, and I will not ask you to go as far back as that.

By Mr. ELLIS:

Q. Was a similar plan to this tried at that early day?

A. I do not know the details of that time. I only know of works at that time. The Dutch have always used these methods on the Lower Rhine.

By Mr. THOMAS:

Q. Successfully?

A. Yes, sir.

Q. Are the methods substantially the same as those employed by you?

A. Yes, sir; and the English have used it on the Thames.

Q. How about the Austrians on the Danube?

A. I have never been on the Danube.

Q. Have you observed these works personally in Europe?

A. Yes, sir; not intimately; I have not examined them professionally in many places.

Q. Have you examined the Mississippi River below Cairo with a view to determining the extent of the river that will need treatment by your plan?

A. I made a little study of that kind two or three months ago and reported to the commission that about one-third of the whole distance from Cairo to Red River would require full-bank work.

Q. That is, on one side or both sides?

A. Two hundred and sixty miles of river; that is, making five hundred and twenty miles of bank work.

Q. What is your estimate as to amount per mile which it will cost to put in foot mattresses, revet the bank, and narrow the river according to your plan at the wide places?

A. I have made a very liberal estimate in this way: I have taken Mr. Marshall's estimate for all the varieties of work in his district, which is $15, I think, a running foot, and then I have doubled that and multiplied it by the five hundred and twenty miles, making $41,000,000, and that sum I consider excessive.

Q. Why did you double the estimate of Mr. Marshall, who I believe is one of the officers in charge of one of the reaches on this river?

A. Because he was not working at full bank-work on both sides of the river.

Q. But his estimate included full bank-work. Was it made on that basis?

A. Yes, sir; this $15 per foot covers full bank-work.

By Mr. ELLIS:

Q. What do you mean by "full bank?"

A. I mean all the work that is executed, and all the essentials of the entire plan.

By Mr. THOMAS:

Q. That involves the improvement work and revetment up to high-water mark?

A. I believe it does.

Q. And you double his estimate for that work in making the estimate which you do?

A. You do not understand me. I take my 260 miles and multiply it by 5,280 for the feet, and I then multiplied by $15, which gave me $20,522,000, and then I doubled that.

Q. Do you think Captain Marshall's estimate would be a reasonable one?

A. Well, I find that the engineers are inclined to base their future estimates upon their past experience, and not assume anything for future improvement of skill, so that I presume that that is a full estimate.

Q. Then why do you double this?

A. Because I want to include both banks.

Q. Does not his include both banks?

A. No, sir; he has work on both banks, but the works are not opposite to each other.

Q. As I understand you, you say that his estimate for completed work on the bank is $15 per lineal foot?

A. Yes, sir.

Q. Then you say that includes all the work according to the plans, that is, the estimate for the work according to your plan; then you say that you multiply that by the number of feet. You first reduce the five hundred and twenty miles to feet, and you multiply then the cost per lineal foot by the number of miles?

A. I do not multiply by two twice. If I multiply 520, I have already doubled my banks.

Q. Upon what do you base your estimate of one-third the distance requiring work?

A. I base it upon such surveys as we have already made, and such reports as we have from steamboatmen who have had considerable experience with the bars, but mostly upon the studies and the maps of that portion of the river which we have carefully surveyed.

Q. Do these maps show acurately the extent of the caving banks?

A. No, sir; but they show the extent of the curves in the course of the river, the length of the pools, the length of the bars; and from that one may easily judge, who has experience of the river, about what amount of caving is going on.

Q. What is your experience as to the extent of caving in bends, the average extent between the mouth of Red River and Cairo? Is it 1, 2, 3, 4, 5, or 10 miles?

A. I can not answer that question. There are bends where there is no caving at all. There are some where there is occasional caving, and there are others where the caving has been going on for a great length of time.

Q. Take the length of the bars and the present and past cavings, as shown, do you think that 520 miles is a reasonable estimate of distance that would have to be improved by your plan?

A. Yes, sir.

Q. Do you think that $15 per foot will be the average cost of that improvement, or is the work of Captain Marshall the most expensive?

A. I have considered this full-bank work.

Q. Is it true that full-bank work will have to be done on this full stretch of five hundred and twenty miles?

A. I do not think it is.

Q. What proportion of it do you think will require full-bank work?

A. I have estimated upon all requiring it; but I have no doubt that we shall discover that a portion does not require it, and that other portions will require only partial work.

Q. So that you think that would be a fair average?

A. That is a fair statement, I think, of the case.

Q. What is your minimum? If I get you aright, your minimum and your maximum are the same.

A. I have neither, because I have based it upon an average.

Q. What is your estimate as to amount of bank that will require the first or primary work? How much do you estimate will require the foot-mats, and how much will require revetments, and how much will require half revetments and how much full revetments?

A. I do not know, sir.

Q. You have never made an estimate on that basis?

A. No, sir; not on that basis.

Q. Do I understand you that you think this estimate you have made will cover the full cost of the completed works on the river, excluding levees, from Cairo to the mouth of Red River, or throughout the entire extent of the river?

A. From Cairo to Red River.

Q. Why do you state that this is an excessive estimate?

A. Because I have made no allowances for incomplete work at those points where completeness will be necessary.

Q. Then I want to know what would be a reasonable estimate?

A. I think this a safe estimate, but I have never seen any occasion to doubt that our original estimate of $33,000,000 would be a reasonable one of the cost of the work to the mouth of Red River.

Q. As I understand it, you have no reason to change your opinion as to the reasonableness of that estimate?
A. No, sir.
Q. Has your experience in the work, as far as progressed, taught you how to save money—that is, how to improve the character of the works at a saving of cost?
A. I think that would be the experience of the executive committee.
Q. Are you not a member of that executive committee?
A. No, sir.
Q. If that is the experience of the executive committee it is the experience of the commission?
A. Yes, sir.
Q. I understand they are simply the agents of the whole commission?
A. Yes, sir.
Q. What effect do you think outlets have on the navigable channels of the Mississippi River above the mouth of Red River or from Cairo down to Vicksburgh? and by outlets I mean the overflow of the river into the Saint Francis basin and the other basins of the alternate sides of the river.
A. I have no doubt they are a source of injury.
Q. Give us an instance.
A. Those in the locality of which I have been speaking, on which I have based my figures between Cairo and Memphis——
Q. (Interrupting.) Was it upon that stretch of the river that you based your estimate between Cairo and Memphis?
A. Yes, sir; largely.
Q. I thought Marshall was in charge of the section between Vicksburgh and Plum Point?
A. Yes, sir.
Q. Did he make the estimates for the section between Cairo and Memphis?
A. No, sir; his estimates were the largest ones that I had.
Q. And that applied to work in points known as the Vicksburgh reach?
A. In the Lake Providence reach.
Q. In the Lake Providence reach, I mean. Now go on. I did not understand the connection of the estimates made in one section with those made in another. Now go on.
A. I was going on to say that the great trench which the Mississippi River is plowing through its own *débris*, and those great banks which separated it on either hand from the adjacent swamps, are the works of its floods. That is patent. Now the maintenance of these great banks is essential to the retention of this flood river in its present location. This flood river predetermines, in a very general way, the position of the low-water river. Where this flood river is very wide its floor is flat, and the low-water stream meanders over it in a thin sheet. Where it is constrained it has a hollow bottom more or less acute, and the low-water river, while still having the same amount of water, furnishes greater depth. You have observed in your recent visit that when the stream goes around a bend it plows into the bank, and into the bottom, and in that operation it loses its power, it loses the continuity of its motion and its acquired velocity; it loses what is technically called its energy, and immediately beyond such a bend the river throws down its load of material which it has dug out of the pool above. Thus the bar is a legitimate product of the turn in the river's course and these bars are found all the way to the Gulf of Mexico, although in the lower portion of the river they are submerged, it may be, sixty feet.

Whatever changes the straight direction of the stream consumes its energy, breaks up the continuity of its motion, reduces its velocity, and is a source of bar building. Now this change of direction may be induced by a crevasse—a break in this great natural levee—which influences the stream to the very bottom of its channel. Theoretically, this influence extends to the bottom of its cannel, be it ever so deep. The movement of water at all depths is dependent upon the surface slope, and the direction of that movement is dependent upon the direction of that surface slope. Now, the river along its proper course has a slope of three to five inches to the mile. The slope on either hand toward the swamp is from four to fifteen feet to the mile. Wherever the flood river makes or discovers a break in the bank it is tempted toward the swamp. If the break be only six feet deep, and the river be one hundred feet deep, every particle of water down to the bed of that channel will feel that impetus and tends toward that bank; and, impinging somewhat upon this bank, it loses its power of carrying much further its load of sediment; it may even raise its water as a direct consequence. The result is that there is a deposit of material below the crevasses, and this, reacting, ponds back the water and increases the flooding of the bottom lands. In looking around for an illustration of this thing, it occurred to me that I had a very familiar one before me. I had made a study of Cubitt's Gap before the formation of this commission, and had reached just this conclusion at that time, namely: that the great river had been turned against its bank by this crevasse.

Now, this crevasse, Cubitt's Gap, was an artificial one. It was simply a boat passage to an oyster-bed; so that we can not assume that there was any previous tendency of the river in that direction. This crevasse was surveyed in 1866 and again in 1876, and during that period it was in full operation. The great river was turned by this outflow so that at forty-five feet deep the thread of the river channel turned toward the bank. Now, by reason of this turning of the river toward the artificial outlet, there was brought about an impact upon the bank of the stream, something more than ordinary scour. It was an impact which caused the stream immediately to exhaust its energy in excavation one hundred and twenty feet below the surface of the natural bank.

Its waters then poured through into the sea over a sill three to five feet deep at high water.

By Mr. THOMAS:

Q. What do you mean by the "sill?"
A. The sill was where the pre-existing earth had never worn away. Now, the turning of this stream and the loss of this water caused the great river below to shrink up about three and eight-tenths feet in the average for over two miles.
Q. Then that is a clear loss of sectional area?
A. Yes, sir; for over two miles; so that the river gained nothing, for there was no more outlet now than there was before. But the great point in the illustration is this: that this river did turn in its bed with this water flowing over a sill only five feet deep. If it is necessary to complete the banks of the river it must be done in such a way as to provide against any sudden bursting open of crevasses. We happened to have the history of Cubitt's Gap, but for another crevasse, Bonnet Carré, we have not. Bonnet Carré happened long ago, but Riverton has opened during the last flood, and we may be able to trace its effect in our present surveys. One observes at Bonnet Carré, in the form of the bottom, precisely what exists at Cubitt's Gap; the same shoal makes out from the opposite shore, and the same deposit appears below. This turning of the river is really an important point, because it does not admit of any doubt theoretically, and is only doubtful in its magnitude. This report that I have here is from Mr. Marindin, of the Coast Survey, to the superintendent of that service, and is to be found in Appendix No. 10, "Report of the United States Coast and Geodetic Survey for 1880." I read from it: "The notable feature in front of the gap [referring to Cubitt's Gap], and one which in a great measure must be traced to it as its cause, is the formation of the shoal on the west bank, as shown by the deep contours, the 24-foot curve more especially."

He observes this very thing there, but perhaps he had seen my previous report, written several years before, in which I had expressed much the same idea. At the Jump we know nothing of the history of the crevasses; but it will be observed, on looking at the chart, that the river runs close in against the bank below and more sharply there than at any other point.

The committee adjourned to 9 a. m. Friday morning, January 12, 1883.

WASHINGTON, D. C., *January* 12, 1883.

The committee met on Friday morning, a quorum being present. The examination of Professor Henry Mitchell was continued, as follows:

By Mr. THOMAS:

Question. Have you anything further to state relative to Cubitt's Gap—its effect on the lower part of the river?

Answer. I referred yesterday to a report of mine written in 1876, and never published, to show that my view as to the action of Cubitt's Gap was the same then as now, and long before there was any connection of ideas between that and the improvement of the upper portion of the river. I would now like to introduce an extract from that report, and I will read it:

[Extract from a "Review of surveys and gaugings of Cubitt's Gap made in 1868, 1875, and 1876, November 16, 1876."]

* * * * * * *

"The stage of the river to which these figures correspond was flood, the surface elevation at the head of the passes being about one-tenth of a foot below the bench at the center of the flat circular foundation of the old light-house (the astronomical station occupied by the Coast Survey in 1857).

"The section found for Cubitt's Gap, 119,000 square feet, is 70 per cent. of that of the main river a short distance above this crevasse. This, however, by no means represents its true capacity as an outlet, for within 150 feet, as we go seaward, the loss of area amounts to 30 per cent., and within a mile from the center of the gap the sum of the sectional areas of all the passes amounts to but 58,748 square feet, or only 34 per cent. of the main river section.

"Our conclusion from these results is that the gap has been created mainly by impact of the main river current upon the slender bank, causing this bank to give way as it became undermined. The section of the gap, if it had been due to the scour of the outflow, would have had less area than the sum of the sections of the passes beyond instead of having three times as much. One may easily conceive that a cut having been made through the natural bank, it rapidly enlarged, because the river, expanding into the opening, impinged upon the lower side of the cut which presented abrupt obstructions (technically speaking).

"Thus in Cubitt's Gap it was the lower side (down river) that gave way so as to enlarge the extreme opening between 1868 and 1876. The islands under similar influence of impact also crumbled away and increased the clear water-way in still greater proportion.

* * * * * * *

"Very respectfully, yours,

"HENRY MITCHELL,
"*United States Coast Survey.*

"CARLILE P. PATTERSON, Esq.,
"*Superintendent U. S. Coast Survey.*

"The above is cited to illustrate the manner in which a crevasse turns the river toward the bank—it being held that this turn involves a loss of energy in the stream and the slackening up of the river's flow, followed by a deposit below the crevasse.—H. M."

Q. Is there anything further that you would like to say?
A. I do not think that I have anything further to say about Cubitt's Gap.
Q. Suppose an outlet could be maintained near New Orleans, what effect would it probably have on the river above?
A. You will remember that the river presents a series of pools and bars. Now, I have conceived this series of pools and bars to be, in effect, a staircase of locks, the pools representing lock-chambers, the bars representing their gates, and the great flood filling the chambers and overflowing the gates. Now, there are several hundred of these locks, and the opening of the lowest gate in the scheme could not affect the upper locks any more than in ordinary canals. Conceive of the flood overflowing the Caledonian Canal at the "Neptune Staircase." You would not expect to relieve that canal by opening the lowest gate, but by opening in succession all the gates. It is possible that the gates or bars are so low in the Mississippi River below Red River that an outlet near New Orleans might extend its influence to Red River. Theoretically it seems to me that it would, but I can not conceive of its amounting to over an inch, perhaps, at that distance; and I have no figures to back that statement.
Q. Have you made an examination of the river from the mouth up to the mouth of Red River, from the head of the passes, with a view to ascertaining whether there have been outlets or mouths higher at one time?
A. No, sir; I never made any such inquiry.
Q. Have you ever made any examination to ascertain whether there has been an outlet near the proposed Lake Borgne outlet, an extinct outlet?
A. I observed these extinct outlets upon the chart, but never examined them.
Q. What do you think of the probability of maintaining an outlet at Lake Borgne sufficient to permanently reduce the float-line, say four feet, or any other number of feet or inches?
A. I have very little idea that an outlet could be maintained; but the Mississippi is a very uncertain river. I should have said, for instance, ten years ago, that the Atchafalaya could not become an outlet of the Mississippi River, but today it is an outlet, and may become a channel of the main river to the destruction of the present one, as far as maritime commerce is concerned.
Q. Unless the outlet is stopped?
A. Yes, sir.
Q. The commission, as I understand you, has taken steps to stop some of the outlets that flow into the Atchafalaya?
A. Yes, sir.
Q. With what success have you met in that work?
A. I do not know what the last reports indicate. It was undertaken under this appropriation.
Q. Recurring to the subject we had up a little while ago, as a member of the Coast Survey what has been the opportunity afforded by your labor and study?
A. My department is called physical hydrography, and it concerns the study of the movements of waters relative to the bottoms of rivers and harbors, and of the movement of the sands along the coast.
Q. To what extent has your study been given to the form of rivers, and what rivers have been embraced in your investigation?
A. I have made studies and reports upon the Hudson, Delaware, Savannah, Alabama, and upon numerous smaller streams.
Q. And the lower part of the Mississippi River?
A. Yes, sir; and the lower part of the Mississippi.
Q. How does the Mississippi River compare with the other rivers as to the possibility of improvement?
A. I don't like to belittle at all this problem of the Mississippi River improvement, and that estimate which I gave yesterday was based rather upon my fears than my hopes. But there is one respect in which the Mississippi River is superior in the prospect of improvement to any other sediment-bearing stream with which I am familiar, and I have seen a great many in this and other countries. It is in respect to its great average depth of water. I have here a table of the average depth for short reaches from Cairo to Council Bend, a distance of two hundred and sixty-seven miles. Now, in this distance of two hundred and sixty-seven miles, which includes the notorious New Madrid, Plum Point, and Memphis reaches, the average depth is thirty-three feet at low water, or if we

take the worst half of the Plum Point reach (twenty-three miles) the average depth is twenty-seven feet. The very worst place is near New Madrid, where between Shotwell and Point Pleasant (twenty-eight miles) the average depth is twenty and one-fourth feet. These are pretty close figures, and I offer this table in evidence:

Thalweg depths by mean of short reaches.

[From regime data compiled by L. C. Jones, assistant engineer. Notes derived from thalweg profile, compiled by R. E. McMarth, assistant engineer.]

Sub-reach number.	Thalweg depth at high water.	Range.	Thalweg depth at low water.	Total distance.	Mean of depth.	Locality.
1	69.5	32.8	36.7	23,000		Island 1.
2	69.0	32.8	36.2	63,000		Islands 2, 3, and 4.
3	75.0	32.8	42.2	90,000		
4	63.0	31.1	31.9	118,000	32.5	Island 5.
5	61.0	31.1	29.9	147,000		
6	61.0	31.4	29.6	172,000		Hickman.
7	58.5	31.4	27.1	196,000		
8	63.0	29.6	33.4	228,000		Island 8.
9	55.5	29.5	26.0	266,000		
10	58.5	29.4	29.7	301,000		Island 10.
11	57.5	29.8	27.7	328,000		
12	63.0	29.8	33.2	353,000		New Madrid.
13	56.0	29.6	26.4	385,000		
14	59.5	30.6	28.9	428,000		Island 12.
15	57.5	30.6	26.9	469,000		Island 13.
16	54.5	30.6	23.9	508,000		Island 14.
17	69.0	28.6	40.4	544,000		Gayoso.
18	59.5	28.7	30.8	571,000		
19	57.0	30.0	27.0	596,000		Islands 16 and 17.
20	62.0	30.1	31.9	623,000		Island 18.
21	61.0	29.6	31.4	656,000		Islands 20 and 21.
22	72.5	29.6	42.9	698,000		
23	72.0	28.8	43.2	727,500		
24	66.0	26.2	39.8	750,000		
25	71.5	26.1	45.4	775,000		Islands 26 and 27.
26	57.0	25.6	31.4	804,000		Ashport bar.
27	56.5	26.6	29.9	832,000		Island 30.
28	50.5	27.7	22.8	857,000		Plum Point.
29	61.0	27.8	33.2	890,000		
30	47.0	27.8	19.2	925,000		Island 34.
31	70.0	27.4	42.6	951,000		
32	67.0	27.4	39.6	990,000		Island 35.
33	61.5	27.4	34.1	1,036,500		Island Deans.
34	66.0	27.3	38.7	1,077,000		Island Brandywine.
35	57.0	28.2	28.8	1,125,000		Island 40.
36	61.0	28.2	32.8	1,158,500		
37	63.0	28.9	34.1	1,180,000		Island 43.
38	86.0	28.0	58.0	1,202,000		Memphis.
39	46.0	27.4	18.6	1,230,000		
40	52.0	28.9	23.2	1,264,000		
41	57.0	29.8	27.2	1,303,000		
42	49.5	29.8	19.7	1,337,000		
43	41.5	29.5	11.5	1,372,000		
44	56.0	29.5	26.5	1,407,000		Council Bend.
45	60.1					
46	82.0					
47	66.0					
48	60.5					
49	69.0					
50	63.5					
51	72.5					
52	65.5					
53	78.5					
54	77.0					
55	71.0					
56	96.5					
57	88.5					

NOTES.

Proportion of length in which thalweg depth is less than mean, $\frac{4}{5}$ths.

Longest continuous stretch in which depth is less than mean, 11 miles. Longest continuous stretch in which thalweg depth is less than 20 feet, four miles.

Average thalweg depth in New Madrid reach, 20 feet. (Sections 104-163.)

Aggregate distance for which thalweg depth is less than 20 feet, 30 miles in 150.

The aggregate distance for which the depth is less than twenty feet is thirty miles in the first one hundred and fifty, or one-fifth part. That is what I am able to obtain from the surveys and the data that I have with me. Now, in the Rhine and the Rhone there were some failures to get the expected depth of water. There was no great difficulty about the engineering. The banks were made to stand; but there was lack of water. When they made contractions so as to let down the bars they let down also the surface of the pools and developed new bars. Now this you perceive is impossible in the case of the Mississippi River. There would be very few cases where new bars would be disclosed by the letting down of the surface of the river. I have made an estimate of how much the flood-line will be lowered, or rather how much the low-water line will be lowered (they will be nearly parallel) at the bars. In Plum Point reach and in New Madrid reach there are perhaps six feet of water on the bars in ordinary low water. If we produce ten feet of scour on these bars the effect will be only in the direction of an equalization of slopes. (We let down the gates of the canal lock ten feet, and we have so far an equalization of slopes.) This will amount in the New Madrid reach to one foot in ten on the worst bar. That is to say, instead of realizing sixteen feet you will realize but fifteen on that bar. I would like to show the committee a tracing of the bottom profile of the river from Cairo down as far as New Madrid.

(The witness here laid before the committee a tracing which he explained in detail.)

Q. The plan of this improvement, as I understand it, is to direct the scouring force of the current against these locks, or bars, so as to regulate and equalize the bottom of the river and its depth?

A. Yes, sir.

Q. Do you think that the plan of the commission will accomplish that result?

A. I see no reason why it should not.

Q. But that is a negative way of answering the proposition. I want to know what you think about it?

A. But I think so. I would like to make an explanation just at this point as to that word "equalization." It conveys a little too much. An equalization of the water in the portion of the river I have just described would give thirty-three feet of depth. That is impracticable; not impossible, but impracticable, because the turns are necessarily followed by bars, and it is hardly likely that we should succeed in so narrowing the river at the bars as to exactly compensate for the loss in the turn. But I have made a calculation which I think is suggestive without being entirely conclusive. In the lower section of the river where the navigation is perfect as regards depth of water—between Point Houmas and the forts (one hundred and fifty miles), the average channel depth is ninety-eight feet, and the depth in the shoalest bar fifty-four feet at low water (for I find the same series of bars here as in the upper river), while the characteristic depth on the crest of the bar is equal to the average depth of the river from shore to shore throughout the whole section. Carrying this principle into the portion of the river which has to be regulated if we succeed in imitating nature closely, we should get on the bars by our work at least the average depth from shore to shore, that is, say fifteen feet. Now, in this process of equalization we do not widen the river where less than the mean width, but we narrow it at the broad places, so that our result must add to the stated depth. We must have more than fifteen feet as a legitimate result. I conclude then that we have more than fifteen feet as one limit and less than thirty-three feet as the other, and I give it as my opinion that we shall not reach twenty feet for navigation.

Q. What is your opinion as to the minimum depth?

A. It should exceed fifteen feet; it can not reach thirty-three feet (the present mean depth), and it will not, in my opinion, reach twenty feet.

Q. Were you a member of the jetty board that existed for making the estimates of the cost of that work?

A. Yes, sir.

Q. What were the circumstances under which these estimates were made in reference to data on which they were based?

A. Much the same as those for the enterprise we have now on hand. The work was not new in theory, but the scale of the work was greater than anything that had ever been undertaken before, and we varied very much in our estimates—we varied millions in our estimates, and finally compromised our differences.

Q. You mean the board?

A. Yes, sir; we compromised finally on $5,000,000, and the result of Mr. Eads's work is to indicate that it was in excess of the cost; very much in excess of the actual cost in labor and material.

Q. About how much?

A. Mr. Eads is coming before this committee, and he can be called upon for that statement.

Q. That will probably be a great deal better. Now, yesterday, in discussing the plan of your improvement and the extent of the work, you stated, as I now recall your testimony, that the work in all its parts, excluding levees, would cost probably $15 a linear foot for the worst parts of the river. Is it not true that a large portion of the five hundred and twenty miles will only require half the amount of work that is required at Delta Point?

A. I have not so regarded it. I have taken the five hundred and twenty miles as requiring full-bank work in that estimate.

Q. You think that there will be that many miles which require that full-bank work?

A. Well, I can hardly say that I think there will be as much work as that, but I put that as an outside estimate.

Q. Then I want the inside estimate.

A. That I can not give you.

Q. You can not give me your opinion?

A. I said yesterday that I thought the estimate in the report of the commission of $33,000,000 was reasonable.

Q. For the whole work?

A. Yes, sir; for the whole work.

Q. But I mean as to minimum distance?

A. I should not like to reduce that minimum distance. I have had that distance lower than it is, but I have brought it up, after further study, to the two hundred and sixty miles.

Q. Five hundred and twenty miles of shore line?

A. Yes, sir. As I am not a member of the committee on construction (and never made any such constructions), my testimony offered to that committee was simply with the understanding that I had gathered this data in extreme fear, and to express this to them.

Q. You are referring now to the cost of the work?

A. I fear it is going to cost $41,000,000 to complete the work.

Q. That will secure, as I understand you, at least fifteen feet of water to Cairo?

A. It ought to, and I think it will.

Q. How long do you think it will require to complete this work?

A. I can form no idea.

Q. It will depend upon so many contingencies that it is a mere matter of speculation?

A. Yes, sir; we have in fact just begun work. We are called upon for estimates before we have had sufficient experience to make them, and just after a terrible flood which has upset a good many of our calculations.

Q. Are you satisfied with the plans of the commission? Have you faith in their efficacy in improving the Mississippi River? Do you approve the work as proposed?

A. Yes, sir. At one of the meetings I introduced a resolution providing that any member, not on the committee of construction, should spread upon the record at his own option any criticism or protest against the work of that committee, or against any of its plans or operations. I myself introduced that resolution, and I have had no occasion to make use of the privilege thus accorded.

Q. That resolution was adopted by the commission?

A. Yes; it was adopted, and I have had no occasion whatever to make use of it. There was a majority of the commission then sitting on this committee of construction, and I wanted to restrain any tyrannical disposition they might evince.

By Mr. ELLIS:

Q. Has any one protested under that resolution? Has anybody taken advantage of that privilege to protest?

A. No, sir; no one.

By Mr. THOMAS:

Q. The maximum and minimum depth of the river which it is expected will be obtained by this work has the depth at low water?

A. Yes; at low water.

Q. Does your completed plan involve the revetment of the shore from the bottom of the river covered by the foot-mat back to the levees, supposing them to be situated five hundred feet from the top of the bank?

A. No, sir; I think there is nothing in our plan that includes any revetment on the surface where it is already revetted by nature.

Q. You were present, were you not, when Major Harrod testified the other evening when that subject was under discussion?

A. Yes, sir.

Q. The revetment referred to by him as sloping back was the sloping back of the natural bank. By that I mean the part below the low-water mark and the level of the earth. This being the bottom of the river [indicating] and that the low-water mark and this the top of the bank, the sloping bank and revetment

contemplated in that plan is simply the revetment from that point and that point [indicating]?

A. Yes, sir.

Q. It is not contemplated to revet the surface of the earth?

A. Yes, sir. It is not contemplated to revet the surface of the earth which is already reveted by forests and grass and other vegetable growths and held by the roots of trees. So far as my observation goes (and that is not very intimate, because in our journeys up or down the river we only travel on steamboats) there is no abrasion of the surface of the earth between the levee and the river. I have never seen a case of abrasion along the surface of the earth between the levee and the river. There are traces of old barrow-pits to be seen, filled up with the river deposits. And Mr. Ockerson, one of our assistants, contends that the presence of the levees a quarter of a mile back makes no difference in the rapidity of the bank's growth.

Mr. THOMAS. I believe that is all I wish to ask, Mr. Mitchell.

By Mr. ROBINSON:

Q. In your last statement do you indorse that yourself—that the presence of the levees makes no difference in the rapidity of the bank's growth?

A. I have no knowledge to contradict it.

Q. As a scientific observer and engineer, do you believe it to be so?

A. I have no other evidence but his; I have no memory or observation of my own to contradict it.

Q. I mean upon theory; do you subscribe to that idea?

A. Well, I will say I was surprised at the result. There is no question about its being true, because it is actual observation, and he is employed to make just such observations.

Q. Does the presence of levees assist in the land building?

A. It does not lessen the rapidity of the bank's growth.

Q. Then the bank's growth goes on just the same with the levees constructed as without them?

A. In the department of labor in which he is engaged.

Q. We may infer that it will be so throughout the whole extent, if it be true where he is engaged, may we not?

A. I don't know anything about that.

Q. What part of the river was he engaged in?

A. Between Saint Louis Landing and Red River.

Q. If the presence and maintenance of levees makes no difference in the rapidity of the bank's growth, how, then, do you sustain the theory of the scouring power with the maintenance of the levee?

A. You observed, I think, if you were down the river, that at high water the water does not abrade the levee at any point. The levee is simply the shore-line of the river at which all motion ceases. As your observations extend across the river, as you cast your eye over the scene, you find the velocity is strengthened where there is the greatest depth, and that it diminishes again as we approach the opposite shore. If I draw these levees together I make shore-lines, say half the distance apart; I increase the velocity (double, say) over the deep water, and I increase the scour by the square of the velocity, say four times along the channel which lies between. Now, there is a movement of the water—of course along the levee and going toward the river you will find this movement increasing—but there is so little that the amount of deposit is small, and the bank rises as rapidly perhaps as if there was no levee there.

Q. The effect of your levees in connection with this plan is to narrow the river within these banks?

A. Yes, sir.

Q. And that really causes a deepening of the whole river between the levees, does it not?

A. No, sir.

Q. Is not the water deeper because you confine it within these levees?

A. You mean on account of the increase of height, or do you mean on account of the increase of scour?

Q. You have the water arrested, and a greater depth of water may be the result of confining them within the levees?

A. Yes, sir; as an immediate result.

Q. Then, to illustrate, it would be reasonable to expect that at places where there was no water you would, as an effect of the levees, have water from twelve to twenty feet deep?

A. In the bed of the river.

Q. Inside the levee?

A. Between the natural banks?

Q. Yes, sir; if you choose.

A. Yes, sir.

Q. Then that would be so. Does water twelve to twenty feet deep move with any great velocity?

A. No, sir.

Q. At what velocity?

A. That I can not tell you.

Q. This fact, you, say, is determined by the square of its depth?

A. No, sir; the square of its velocity.

Q. You can not tell what the velocity is?

A. No, sir; I can only say that it is greater in the channel——

Q. (Interrupting.) But there is considerable velocity between the natural banks of the river and the levees?

A. No, sir.

Q. When the water is ten or twelve feet deep there?

A. I have never seen water ten or twelve feet deep between the natural banks and the levees.

Q. In flood?

A. Myself, no, sir.

Q. What depth have you seen?

A. The average height of the levees is six or seven feet.

Q. In these long reaches, where the river is quite wide and you are putting your restraining walls so as to have a channel only 3,000 feet wide, there will be between your natural banks and the new walls quite a space, say of several hundred feet, which will be lower than the general surface of the country. That is so, is it not?

A. I do not think I understand your picture of the river.

Q. You will find in these long reaches places a mile and half or two miles wide which seem to be out of the natural banks—real wide reaches, long shoaling places; all parts of these places are considerably below the general surface of the soil in the valley at that point. Now, when your new walls only 3,000 feet apart are built, all this space is occupied by your new channel?

A. But we have no walls 3,000 feet apart. Three thousand feet is the limit which we have agreed upon for low water, and then the sides are sloped away, as well as we can make them, toward the high-water lines, which lie perhaps 4,000 feet apart.

Q. But you have places where you are preparing your works; you drive your lines of piles and maintain your new works so as to confine the waters within a channel of 3,000 feet?

A. But I do not understand your word "walls."

Q. I mean these new works which you call restraining works.

A. Yes, sir; or new slope of repose. Of course that is really what it is.

Q. It has not been called a slope before. But you have the low flat stream flowing along from a wide path, and that produces great difficulty in navigation?

A. Yes, sir.

Q. Where you have wide reaches you have shallow water; where you have narrow places you have very deep water. Now you propose, do you not, to narrow up these wide reaches and bring the water within a narrow space?

A. Yes, sir.

Q. And you propose to bring that water in by contracting a line of works which shall be 3,000 feet apart, and to keep the water within these two lines. Now, between that new line that you have for restraining the water and the old natural bank from which you separate the water there is a space of several hundred feet?

A. Yes, sir.

Q. And the surface of intervening space is lower than the surface of the soil of the valley?

A. Yes, sir.

Q. Well, when a flood comes up and the water is restrained within the levees, the water spread over that intervening space is deeper than it is over the natural surface of the valley?

A. Yes, sir. You mean over the swamps or lands—the natural surface of the valley?

Q. Yes, sir; the surface of the land at the top or crest of the natural bank.

A. You mean that we shall have ten feet of water over a space that, perhaps, shall have been raised up?

Q. Yes, sir.

A. I should presume it would.

Q. Is it a fact?

A. It might happen.

Q. If that happens with water possibly ten feet or more, will not there be scour without that increased depth?

A. We expect those hurdles which have produced this valley, that has raised the water up, will hold that land until it is covered with forest trees.

Q. You mean to build up that intervening space to the height of the natural bank?

A. I mean that we shall naturally do it.

Q. My question is not intended to imply that you were to do that as part of your work, but that is a result. Then is it your idea that in time of flood there will be any scour over that intervening space so as to disturb that land-building process?

A. We provide against all effects of flood by our plan. If our works can live through one or two floods in the extreme condition which you have supposed, they will hold forever.

Q. The view which I take is not an extreme one, is it?

A. You take the case of a river so wide.

Q. But you have taken the Mississippi River?

A. Yes, sir.

Q. You take Plum Point reach, where you have been working?

A. Yes, sir; but you have taken an extreme case.

Q. But Congress has appropriated money and has appointed this commission for the purpose of enabling them to deal with that problem?

A. Yes, sir.

Q. Then following your lead (and it is probably a very safe one), I am not wrong in taking that extreme case of Plum Point reach?

A. Well, I think on the whole you are right.

Q. Then your idea is that in that worst case to which I have called your attention your plan is sufficient to overcome all difficulties?

A. I think so, sir.

Q. But the real test of it will be in seasons of high flood?

A. Yes, sir.

Q. Do you contemplate making the high-water channel coincident with the low-water channel?

A. There has been some evidence here relative to an ideal river which the committee seems to think is really to be attempted, but my impression is that we should never let better be the enemy of well enough. Whenever we get these bars out of any section of the river, we shall stop right there—tie up the ends and stop right off.

Q. Do you intend that the limits of the high-water channel shall correspond with the limits of the low-water channel?

A. Of course not.

Q. Do you intend that levees shall be placed on or near the new bank that is formed?

A. I have no idea that the levees will ever be within an average of five hundred feet from each bank.

Q. But you believe it is possible that in time quite a large space between the new banks and the levees will be formed, and it may be a thousand or more feet?

A. It may be five hundred feet.

Q. The nearer you can bring the levees to the line of bank the better the effect on the improvement of the river?

A. Yes, sir; I think so.

Q. You do not think it is of enough consequence to bring them up to the line?

A. We should be afraid to bring them up to the line.

Q. Why?

A. Because if the revetment should give way at any point or caving set in at a point where we hadn't revetted, we should not be able to meet the difficulty in time to provide for the protection of the bank. We should keep a levee at a safe distance to give us time to arrest caving. I am not speaking now of the opinion of the commission, but simply of my own conception of the thing, with little knowledge of levees and their present uses.

Q. If the water has been in flood, you say that during that time there has been a deposit on the bottom of the river in consequence of that flood?

A. I think that the flood drives before it great waves of sand, just as the wind on the desert carries with it the sand dunes.

Q. With the river in flood you have that sediment carried along?

A. Yes, sir.

Q. At what stage of the water does it begin to fall and rest on the bottom?

A. There is a great contradiction of testimony upon that point. Usually when the current for any reason slackens these accumulations take place.

Q. At what stage of elevation of the surface of the water does that slackening occur?

A. I say there is a great contradiction of testimony on that point, and I should not like to say what the result of the testimony is.

Q. Do you get the slackening before the water falls below the natural banks of the river?

A. I am satisfied that you do in many cases, but whether in the majority, or even in the average, I do not know.

Q. At some point thereafter the river begins to scour out these deposits, does it?

A. As I conceive of the operation of the flood at these shallow reaches, for instance along the Saint Francis bottom, where there are many crevasses twenty feet below the natural banks, when it meets with any such deflection, it throws down ahead of it a barrier of sand, as if forming a new bank, and then it accumulates against that bank and augments the rise and overflow.

Q. When does that bar begin to pass away?

A. Such bars are very apt to wear away as soon as the water is ponded back by the bars so that it has power to produce an effect upon these bars. Then they begin to pass away, but if the river had never left its banks, and never turned into these broken places, these particular bars would never have been formed.

Q. The bar having formed there at that time, then you say the river, after it

comes within the natural banks, acts upon the newly formed bar and carries it away?

A. Yes, sir; of course it must tend to carry it away.

Q. When the water comes below the natural banks the river then proceeds to carry out that deposit?

A. Yes, sir.

Q. And restore the bed of the river to its former condition?

A. It does not usually succeed in making that restoration after a great flood. I believe, as the general testimony and the result of inquiries that I have made, that after a great flood the bars at low water are worse than at any other time, but the restoring power of the water does not ensue until the river subsides somewhat; at least, until it comes down to the level of the natural banks. It is greatest at high water, and if by reason of any deflection or coming into a particularly wide space it has been slackened and its sediments thrown down, this bank of sand must remain until there is accumulation enough behind it to make a guzzle through it.

Q. Have not the members of the commission testified that within the low-water bed of the river the deposit is formed, and that it always begins to work at that time?

A. I have seen evidences of that; but I have recently studied up the point and I find that the testimony is not steady upon it; different observers give different results.

Q. Then there is at present need of considerable information more before we can declare anything about it?

A. There are a great many phenomena in the Mississippi River.

Q. I understand the phenomenon you refer to has reference to the exact time at which the water begins to cut out the bar, and it is at low-water stage, as I understand you. That is one of the phenomena?

A. We all agree that at the low stage of the water the water is making this guzzle there.

Q. But you say that one of the difficulties you meet with is the exact time during low water at which the water begins to cut through the bars. There is no difficulty in determining that the water, when there is sufficient depth of it, cuts away the bars, but simply the time in the low-water stage at which they begin to cut away. Is that the point?

A. Yes, sir.

Q. It is at some period of low water that this cutting begins?

A. At some period of falling water.

Q. After it leaves the surface of the natural banks, and before it reaches the low water?

A. I have only reference to the surface of the bank in this connection; under the action of a crevasse my bar is formed of which I am speaking.

Q. But I wish you to also now apply your statement to bars that may be formed independent of any crevasse, by which I understand a break in the levee.

A. A break in the levee and natural banks.

Q. Independent of that, how does the current act upon this deposition; how does it remove the bars within the channel of the river?

A. As I say, our testimony is not concurrent. The river does not always behave itself in the same manner. We can furnish you with data, but we can not make the deductions.

Q. You make no statement giving data?

A. There are plenty of physical data, but we have not been able to reconcile them; we haven't the key to the inductions yet.

Q. Therefore it is not safe to make any positive declaration on that point?

A. No, sir.

Q. And then it is hardly safe to say, is it, that for the purposes of the removal of the bar you need no greater depth of water than what will be contained in the natural banks of the river?

A. Our very theory of work depends upon the securing of the water and the discharge. If you take the Lower Mississippi River and compare it with other rivers, you will find it a better river than others. It is on the whole one of the finest rivers on the globe as a navigable stream.

Q. Yes. But no such works have ever been produced on a river of the magnitude and the character of the Mississippi River?

A. No, sir; but the general principle has been applied in many similar cases.

Q. But what may be necessary in a smaller case may not answer in a larger case?

A. Certainly not.

Q. In the estimate of the cost of your works did you include the levee work?

A. No, sir.

Q. So that you will add to that amount whatever is necessary to repair or rebuild the levee system?

A. To repair the levees; yes, sir.

Q. You would expect, therefore, that if the levee system was a necessary part of it to keep them in repair and rebuild them in case they were washed away?

A. I suppose so.

Q. If they are a necessary part of the improvement, you would expect to retain them at all the works in the bed of the river?

A. It has never been presented to my mind in that way.

Q. They are either of importance or they are not of importance. If they are an important adjunct for the improvement of the navigation of the river, you will take care of them?

A. Yes, sir, I do consider them important, and I do say that no alluvial river on the face of the globe which has been improved is without them as far as I know.

Q. It will be a matter of no consequence whether States or individuals furnish the expense or not?

A. I think the people who are benefited ought to pay the larger amount.

Q. But suppose they decline, will you go on all the same?

A. That is a matter for Congress to determine. That will depend upon the policy of Congress. We shall execute the will of Congress at any time.

Q. But Congress has given you $5,122,000 without indicating to you how you shall spend it, and you have spent a million and more for levees. Suppose in time of flood these levees should be washed away for many miles, would you not consider it your business to rebuild them in case the States in which they were located declined to contribute toward that end?

A. I do not know what our authority would be under the law, but under good sense it would be the proper thing to do.

Q. But under the law you have found no restraint upon that exercise of good sense as far as you have gone?

A. The law as expressed is quite complicated. I confess that I have been unable fully to comprehend it.

Q. It has not operated to prevent the commission from spending the amount of money which they have expended upon the levees?

A. I think that the riparian property-owners ought to pay their proportion of the improvement. It is as incidental to the improvement of their property as the improvement of a street in a city is incidental to the improvement of the property along the line of that street.

Q. Then the improvement of the rivers is merely beneficial to the riparian property-holders? You are talking of good sense.

A. And I think that betterment is good sense.

Q. Then it would not be good sense to improve the levees unless the betterment principles applied?

A. I think they ought to be applied. I trust the Government may require these individuals to pay these betterments.

Q. You understand that there are other difficulties that may be included in that suggestion? The matter of State and Federal authority is not so well defined as perhaps it might be.

A. I understand that, sir.

By the CHAIRMAN:

Q. I understand you to say that your confidence in the policy and plan of the Mississippi River Commission has steadily increased?

A. Yes, sir.

Q. You had doubts once in respect to these plans?

A. I have doubts always in particular projects.

Q. My question was, have you had doubts once about these?

A. Yes, sir.

Q. And has all doubt been removed?

A. No, sir. I have never engaged in any project in which my doubts were removed until the work contemplated by that project had been completed.

Q. And then you have some doubt about the policy of building a stone wall on a solid foundation?

A. I might have some degree of doubt; for instance, an earthquake might throw it down.

Q. Well, do you anticipate an earthquake in the Mississippi River?

A. Well, it happens that Madrid is an earthquake center.

Q. That has not entered into this question. But you still have doubts, of course?

A. I am not entirely confident that our plans are going to be successful.

Q. We will take a stretch like Plum Point, for instance. Now, suppose you are to complete the work there, making it as perfect as labor and money could make it, and then it resists an assault of two or three severe floods, would it increase your confidence in the stability of the work; would it be an evidence to your mind of its efficacy?

A. Yes, sir.

Q. Your confidence would then be increased?

A. Yes, sir; but my confidence would not be entire. We should not have demonstrated that our plan contained all the elements of success by one example. We should prefer to have another illustration, I should say, below Arkansas River.

Q. But even with that test you would not be confident, would you?

A. No, sir.

Q. In your estimate of cost of bank revetment do you include the dike work, the closing up of chutes, and so on?

A. Yes, sir.

Q. All that kind of work?

A. Yes, sir.

Q. Now, suppose this stream at some place at low water extended over a space 10,000 feet; is there any such width as that?

A. Yes, sir; I think there is such a width—at low water; I am not sure.

Q. At low water what is the greatest width?

A. Something over a mile; something over 5,000 feet; and if you take certain stations you might measure eight thousand or nine thousand feet, for instance at Plum Point.

Q. It is there where you have shoal water?

A. Yes, sir.

Q. Suppose at a low stage of water by contraction works you bring the water within a space of 3,000 feet, you anticipate that that will deepen the channel, do you not?

A. Yes, sir.

Q. Then scouring would take place at low water in a narrow channel?

A. Yes, sir.

Q. You are just on the threshold of this work, are you not?

A. We have just really entered upon it seriously.

Q. And there has been appropriated something over $5,000,000?

A. Yes, sir.

Q. Will you go much beyond the threshold of the work when you use the next appropriation of $7,500,000, if it should be made?

A. I trust we shall.

Q. You will get inside the door, will you?

A. Yes, sir.

Q. The jetty plan is similar in principle to the plan of confining the waters of the Mississippi River to a narrow channel?

A. Yes, sir; the principle is the same.

Q. Has there not been developed since the construction of the jetties a tendency to shoal above and below the works?

A. On the other side of the bar——

Q. (Interrupting.) But I ask you, has there not been a constant tendency to shoal above and below the works of contraction?

A. I believe there is a great variation of depth, although I have not read the reports for some time.

Q. Do you know whether a dredge-boat has been used, of powerful pattern, at least three months of the year to remove sand from the jetties?

A. There was one used; but when I was there it was not in use. In our original plan we recommended a dredge. There occur at the South Pass mud lumps, which are like little volcanoes——

Q. (Interrupting.) You do not understand my question. Has there not been a dredge-boat used at least three months of the year to remove sand from the jetties?

A. Yes, sir; but I know there is a channel five fathoms deep from the Mississippi River (South Pass) to the ocean, and that is something which very few rivers enjoy.

Q. Is there more than twenty-six feet of water in the South Pass?

A. I understand at the upper end of the pass there is twenty-six feet of water.

Q. Has there ever been more?

A. I believe that is all that was required by law.

Q. But I asked you if there had been more than twenty-six feet?

A. At the upper end of the pass, I think not.

Q. How is it at the jetties?

A. Thirty feet; thirty-one feet often.

Q. Do you know how wide?

A. No, sir; I do not remember the width.

Q. I understood you to say, as a matter of fact, that there had been a constant tendency to shoal above and below the works of the jetties?

A. I will explain that entirely: When I was on that jetty board I called the attention of the board to the bad character of the South Pass, although I may say I was in favor of putting the jetties there. The South Pass was subject to changes of depth, and I referred to the fact that there had been an eighteen-foot bar across the middle of the South Pass within ten years before that time, and that it was subject to a variation of depth.

By Mr. THOMAS:

Q. You mentioned a while ago that the plan had not demonstrated with mathematical certainty; in other words, that the results were not of a sufficient character to shake your confidence in them, but that they lacked physical demonstration to make them an absolute certainty. Do I get your idea?

A. Yes, sir; that is true. It was the same in the case of the South Pass. We never knew what the works would do until they were proved.

Q. But then this did not shake your faith in the plan?

A. No, sir. If you take Major Suter's estimate, based on more knowledge than that of any person, and compare it with my estimate, you will discover

that I am an alarmed party, for the reason that I think the problem is a greater one than he does, and he has a much greater knowledge of this river than I have.

Q. State what results have been obtained on other rivers by levee in the direction of improvement of the channel?

A. Besides the case of the Po (which was mentioned by General Comstock in his evidence, and which was new to me, for I had never been there), I would mention the Rhine, and also the river Thames. The river Thames is a more striking instance, because the improvement of the navigation was not the object of the levees, but the improvement of navigation followed the erection of the levees.

Q. What was that improvement?

A. These were begun before the beginning of this century. They were built for agricultural purposes only.

Q. Recite what advantages, if any, are to be obtained by carrying on the works simultaneously at Plum Point and Lake Providence reaches.

A. The only advantage is in the distinctive character of the two reaches. There is no remarkable difference between the two, except that one is below great tributaries.

By Mr. ELLIS:

Q. You stated that you want a test below the Arkansas River. Can you give the reasons why?

A. I do not know the reasons. I have only an apprehension that we can not determine all the evidence for our problem until we get below the Saint Francis basin and below the Arkansas River.

Q. Do you think that the added volume of these tributaries will create such a condition of things as to render it necessary in order to demonstrate the absolute certainty of your plan?

A. I think the influence of these tributaries will be considerable.

Q. So if you went on at Plum Point and finished your work in that isolated place, and time demonstrated it as true and stable, you would still be lacking an absolute test because you had not improved the river below these tributaries?

A. I should feel very nearly certain of a grand success for the whole river. But another point is that the difference between the two places might indicate the solution of the problem by the success of one place by a certain class of works not tried in the other. Moreover, we should have two locations which are rivals to each other. We should have the officers and men all the way down to the lowest workmen engaged in this work interested in its success. This competition is an important matter.

Q. Is not the key to the whole plan your ability to hold the banks?

A. That is the most important one.

Q. Has not that been already demonstrated and tested by years of flood at other points on the river, notably at Delta Point and Horsetail Bar and on the rivers of Missouri, for instance?

A. That has been indicated; I do not know that anything has been demonstrated relative to the perfect character of our plan.

Q. Well, we speak of a demonstration which shall consist of the completion of works of this character, and then subject them to a test of several floods. Now, has not work of that kind been finished at points sufficiently to indicate their value by a test of severe floods? Take the great flood of 1882 for instance.

A. The work below Saint Louis would seem to be a demonstration of the efficacy of the plan. It was not affected by the flood of 1882.

Q. How near do you regard that as a demonstration of the ability of these works to hold the banks? Can you give an approximate estimate?

A. I should think 90 per cent. had been proven in the case of Horsetail Bar.

By Mr. THOMAS:

Q. State the difference between the bar at the jetties and the bars in the rivers above; I mean the difference in the character of these bars.

A. The bars at the mouths of rivers are inevitably the consequence of a sudden emergence of the water upon the ocean. In the first place the waters of the river are lighter than the waters of the ocean. The waters of the river run over the sea as they come out. They expand and lose their velocity and throw down all their load of sediment. The bars at the mouth of the Mississippi River have been brought down apparently along the bottom as sand waves, and rolled out continually, so that the bar that was in front of the South Pass was not the work of a year but it was the work of centuries and centuries. It has been coming down the river all the time. One of the first things we observed in regard to these jetties was that they created a race across the front of them in the sea. There was soon more water in front of the jetties than when they were commenced. Moreover, this bar did not reform immediately because the sediment was swept away by the race.

Q. Will you explain the phrase "mud lump?"

A. I have seen no explanation. They may start up in the middle of the channel—they will start up in a night ten feet high, and in a short time will emerge from the water and rise ten feet above it. When we used one of them for a signal station down there and sunk a gas-pipe into it, that pipe began to come out. There was a real eruptive influence from below.

Q. How do you account for that?

A. I do not pretend to be able to account for that. It is supposed to result from a sort of vegetable fermentation and be due to the existence of gases down below.

Q. This dredge-boat was placed there for the purpose of removing these lumps?

A. It was an auxiliary boat to the whole operation of the jetty plan.

By Mr. ROBINSON:

Q. You allude to levee works on the Thames for agricultural purposes, and you say that that resulted in the improvement of navigation. I think that you said that it produced this result.

A. Yes, sir.

Q. Does that include the details of all works done on levees?

A. This information in regard to the Thames I got from a great French authority, M. Bourniceau. These works occurred between 1780 and 1820.

Q. And does he give the details of all the work that was done?

A. No, sir.

Q. Are you informed, then, that ever since 1820 there has been no work on that river to maintain the channel?

A. Since 1820 there has been an immense amount of work on the river of all sorts. Bridges have been built and rebuilt, and the river has been dug out.

Q. So that the present condition of the channel may be due to many other causes?

A. I did not mean to imply that the magnificent channel up to London was wholly due to levees built for agricultural purposes.

Q. And this fact is only described in light terms in the book which you have quoted from?

A. Not in light terms, but in rather heavy terms. I will read it, if you wish [reads]:

"Finally the river Thames, considered in 1767 and 1802, gives a more complete field of instruction for the observer.

"We have said that the shores of this river were lined by reclaimed lands and that their reclamation had reduced the space heretofore covered by the tides. These conquests must have increased each year from 1767 to 1802, and the Thames must have been more and more reduced in width.

"Thus, comparing the observations obtained in 1767 with those of 1802, we find that the channel-way has sensibly increased in depth during this interval of time, and that reaches which had a depth of twelve feet in 1767 had eighteen feet in 1802. And further, the difference of level between London and Sheerness, which in 1767 was somewhat more than three feet, was found in excess of four feet in 1802.

"This comparison of two different conditions of a stream being made in the same river, no one could argue a difference of weight of sediments. We can therefore safely conclude that the successive reduction in width due to the reclamation of land along the shores is the cause of the increased channel depth of the Thames, but also the difference of level at London.

"Now, if such important improvements in navigation have followed the reductions in widths and other regulations accidentally, for the benefit of agriculture, what could not be expected from systematic works under the guidance of learned English engineers? The sand-bar at Woolwich and others of same kind would certainly vanish without the use of dredges."

By Mr. THOMAS:

Q. Was he a French engineer of distinction?

A. Yes, sir; he was a scientific writer, an engineer of the Ponts et Chaussée.

By Mr. ROBINSON:

Q. That was published in 1845. But since that time engineers in this country, it seems, have continued to adopt that theory?

A. Yes, sir; I believe they have.

Q. And they do at present?

A. I have no doubt there is a difference of opinion.

Q. The Rhone is now in one of the greatest floods that it has ever experienced, and great disasters are occurring, as you probably have learned from the newspapers.

A. Yes, sir; and I believe that is true.

The committee adjourned to 7 o'clock p. m.

WASHINGTON, D. C., *January* 19, 1883.

The committee met in the room of the Committee on the Territories, House of Representatives.

Present, the chairman, Mr. BURROWS of Michigan, Mr. ELLIS, Mr. ROBINSON of Massachusetts, and Mr. HOLMAN.

Professor Clemens Herschell was examined, as follows:

By Mr. ELLIS:

Question. Will you please state your full name, place of residence, your profession, &c.?

Answer. Clemens Herschell; I live in Holyoke, Massachusetts; I am a civil and hydraulic engineer.

Q. And have been for how long?

A. For twenty-five years.

By Mr. ROBINSON:

Q. What official position do you hold in the State of Massachusetts?

A. I am one of the railroad commissioners.

By Mr. ELLIS:

Q. By appointment or by election?

A. By appointment.

Q. By the governor?

A. Yes, sir. I studied my profession in Cambridge, Massachusetts, then in Germany and France.

Q. Have you had much practical experience in hydraulic engineering?

A. Most of the work I have done for the past twenty-five years has been of that nature. I have been a hard-working man.

Q. Have you had any experience on the Mississippi River?

A. I have done no work there. I have traveled on the Mississippi River. I went there for the purpose of looking at the works going on.

Q. When?

A. I was there in 1877. I had a boyhood acquaintance with the Mississippi River from Saint Louis upward; but of late years the only personal view I have had of it was in 1877, which was from a short distance above New Orleans down to the Gulf. My other knowledge of the river is derived from study and from the reports and writings of others.

Q. As you know, we are trying to find out the best plan to improve the navigation of the Mississippi River and cure the many ills from which it suffers, and I believe everybody is united in the wish that plans may be discovered by which the floods can be prevented from devastating the alluvial regions. I do not think there is a member of Congress or a man North or South, whatever may be his opinion on the subject of levees, who does not hope that some plan may be found for the improvement of the navigation of the river that will result in protecting these rich lands. Directing your attention to that, I would ask you what, in your judgment, is the cause of those features of the river that interfere with navigation; I refer especially to the caving banks, the bars, the shoals, the shifting of the current, &c. To what do you attribute the cause of those results?

A. I should say the feature of alternate pools and shoals is a common one in the rivers in their natural untrained state. It is one of the burdens of civilization that rivers in that state no longer suffice. The experience of all countries is that large expenditures must be incurred in training rivers so as to fit them for the amount of navigation that becomes necessary as population and civilization increase along the banks. And by training of rivers I mean keeping them within defined limits both at high-water and at low water. It is a common method in training rivers to have high-water channels marked out by low levees or banks and a low-water channel likewise marked out by other artificial works, which in times of high water are entirely submerged.

Q. Is that an old system—of having well-defined, permanent, well-located, low-water channel, and a permanently-located, well-defined, high-water channel?

A. I should say it was forty or fifty years old. I do not know whether it is older or not.

Q. Have you had experience or observation in Europe?

A. Yes, sir.

Q. Do you know whether that system has been pursued in European rivers?

A. I know that it has.

Q. What river?

A. The Rhine is a good example of it, the upper reaches of it. It is a well regulated and trained river from Switzerland to the mouth, to the German Ocean.

Q. How has it been regulated and trained?

A. Generally by the very system I have described. In time of flood its waters are limited and defined. In time of low water they are likewise marked out within the high-water limits.

Q. A channel within a channel?

A. A channel within a channel; that is it precisely.

Q. Is it regarded in streams that are subject to flood periods as necessary to have the high-water channel well defined?

A. I think that is the general opinion among engineers. It certainly is mine.

Q. What is that; is it a protection to the inner channel, the low-water channel?

A. I should say the principal reason was to keep the river from abandoning entirely its former channel and striking out in a new course for itself, as it would be likely to do, unless guided, during times of flood. Another reason is that the very material that the river erodes or takes up is one of the chief causes of its forming shoals. That is where the most of the material that makes shoals comes from. It comes from being picked up in one place and deposited in another. In order to have a river of proper navigable depth—a reliable navigable

depth—at all stages it is necessary that it shall pick up material as little as possible.

Q. I should suppose, however, that those high-water banks can not provide against every exigency; occasionally a flood will come that will go over them?

A. In case of river works, they are liable to floods such as occur, we will say, once in a century or thereabouts. They will be higher than has been provided for. It does not pay commercially to provide against exigencies of this sort, that are not liable to occur more than once in a hundred or two hundred years. At this very moment the greater part of Central Europe is recovering from the effects of a flood from both the Danube and the Rhine, the like of which I am informed has not been seen for two hundred years. To make the river works on those rivers sufficient to guard against grossly exceptional floods of that character probably would not pay. It is practically impossible. A contingency of that sort must be endured.

Q. Certainly. Like the flood of which we read—they could not help it. But generally, in your opinion, it is necessary to control the river in high-water periods?

A. I think it is.

Q. And this essentially, in your judgment, for the purpose of navigation and commerce?

A. I think it is.

Q. Have you had occasion to examine the different theories advanced for the improvement of this river? The air has been full of theories; we have had a reservoir theory, we have had an outlet theory and the theories of the commission, and I don't know how many others, but I think those are the principal ones—the three I have mentioned—the reservoir, the outlet, and the system as finally determined upon by the Mississippi River Commission. Have you had occasion to examine those?

A. I have posted myself pretty fully about the last two mentioned, the outlet theory and the works of the commission. The reservoir plan as regards the Mississippi River I have not looked into.

Q. What is your judgment of the proposed outlet plan?

A. I think to indulge in it would be a great mistake. I should regard it as a calamity to yield to the arguments of those who believe in it.

Q. Why? Give us the reasons upon which you base that opinion.

A. I think that it is going in the wrong direction; and when any work is done in the wrong way, I think it is impossible to predict the full extent of the evil that may rise. The tendency of diffusing the waters of the Mississippi are to produce shoals below the point of diffusion. Neither the old channel nor the new channel formed are likely to be of proper service, and the water above the point of diffusion is liable to rise higher than it ever did before. I think, in brief, those are the objections to what is called the outlet system.

Q. Why do you think that the flood is liable to rise higher than the river on account of this diffusion?

A. On account of the obstruction to its flow below the point of diffusion.

Q. How is that obstruction caused?

A. By shoaling. It is one of the laws of hydraulics, as well as of many of the other sciences—physical and moral forces take the paths of least resistance. If any obstruction is put in the way of a flowing river the tendency is to go off in some other direction. If that kind of work is indulged in the evil is constantly increasing, and if carried to its extreme limit it would break up the Mississippi River into 10,000 small channels, no one of which would be good for any purpose.

Q. The outlet theory, then, presents, in your judgment, a result of constantly increasing evil?

A. I think so.

Q. Is it your opinion that the more outlets that are made the more will be demanded?

A. I should say the more outlets made the more tendency toward further outlets. Perhaps that means the same thing.

Q. The result of an outlet, then, in your judgment, is toward shoaling?

A. I think so.

Q. The river below shoals and readjusts its regimen?

A. Yes, sir.

Q. And makes it commensurate with the decreased room that is required, and the flood rises as high as ever?

A. Yes, sir.

Q. By continuing that theory when the flood rises again, make another outlet; when the river readjusts, make another. Wouldn't that be the consequence, and wouldn't it result in filtering the water of the Mississippi River all over the country and absolutely destroying it as a great highway of commerce if it were persevered in?

A. The tendency would be in that way; and if prosecuted to its full extent and if the river were allowed to open up all the channels it pleases it would destroy it as an avenue of commerce. That is the extreme limit following in the line that such a theory would mark out.

Q. Have you particularly studied the plan of an outlet fifteen miles below New Orleans at a point known as Lake Borgne?

A. Not particularly, although I know of it and have seen the maps. I should perhaps say that I have forgotten what I once particularly knew of this place.

Q. Do you think that an outlet such as is proposed there, a mile wide and fifteen feet deep, would have much effect on the flood-line above, and if so, how far above?

A. I should anticipate that it would have a detrimental effect; that is, it would raise the flood-line.

Q. Immediately or eventually?

A. Very soon after; within half a year.

Q. Within a year?

A. Within a year.

Q. Its temporary effect would be to lower it, would it not—its first effect?

A. I am not sure as to that. You have given the size of the outlet; but I would not be prepared to say at present. It might have that temporary effect to begin with.

Q. Then what would be the result?

A. The next result would be a huge shoal immediately below the outlet in the channel of the river, and the outlet itself would tend to shoal up and the river water would flow off less freely than it did before the outlet was formed, thus causing a damming up of the water above the point of outlet.

Q. The result then would be shoaling below, a current decreased in velocity, and consequently in the end a raised flood-line?

A. I think so.

Q. Is that the law of outlets in sedimentary streams?

A. I thoroughly believe it is.

Q. Have you had occasion to investigate the plans of improvement proposed by the present Mississippi River Commission?

A. Yes, sir.

Q. Have you seen any of its works?

A. No, sir.

Q. Is their plan a new one, or is it an old plan?

A. I should say the general features of the plan were old; but the means and methods used by them in carrying out their works present a great many novel features, and to my mind valuable ones. I think they have gone ahead of what has been hitherto accomplished in that line, and are making progress in that branch of engineering work.

Q. What do you understand to be their theory?

A. Practically, what I stated a short time ago. For that part of the river which is troubled by shoals, to improve the navigation by having a defined high-water as well as low-water channel, one within the other, confine the waters of the stream, train it, and thereby cause it to excavate its own channel, having a channel of proper and reliable depth at all seasons of the year. These training works are built out from the shore, and they include in certain cases widening some parts of the river, other parts contracting; but the object sought to be attained is to obtain a regular systematic channel which the river is to be kept in, and which it will maintain of its own accord.

Q. Do you believe it is feasible to confine the ordinary floods of the Mississippi River within channels within the banks, artificial banks?

A. I believe it is, for that part of it the navigation of which is now obstructed by shoals. I do not know enough about the lower reaches of the river to be able to give an opinion as to whether that part could be kept within levees during its floods or no.

Q. I speak particularly of that portion of the river between Cairo and Natchez, Mississippi, or the mouth of Red River.

A. That part I think could be trained.

Q. You think it could be trained?

A. Yes; although in working on a river of such magnitude it is necessarily a matter to some degree of experiment. I believe in the motto of the Engineering Corps of the United States, which is, "Let us try." In a case of this sort there are reasonable grounds for believing that success is attainable, and all that can be done is to go ahead and endeavor to achieve that success.

Q. Do you know the means adopted by the commission to hold the caving banks of the river?

A. I do not in detail.

Q. Do you know the means that are being used by them in making contraction works in the shoal places at the head of towheads and along bars, for the purpose of creating a filling, making an artificial low-water bank by the means of wing-dams, the jetties, foot-mats, watling, &c.?

A. I understand in a general way what has been done in that direction.

Q. Do you think that is feasible?

A. I think that work has been very well done. I had that work in mind when I spoke about their doing better than had been done in the same class of work elsewhere, and I regard it as a marked progress in that branch of engineering work.

Q. It looks like a mammoth undertaking, does it not, to gather up the flood-waters that extend, for instance, fifty or sixty miles wide and three or four feet deep? For instance, take this point where, according to the section lines, the flood was seventy miles wide. It looks like a huge undertaking to propose to control all that water and keep it within the channel of the river and compel the river to discharge it.

A. Well, sir, it does not look so very formidable to the hydraulic mind.

Q. To the unprofessional mind I confess it looks like a big job.

A. If the river discharged it it would not spread out.

Q. That is true.

A. There would be nothing to gather up, as it were.

Q. Under what law of hydraulic engineering or dynamics would the river ever control and discharge that immense flood?

A. It is one of the most notable laws of hydraulics that the channel, with an increase of depth and only a slight increase of slope, discharges so much more water. Five feet increase in depth when the depth is already eighty feet, say, may double the discharge.

Q. Five feet increase in depth may double the discharge?

A. Those are mere random figures to illustrate that a small increase in depth will very greatly increase the discharge.

Q. Is not that the law?

A. It is the law.

Q. It is a well-ascertained, incontrovertible law?

A. It is a well-ascertained law that one handling water becomes very familiar with, and is not surprised at when he sees it in practice.

Q. I want you to elaborate that thought as applied to the Mississippi River?

A. I think that has been so well done by Captain Eads that, did I wish to state this fact in the tersest and strongest way, I think I should quote his very words on that subject.

Q. To what utterance of Captain Eads do you refer?

A. I refer to a pamphlet of his in which he gives some diagrams showing the Mississippi River at various depths, the amount of discharge it had at various depths and various slopes, he illustrating how the discharge is so greatly increased by comparatively small increase in depth of river.

Q. Had you studied that question before you saw Captain Eads's utterance about it?

A. Yes, sir,

Q. Was your opinion influenced by his, or did you hold that opinion before you saw his statement?

A. I held that opinion before I saw his statement. But I admired the terse and strong way in which he put it and brought it, as I thought, within the comprehension of everybody.

Q. Then your opinion was not at all influenced by his?

A. Not at all.

Q. (Handing document to witness.) Will you look at that and see if that is the document to which you refer?

A. (After examination.) That is the document, as I remember by the drawings on page 5.

(The witness referred to the minority views signed by Captain Eads in the report of the Mississippi River Commission of 1881, known as Senate Executive Document No. 10, part 2, Forty-seventh Congress, first session.)

Q. You believe, then, that if the Mississippi River is confined in a high-water channel by artificial banks, with a low-water channel well defined in a permanent place, that it will discharge its ordinary flood of water without overflowing the country?

A. I think it will.

Q. Under the law which you mention?

A. Yes, sir.

Q. And for a full elucidation of your opinion you refer to this document of Captain Eads?

A. I do for a strong way of putting it.

Q. Have you had any other observation or experience with European rivers than the Po and the Rhine?

A. Yes; there are other rivers with which I am familiar with the works on them, from study of books, hydraulic works, describing the training works on those rivers. The Danube is another river that not so much work has been done on as on the Rhine. The Mosell is a trained river, and various smaller rivers I know of in Europe.

Q. Have these rivers of which you speak a defined high-water channel within the low-water channel?

A. Yes, sir; in smaller rivers especially; there is no question that the way to train them is in the manner stated, and that it can be done very readily. In those cases the shore between the low-water channel and the high-water bank, if I may so call it, forms some of the richest meadow land that can be found anywhere usually cultivated.

Q. They get the crop up before the floods come?

A. Yes, sir.

Q. What is your opinion as to the effect of crevasses and outlets upon the progress of floods; that is, upon the march of flood waves?

A. That is a subject I have not studied. I should not want to give an opinion upon that.

Q. Is the law exactly the reverse of that to which you have just alluded? As I am informed, you believe that by confining the waters to a well-defined high-water channel by artificial banks it will discharge according to the increase of depth given by those banks; it will discharge with twofold or threefold rapidity, according as depth is increased. The reverse of that is the destruction of these artificial banks, and allowing the river to wander all over the country, is it not?

A. I am afraid that I do not catch the drift of the question.

Q. You have just stated that if the waters of the river were confined within well-defined high-water banks permanently located the discharge would be twofold or threefold in rapidity as a consequence of the increase of depth occasioned by those high-water banks; then I say the reverse of that would be the destruction of those banks and allowing the water to run all over the country. That would be the reverse action, would it not?

A. Yes, sir.

Q. Then, does it not follow that crevasses and outlets and a general overflow retard the progress of a flood?

A. Yes; that is as I stated before. Outlets destroy channels instead of making them.

Q. What is the general angle of slopes in sedimentary rivers?

A. It is very varying; there is no rule about it.

Q. Do you know of any such thing as a perfectly perpendicular bank below the water-line?

A. I thought you meant slope of the water's surface.

Q. No, sir; I meant of the bank below the water-line.

A. Some kinds of earth will stand up for a certain length of time almost or entirely perpendicularly.

Q. What kind of bank would that be?

A. I could hardly say; soils act very curiously about that. A perpendicular bank without sufficient slope is only a temporary thing; it is a question of time whether it will cave in. But for a short time earths will stand up occasionally quite perpendicularly in running water.

Q. Would the soil of the character of that which composes the banks of the Mississippi River stand up perpendicularly below the water-line for any length of time?

A. It would not for any length of time; it might temporarily.

Q. The general law, however, requires a sloping bank?

A. A sloping bank is necessary for any degree of permanency.

Q. And that necessity is greater in sedimentary streams where the bank is soft, is it not?

A. A soft bank would need a slope to be at all permanent.

Q. I will ask you one more question, and that is if the plan, the theory, and the works of the Mississippi River Commission, as far as you understand them, meet your approval as a professional man—as an engineer?

A. They do most decidedly.

Q. If it were a private investment of your own would you hesitate to go on with the work? If the results to be achieved were as great proportionately to you as an individual as they will be to the Government would you hesitate to go on and prosecute them?

A. I should go on with them.

Q. I understand you to say that you had given them a good deal of consideration?

A. I have given them considerable thought and study.

Q. Had you studied the problem presented by the Mississippi River Commission before the organization of the commission?

A. Somewhat, though not very much.

By Mr. ROBINSON:

Q. You visited the Lower Mississippi in 1877?

A. Yes, sir.

Q. How long a time were you there then?

A. Something like a week or ten days.

Q. Have you visited it since?

A. No, sir.

Q. And prior to 1877 you went there to make an examination of the river?

A. Not since I was a boy.

Q. At that time you had no scientific knowledge or attainments that would assist you very much in the investigation?

A. No, sir.

Q. Have you had any experience in the regularization of rivers, as an engineer?

A. I have done no work in handling large river channels.

Q. What rivers in this country have you trained?

A. None at all.

Q. You are at present the engineer for the Holyoke Water Power Company, in Massachusetts, are you?

A. Yes, sir.

Q. And that is a work of different character from that in this scheme?

A. Yes, sir.

Q. And you have not seen, as I understand you, any of the works that have been done by the commission since the commission was formed?

A. I have not seen the actual works.

Q. You have read their reports, and you pass your opinion on their reports as applied to what you have known of the river before?

A. Yes, sir. My knowledge on river works is, I may say, mainly gained from the study of the works of others.

Q. What is the object that you understand the commission to be aiming at?

A. I understand that the commission is trying to make a channel of a proper and reliable (I mean by that, permanent) depth in all that part of the river which is now subject to shifting shoals; that is to say, from Cairo down to the mouth of Red River, roughly speaking. Whether or not they are to train the river below that point and confine its flood-waters is a thing, as I understand, that is a matter of discussion.

Q. They are aiming at training the river in the shoal places; but for what purposes?

A. For the purposes of navigation.

Q. Solely?

A. Solely.

Q. You do not contemplate any works for the protection of lands from overflow?

A. I do not, unless they at the same time act as improving the navigation of the river.

Q. Do you understand that the condition of the water at all stages below Red River is sufficient for navigation?

A. Yes, sir.

Q. Can you conceive, then, of any need of an application of the plan of the commission below Red River?

A. Not for purposes of navigation, unless it is down at the passes possibly.

Q. If they are limited in their jurisdiction to the head of the passes, you would not then consider it necessary?

A. No, sir; not in that case.

Q. The navigation is good, on the statement of all river men, from Red River to the head of the passes; you see no necessity or propriety in continuing any works below?

A. Not for purposes of navigation.

Q. Then you do not regard the maintenance of levees below Red River as of any consequence at all for navigation?

A. Not for that part of the river, as I understand.

Q. You make that statement upon the assumption that the navigation below Red River is good at all stages of water?

A. Yes, sir.

Q. In regard to the river from Cairo to Red River, you apply the plan for the sake of improving the bad places in navigation?

A. Improving and maintaining.

Q. You confine it to the shoal places of the river?

A. Maintaining the improvement, will you please say?

Q. Do you confine the works to the shoal places of the river?

A. No, sir; that can't be done. To improve shoal places it is necessary to do work on either side of the shoal places.

Q. Above and below?

A. Above and below.

Q. By narrowing the channel in shoal places do you expect a deepening of the channel at those points?

A. I do if properly supported by the other works above and below.

Q. What will become of the effect of a scour?

A. Pass on down the stream.

Q. It will have to stay somewhere.

A. Not necessarily; it should reach the Gulf of Mexico.

Q. And you anticipate that it will always go to the Gulf of Mexico without making a call anywhere?

A. It will get there in course of time. That is the object of training works, to prevent the sediment which is rolled along the bottom from accumulating at any point in the shape of shoals. They are detrimental to navigation; and the object of these works also is to take this material from time to time, from flood to flood, and pass it along down the stream with some degree of regularity and system until it is finally ejected at the mouth of the river.

Q. Are you looking to the maintenance of a channel that shall have a well-defined and uniform depth throughout?

A. No, sir; but to have a channel whose least depth at any point shall be no less than the amount aimed at or desired. What that depth exactly in feet and inches shall be is something that I do not pretend to know. It has undoubtedly been settled on by the Mississippi River Commission, and they are aiming at a channel which shall never be less than the depth so fixed. A trained and regular river channel is not a uniform depth; it is still a succession of pools and shoals. The crests of the shoals are no higher than can properly and safely be allowed.

Q. If you had a channel of uniform depth over soil of the character you know is in the bed of the river, would it maintain a uniform depth?

A. I do not think a channel of precisely uniform depth throughout could be constructed and maintained if incidentally existing. It is not the way that meandering rivers run. They always have pools and shoals, and the only object of river training is to cause those shoals not to reach up higher than desired in the interest of navigation.

Q. It is apparent that the river is making from side to side. Probably it has always pursued that course, has it not?

A. Yes, sir.

Q. Is it a fact that there are similar undulations in a vertical line on the bed of the river?

A. The line of deepest water would go up and down, for, as I have expressed it, that would be a succession of pools and shoals.

Q. You contemplate that the banks for the high-water channel and the low-water channel shall coincide?

A. I think they would not necessarily; they might in certain cases.

Q. Is the object of the contraction works to secure a scouring force on the bottom?

A. Yes, sir; principally.

Q. Is the object of the confinement of the water at high stages to secure a greater scouring force?

A. Not so much as in the case of the low-water training works.

Q. I understand you to say that an increase of five feet would very much increase the scouring force of the stream?

A. It would. But what I said was that a slight increase in depth very largely increased the carrying capacity of the river to carry water.

Q. Because it increases the velocity?

A. Because it increases the velocity.

Q. An increase of scouring force would accompany it?

A. It would accompany it.

Q. And then the piling of the water upon itself by maintaining the banks for a high-water channel, preventing dispersion over the valley, would give greater depth, greater velocity, and greater scouring force?

A. It would in high water. This very material that has been spoken of would be picked up and carried further toward the Gulf.

Q. The crest of the banks is in general above low-water mark at what height along the Mississippi River?

A. I do not quite understand.

Q. How high is the surface of the soil on the crest of the natural bank above the stage of low water in the river?

A. I could not say.

Q. Assume it to be forty feet; then would your observation lead you to believe it to be that?

A. It is in some places.

Q. When the river is bank-full, then, you have increase of depth of your stream forty feet to below low water?

A. I do not understand that the Mississippi River at any place has a range of forty feet between high or low water.

Q. If it is at low water when it runs over the banks and fills the banks, it is as much higher as the banks of the stream?

A. I do not understand that the range is forty feet.

Q. What range do you put it?

A. I do not know; the figures have passed from my mind.

Q. Assuming twenty-five feet; would that be a too violent assumption for you?

A. Well, not at the upper end.

Q. When the river is bank-full we will have an increase of depth of twenty-five feet?

A. Yes, sir.

Q. Now take the difference of high flood, and you are going to bring the water that flowed over the valley, to the extent described in that map there before you, somewhere from forty to seventy miles wide; and you anticipate bringing all that flood in within those new banks?

A. I anticipate discharging it into the Gulf of Mexico before it can spread over the land.

Q. How high necessarily would they be to hold that flood?

A. There is such a variation I could not say; I am not sufficiently posted in the details of the question.

Q. You anticipate that it would require pretty high banks, do you not?

A. I do not remember any banks that have ever been proposed of what an engineer would call an unreasonable height.

Q. But could the flood of 1882, extending down in the valley, ranging from twenty to seventy miles in width, and in depth over the land from five to ten

feet, be confined in that space? Do you look forward to it as a practical scheme that by any walls of earth in the bed of the river, or on the banks, you could confine that flood and carry it out to the Gulf without disturbance?

A. Certainly. The width of a flooded district and the moderate depth over which it has flowed are alarming-looking figures. But if that water, instead of standing still and flooding the land, had been enabled to pass on, it would not have assumed this alarming proportion. It is like the genii in the Arabian Nights Entertainment. So long as it was kept within the bottle it was all right, but when it got out it looked very formidable and impossible to get it back again.

Q. You think you could keep this spirit of the Mississippi Valley within a bottle?

A. I see nothing alarming in the proposition.

Q. Did you see the flood of 1882?

A. No, sir.

Q. Did you ever visit there when the river was at high flood since your boyhood?

A. No, sir; I have seen no very high floods. I have seen crevasses and ordinary floods.

Q. If the river had this great increase of depth and augmentation of velocity, and so of scouring force, will you tell why it will not proceed to scour down behind the contraction works that are within the bed of the river.

A. May I ask does that refer to the low-water training works or the high water?

Q. It refers to the effect of the greatly deepened river in time of flood when confined within the high-water banks, the effect upon the low-water works.

A. Yes, sir. All I can say is that experience on that subject does not lead one to anticipate any such trouble. The works that are built to guide the low-water channel are of such a nature that they can stand a great deal of scour; they necessarily must in the execution of the work that is put upon them. The bed of the river is not deepened to any great amount except at the crest of the bars. The line of the channel, as I have said, assumes the form of a succession of shoals and pools; and I do not anticipate that the bottoms of the pools will be scoured at all. It is simply taking off the top edge of the water. I might call it the saw-teeth, as that is what this profile would look like on a distorted scale, and these teeth would be chopped off by the training works.

Q. But you have now confined your explanation entirely to the effect in the low-water channel. I want to lead your mind to the space between the contracting works on the one side of the low-water channel and the levee on the top of the bank of the same side of the stream. I want to know if there will be any scouring between those two lines when the water is deepened twenty-five or forty feet?

A. That space between the low-water marks and the high-water levees must be protected and guarded in some way. It would not do, for example, to plow it up and cultivate it. It ought to be allowed to grow up there in underbrush, or certainly nothing less than grass. It will have to be taken care of; it is one of the burdens of a civilized channel of the river.

Q. How with regard to its width?

A. Its width will be a determined measure.

Q. But it will vary in places?

A. I presume so.

Q. You do not understand that it is proposed to continue these works in parallel lines?

A. Roughly speaking, I think they would be parallel; but speaking strictly mathematically they would not be.

Q. It is a fact that the levees are in no sense parallel, are they?

A. I think that is one of the defects of the present haphazard system.

Q. What would you recommend in place of them?

A. I would recommend a system of levees to guide the high waters of the river that are in some remote degree of uniform width.

Q. Then you understand that it would be necessary to build new levees in order to have a proper high-water channel?

A. I do in such places where they do not already exist, and are not already on a proper line.

Q. What do you mean by "not on a proper line?" Be more definite.

A. I can not very easily, except to say that the works which guide the river in the high water must be, roughly speaking, parallel to those that drain it at low water.

Q. And the variation of the width of the space between them of a mile would not be sufficiently near the parallelism to answer the purpose?

A. That must be studied and answered for each particular locality.

Q. Your information would not enable you to answer now?

A. I could not lay out here a line of levees for guiding the high waters of the Mississippi, and describe them merely in language.

The committee adjourned to 7.30 this evening.

FRIDAY, *January* 19, 1883, 7.30 p. m.

Mr. ROBINSON in the chair.

Testimony of Clemens Herschel continued.

By Mr. ROBINSON (in the chair):

Question. You understand that the effect of these works that are put into the bed of the river is to assist the river in forming new banks, do you not?

Answer. Yes, sir; generally it is.

Q. And you expect, then, to have a deposit and so the process of bank building going on after those works are completed?

A. Yes, sir.

Q. Now, my question is, why will you not have, as a certain result when the river is raised in flood to the top of the high-water banks, a scouring over that newly formed bank?

A. Well, sir, another reason besides those that I mentioned is this: That on this fore shore, which is the technical name of that part of the shore between the high-water and the low-water bank or shore, the depth of water in time of flood will be comparatively small, and the depth being small the velocity will be small also, and that prevents erosion in that part of the high-water channel. Where the depth is greatest the velocity is greatest and then there will be the greatest amount of erosion.

Q. Then it is measured by the same law as to the depth?

A. Yes, sir.

Q. So that you will have with the same depth the same effect of increased velocity and increased power of current?

A. If the depth is uniform; if its depth is nothing but a hole dammed up down the stream it will make it a still pool.

Q. If it is in the ordinary course of the stream and going along the extended line of the river you expect results of the same character?

A. I would. I will call attention, though, to the object of these very works, which is to arrest the current and build up the shore, and which is diametrically opposed to any digging out or erosion.

Q. But these works are not greatly permanent, are they, in themselves; they are made there from materials which will perish?

A. Yes, sir; the idea being that they will have achieved their object before they perish.

Q. That is, they will have built up the bank?

A. Yes, sir.

Q. Then when they decay they leave nothing but the bank?

A. That is it.

Q. And then you have the bank to be attacked; is that so?

A. Not exactly.

Q. Why not?

A. For the reason that I have given. The bank will be but to a comparatively small extent under water, and such shoal-water may not assume any great velocity.

Q. But it has no protection in the perished dike work?

A. It has no artificial protection.

Q. Then it comes down substantially to the soil which forms the new bank?

A. I can say on that point that there is little or no fear of any erosion of those banks after they are formed; all experience proves that. I am not confined to reasoning on that point; it is a matter of experience.

Q. Do you regard it as within reasonable expectation that the banks must be revetted?

A. In certain portions they probably will have to be revetted, especially during the first stages of formation of the new channel. The formation of the new channel is the work of several years; it can not be achieved all at once. River works always extend through a series of years before they are completed, and they must be watched after that and kept in repair.

Q. There is a danger all the time, is there not, that the river may set in behind and flank these works?

A. Yes; works of this sort must be protected and taken care of constantly.

Q. So that while they might be successfully constructed there would afterward be a necessity for maintenance constantly?

A. Yes, sir.

Q. And in a valley and in a bed like that we have in the Mississippi River problem, that would not be an inconsiderable item either, would it?

A. It would not. Handling a river is like handling a living organism. You build up a bridge; it is handling dead material, comparatively speaking; once put there it will stay there, and it is very much more so in works of this sort.

Q. As a living organism, to carry out your simile, the river oftentimes seems to manifest a will of its own and do very strange things?

A. Apparently so, although when its laws are well understood there is little or none of this sort of action.

Q. In other words, many things which are counted great wonders cease to be such when we understand them?

A. Yes, sir.

Q. The river is performing remarkable feats as observed with our present knowledge?

A. Yes, a river of this magnitude.

Q. You are aware that the river has run about over that valley to the extent of many miles in some parts of it?

A. That is a feature of untrained rivers.

Q. And particularly with the soil of the character of this—so easily moved as that of the Mississippi Valley.

A. Yes, sir.

Q. The more yielding the soil the more susceptible it is to the action of the water?

A. Yes, sir.

Q. Then will not—in these great bends that are plainly seen to every passer, which extend sometimes five or ten miles, after you have prepared your works in them, if the river suddenly concludes to cut off these bends—your works be left to one side? What would you do about that?

A. In its trained state the river would not have these extremely sharp bends that it forms now.

Q. You propose to cut across and shorten the river?

A. It would have to be done in certain cases, I presume; I am not acquainted with the whole length of the river.

Q. In your theory of the river would it remain shortened after you had cut across these bends?

A. The artificial channel, such as is built by training works, would have to be maintained.

Q. Is it not a well-observed fact in such a river, through such a bed, that whenever a shortening is made the river begins to compensate for that shortening by lengthening either above or below?

A. It does attempt to do so.

Q. So that you practically would in the end have the same distance from Cairo to Red River that you have now?

A. Practically the same distance would have to be maintained unless an increase in depth and an improvement in the discharging capacity of the river would change that length.

Q. Do you contemplate any particular increase of depth so that you can state it in feet?

A. No, sir; I could not state it in feet.

Q. Have you an impression that you would get a depth of twenty feet at low stage of water from Cairo down?

A. No, sir; I should say not so much.

Q. As much as ten feet?

A. Possibly that.

Q. That would be the outside, would it?

A. I don't think my judgment on that point is very good; I have not fixed my ideas of channel-way in feet.

Q. If you were to drop the bed so that you would have ten feet of water from Cairo down, do you expect that that increased depth would give sufficient channel to carry all its waters below the natural banks of the river, even in time of flood?

A. Yes, sir.

Q. Then your idea is that, with a ten-foot channel secured, you would have no water to overflow the valley?

A. The depth of channel is one element and the height of levees is another. Those two together must be so constructed that they will carry off all but the most extraordinary floods.

Q. What is it that makes the water run into the Gulf of Mexico?

A. The slope of the water surface.

Q. Now, if you lower that slope will your water run faster or slower?

A. I hardly know what is meant by "slower."

Q. If you drop the upper portion of the slope it is like an inclined plane with a broken surface. Now, drop the upper end of that inclined plane; will the water run faster or slower?

A. That would decrease the slope and the water would run slower.

Q. Now, an increase of depth of that upper portion does really drop the upper end?

A. No, sir.

Q. What does it do?

A. It increases the slope of the surface of the river.

Q. Then you do not mean the slope of the bed?

A. No, sir; that is of little consequence as regards flow of water; it is the slope of the surface of the water that makes the water flow.

Q. The lower end of the slope is fixed?

A. Fixed.

Q. That can not be raised much?

A. No, sir.

Q. What object is it to lower the bed of the stream if the lowering does not accelerate the current?

A. Lowering the bed of the stream improves the navigability of the stream.

Q. Yes; but how does it affect the current if you say it does not accelerate it?
A. I have said that it needed to be lowered in the channel, or on the crests of the shoals, and that this will not necessarily lower the surface of the water, although it will improve the navigation.
Q. Well, illustrate it with a book held on an inclined plane [illustrating] of which the upper portion will represent Cairo and the lower the Gulf of Mexico.
A. Yes; roughly.
Q. Down that slope the water runs with a certain velocity. Suppose that I cut the plane from the upper portion down greatly [suiting the action to the word] so that I have lowered the slope; in other words, sunk the bed; will I get more rapid discharge of water down that new slope, or less rapid?
A. If these things are done as you have described them the water will run slower.
Q. In the upper portion of the river, from Cairo to Red River, in what way does it scour out from what I have supposed in this instance?
A. I do not understand that it is the intention to lower the slope, or to make the slope flatter, rather.
Q. To lower the slope of the bed?
A. Lower the slope of the water surface. I do not understand that this is to be done. The only thing I understand to be done is to make a regular channel, and one of such a depth at its shoalest parts as to improve the navigation, and that that depth shall be found there at all seasons of the year.
Q. With a given quantity of water in the channel of the river, enough just to fill the natural banks, if you lower the bed of that stream it is admitted that the water will fall below the natural crest of the bank?
A. It would if the whole bed were lowered.
Q. Then if the whole bed is lowered and the quantity of water has fallen to a corresponding depth, why do you not get a slower current?
A. You would in that case.
Q. And why is not that just where you are coming to as the result of these works?
A. Because these works are not intended to and need not appreciably lower the whole bed of the stream or lower the water surface, at Cairo we will say, for the same stage of water.
Q. Is it not, after all, a relief from that perplexity that may exist, in my mind if not in yours, to keep separate the consideration of the channel for the purposes of navigation and the lowering of the flood-line for the protection of the valley?
A. It would be well enough to keep these objects separate, but, practically, it can not be done. I think improvement of the river for the purposes of navigation usually brings with it a lowering of the flood-line.
Q. Well, for any purpose of navigation it would be all-sufficient, would it not, if you could put a dredge up and down that river with sufficient frequency to keep these tops of the shoals all scraped off and the burden carried into the pools so that boats could pass up and down without striking those shoals; that would be all that would be necessary, so far as navigation alone was concerned, would it not?
A. That would not be practicable.
Q. If that were practicable, like the farmers breaking out a path through the snow, if you could break down the tops and put the contents of them into the pools you would have a channel for navigation purposes, which would be all that you want?
A. Certainly.
Q. If you use the power of water to accomplish the same thing, that is all you want to seek for, so far as channel improvement is concerned?
A. Yes, sir.
Q. Then all other considerations and desiderata may be omitted in the consideration of that problem?
A. Is that a question?
Q. Yes.
A. What considerations are referred to?
Q. The other question was the one to which you gave assent—that the force of water as a scouring power, instead of a dredge, if it carried off those obstructions would be all that would be necessary so far as channel improvement was concerned. Now, I said, working to that end, you may safely omit the other considerations and desiderata?
A. Yes.
Q. You advanced the belief that the result, in an outlet of any considerable volume from the Mississippi River, would be a shoaling below, and hence an obstruction to navigation.
A. Yes.
Q. What should you say if you were told by experienced navigators of the river that below the Bonnet Carré crevasse, the crevasse having occurred in 1874, no perceptible shoal of the river had occurred—none that had affected the navigation of the river?
A. I should want to distinguish between "perceptible shoaling" and "shoaling that had not affected the navigation of the river." I can conceive of a river so deep that it could shoal very much without affecting navigation; but it undoubtedly has shoaled, or I am very much mistaken in facts and theories.
Q. You would be mistaken as to the theory if it had not shoaled?
A. If it had not shoaled I should be very much surprised; at least I should want to seek a cause for such an exceptional state of affairs.
Q. That crevasse having been open for eight years, and it having been found that during that time there had been no shoaling sufficient to operate as any obstruction to navigation, from the great depth of water or otherwise, should you say it was necessary to close the Bonnet Carré crevasse for purposes of navigation?
A. Well, the question seems to be like this: If the crevasse has been opened eight years, and has produced in that time no shoaling to such an extent that it is detrimental to navigation, need it be closed in the interest of navigation at that point? and I should say of course not. If there is no detriment to navigation there is nothing to be cured at that particular spot; at the same time there undoubtedly was shoaling there, and the river discharges less freely below that crevasse now than it formerly did, and that amounts to the river being on the road to ruin, although it has not got there yet.
Q. The ruin don't quite stare us in the face yet?
A. It don't quite stare us in the face, but I think it is in an evil way—going in the wrong direction.
Q. Well, it is a fact in the behavior of the river that it makes shoals one day or one month and removes them the next, and makes new ones in other places?
A. In certain parts it undoubtedly does that.
Q. So that you might find a shoal there now, and perhaps in three months you would not find it there?
A. I don't agree with that exactly; as long as there is a crevasse there would be a shoal not far below.
Q. That is the tendency undoubtedly, but when the water is fifty feet deep do you expect such a shoaling as to interfere with the navigation for boats that draw eight or ten feet?
A. I don't mean to be understood that shoaling, as applied to those places, is a shoal that interferes with navigation; where there has been one hundred feet and only fifty feet is there now, I call that a shoaling, although there are still fifty feet of water left.
Q. In order to make these works of improvement in the channel of the river a success, all the caving banks must be protected, must they not?
A. I should say so.
Q. Over any shoals the banks must be created and maintained?
A. Yes.
Q. And you expect a very large amount of revetment to be required to accomplish these results?
A. Yes, sir; especially during the first year of the work.
Q. Practically, in your judgment, it would amount to about the length of the river from Cairo to Red River, would it not, continuously, taking one side alone; that is, putting two sides together you get as an effect about one length?
A. I should think that might be a fair estimate.
Q. You have said, as I understand you, that you have confidence in this plan of the commission?
A. I have.
Q. And that you would recommend it to be undertaken and continued?
A. I do think that inasmuch as it has been begun it should now be continued and finished.
Q. Is it a fact that scientific gentlemen like yourself like to see these problems solved and settled for the benefit of science?
A. Well, I should hardly go in my devotion to science to that extent. I believe this, that the training of the Mississippi River and other navigable rivers has got to be undertaken at some time in the history of this country. The Congress of the United States in its wisdom has seen fit to commence that work in the year 1882 rather than in the year 1900 or in the year 1932, and now that the work has been begun I certainly believe that it should be finished.
Q. Whatever the cost?
A. No, sir; but if not too largely in excess of such estimates as were made previously to the beginning of the work.
Q. If you knew that the members of the Mississippi River Commission estimate the entire expense in amounts differing with the individuals, ranging from $25,000,000 to $66,000,000 for the whole work, omitting all consideration of the construction, repair, and maintenance of levees, and you consider that the plan included works upon several distinct reaches of the river, would you not consider it the part of prudence as an engineer or as a practical man in any other branch of employment to confine your work to one of those reaches until the work there had stood the test of the flood season and demonstrated its success? You may consider in that connection Plum Point reach through a length of about thirty-eight miles upon which the works are now in progress.
A. I should say that thirty-eight miles would be a little short for a piece on which to test works of this character; say one hundred miles would be perhaps a good test. Works of this character might achieve little or no result over thirty-eight miles, when they would achieve appreciable results on a stretch of a hundred miles or one hundred and fifty miles.
Q. But it appears to be the fact, as you perhaps are informed, that the Plum Point reach is the worst point on the river between Cairo and Red River; so that when made as good there as the river above and below the navigation would be satisfactory to those who use the river for navigation purposes; do you not understand it so?
A. I have not so understood it; but if it is so, what I meant to say was, that in order to permanently improve Plum Point reach it may be necessary also to keep under control a certain stretch of the river above and below that particular reach of river.
Q. Taking, then, your assumption of it as part of the necessary working out of the theory, you would be of the opinion that that would be the more economical and safer course to pursue than to apply the work to the whole of the river at once, taking the chances of failure if the whole of it should result disastrously?
A. It may be judicious to confine the works in that way.
Q. Because, I understand you to say, after all, in such an undertaking as this there must be a very large element of experiment?
A. Yes. There are very few Mississippi Rivers in the world.
Q. As you spoke of foreign rivers, have you any one of them that is up to the Mississippi problem?
A. No, sir; certainly not.
Q. The Rhine does not approach it?
A. No, sir.
Q. And you alluded to the overflows of the Rhine at present; there you have a regularly trained stream with levees upon the banks, maintained for many years, and yet you have an overflow that is disastrous?
A. Yes, sir.
Q. Therefore the training of the river and the maintenance of the banks has not so deepened the channel there as to carry away the flood waters without their doing damage?
A. I stated that floods have occurred there though the banks have been graded and known for two hundred years; but those very works have been of an immense amount of benefit for the last forty years, and the moment these floods subside they will again take up their beneficent work.
Q. That is, when the water is within the natural banks the levees do a good work?
A. Oh, there are floods on the Rhine every year, but there are extraordinary floods and floods that might be termed extraordinarily extraordinary, and it does not pay to grapple with freaks of nature that only come once in a century.
Q. Well, the river Po is a very much smaller stream than that we are now contemplating; that has levees and works within the banks, and yet it is subject to overflows, is it not?
A. There has a great deal been said about the river Po, yet very little that I have seen that may be termed reliable. I have never seen, myself, or read anything about it that I could say were facts and figures.
Q. It is thought that those works have been maintained somewhere about four hundred years, is it not?
A. It has been under some sort of training for as long a period of time as that.
Q. You are aware that the bed of the river is claimed to be only one foot lower than it was four hundred years ago.
A. I think the Po ought to be left out of the discussion until we get some data. I have heard almost everything about the Po.
Q. So you will omit it because it is an uncomfortable factor in the discussion?
A. No, sir; it is quoted in support of almost every theory that has been brought forward. The reason I say it ought to be left out of the discussion is that we know so little about it that is reliable.
Q. Well, how is it about the river Rhone?
A. I am not posted on that.
Q. Have you had time to examine the translation by Lieutenant Merrill, of the United States Engineer Corps, of the work on improvement of non-tidal rivers?
A. Yes, although I have not read it very carefully yet.
Q. Those engineers who are prominent and distinguished abroad discredit very largely this theory for the regularization of rivers?
A. I find a Russian engineer is quoted there.
Q. Janecki?
A. Janecki does abandon it and believes in canals, which are, however, entirely impracticable for a river of the size of the Mississippi.
Q. Oh, yes; but he proceeds to show that as to the Rhone this training and regularization has not been a success, does he not?
A. Yes.
Q. And that is the most recent work that we have by authority upon the works in French and German rivers?
A. Well, I think not; take the river Loire, for instance, which is a very successful case of river training—and the Garonne.

Q. How do they compare in size with the Mississippi?
A. Well, those rivers are smaller than the Mississippi.
Q. How do they compare in size with the Connecticut River?
A. I think they are larger than the Connecticut.
Q. Not very much, are they?
A. I could not say. The Rhone is, certainly.
Q. Do you contemplate as a necessary result of the completion of the works on the Mississippi River that there should be any such protection of the bottom of the river as has been applied in the regularization of the German rivers?
A. No, sir.
Q. Why not?
A. Those German rivers are cases of small rivers, with much steeper slopes.
Q. You mean slope of bed now, do you?
A. Both slope of bed and slope of water surface.
Q. You would not anticipate, even with the yielding soil of the Mississippi, that you would have in that increased current so great a force as to perceptibly affect the bed of the stream?
A. I should think not.
Q. Would it not be sufficient, possibly, to undermine the very works that have been put against the banks as a retaining wall?
A. I should not anticipate anything of that sort in the stretch of river from Cairo down.
By Mr. ELLIS:
Q. Mr. Herschel, Mr. Robinson asked you that question there again that I was directing your attention to. I want to again carry you down to the Bonnet Carré works referred to in your examination this morning. You stated that for purposes of navigation alone you see no use of any work below the mouth of Red River. There are three or four large crevasses below the mouth of Red River, as you probably know. Is it not consistent with the entire plan of the commission for obtaining the greatest discharging capacity and for stopping whatever shoaling may be going on down there to close those crevasses?
A. I think it is consistent with the work of river improvement and river training to close accidental outlets of this sort.
Q. Do you not regard it as necessary to the plan of the river commission to close those crevasses?
A. I think that I could hardly say it is necessary. I should say it was desirable.
Q. The surveys made by Professor Bailey after the Bonnet Carré crevasse of 1874, and also the surveys made by Professor Forshey after the Bonnet Carré crevasse of 1850, showed the contraction of the sectional area below the point of outlet to be about 75,000 feet; now will it not very greatly facilitate the river's discharge if that contraction can be undone and the bar which was formed washed out?
A. Yes, sir.
Q. The theory of the river commission is to obtain the greatest discharging capacity. Now, in order to do that, is it not necessary to close those crevasses?
A. It is necessary in order to obtain a river of greatest discharging capacity.
Q. And while it might not affect the navigation at that point forever, that crevasse might remain open forever and never affect the navigation below, and yet as long as it remains open it must *pro tanto* impair the discharging capacity of the river?
A. That is correct.
Q. Suppose it were shown to you by the testimony of the engineers who had done the works, and by the official reports, that works similar in character to this being done by the river commission had been done at other points in the river where the river features were bad, and similar to those at Plum Point and Providence reaches, though the rivers were smaller—done under the theory and by the same means now being used by the Mississippi River Commission; and that these works had stood the test of several floods and were unimpaired and had accomplished the purpose for which they were created; would you not consider this test as sufficient to warrant the Government in going ahead with the plan of improvement adopted by the commission?
A. I should regard these as experiments of sufficient weight and value to warrant proceeding with the work.
Q. People are generally prone to talk about the Mississippi River as a mystery, as presenting features never presented by any other river, as having crooks and whims and moods that are unknown in any other stream in the world, and that it is a vast complex problem. Is it not exactly like any other sedimentary river, only on a larger scale?
A. I think the novelties the Mississippi presents are those of size.
Q. It is exactly as any other sedimentary river?
A. I think so.
By Mr. ROBINSON:
Q. Now, Mr. Herschel, suppose you knew that works of the character contemplated by the Mississippi River Commission had been put into a stream that carries very much less volume of water, had been built in the same form, and they had undertaken to maintain it in the same way; and it had been found in numerous instances that the floods had gone in behind those works, swept out the mattresses and carried them into the stream; had gone under those large works on the tops of the banks, dug through and tumbled them into the river; and you knew that the commission contemplated going on with the expenditure of $50,000,000 or $75,000,000 over the entire Mississippi River from Cairo down to Red River, when it could be as well tested in the space of one hundred miles; would you not say it would be best to try it on the one hundred miles before you went into the expense of trying it upon the whole river?
A. I see no necessary connection between the failure of certain works and hesitating about doing this work. Failure of work is sometimes caused by imperfect workmanship.
Q. You say you don't think the failure of any one place should be taken as an argument against the application of that same kind of work to any other place under different circumstances?
A. I see no connection between failures such as are described as bearing on the question as to whether these works should be continued.
Q. Well, are you able to see any greater connection between these successes and circumstances and the necessary continuance of those works?
A. Yes; I think the successes prove a good deal. In case of a failure it is well to question whether it is the general plan of the work itself at fault or whether the particular construction at a single point has failed.
Q. But being a single question as it is, you go on and settle the doubt in favor of continuing the work, do you?
A. I have not said that.
Q. Do you say it?
A. I would not say that.
Q. There is a point, then, where you would want to wait and see, and try it a while to begin with?
A. Yes, sir. I will say that in doing river work it is not to be expected that every single training wall and pier that is put down—dunes as they are sometimes called—will necessarily stand. A certain amount of so-called failure must be expected in works of this sort.
Q. And you are only testifying, then, whether in response to the question Mr. Ellis asks you or the one that I ask you in a general way, as I understand it; the judgment must come in to determine after all how much weight must be applied to the cases supposed?
A. Yes; and I think there is a question for expert judgment as to whether training works are proving a success, or in case they fail in any one point whether they fail on account of the defect in the general system or plan or the defect in that particular system of work.
Q. And hypothetical cases that are put to you merely in the form of questions in one way or the other do not form much of a basis for you to express any opinion upon?
A. They do not form a basis for opinion on the actual work in full. I will just add that it is not well to judge of work until it is finished.

Deficiency Appropriation Bill.

I would rather be a FREEMAN than to be a KING and rule the WORLD.

SPEECH

OF

HON. JAMES H. McLEAN,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7637) making appropriations to supply deficiencies for the fiscal year ended June 30, 1883, &c.

Mr. McLEAN, of Missouri, said:

Mr. CHAIRMAN: I rise in my place to offer this amendment in the interest of 30,000 negro people, the former slaves of the Choctaw and Chickasaw Indians, who are virtually as badly, if not worse, conditioned than prior to the war for the Union and human freedom. By solemn treaty stipulation the Government agreed with these tribes in the year 1866 that for a consideration certain lands should be ceded to the United States. They also agreed in the same treaty to secure to those negroes their emancipation and induction into Indian franchise and citizenship before the expiration of two years subsequent to the ratification of the treaty referred to. The Indians failing to keep their compact in the treaty within the time above specified, the Government agreed within ninety days thereafter to come forward and use moneys otherwise held in trust for said Indians, for the removal of those negroes from the midst of the Indian tribes.

Now, sir, neither the Government nor the Indians have kept faith in this matter of solemn treaty stipulation. The result is that 30,000 negroes dwell in that section in a condition nondescript, a state virtually that of human slavery to semi-savage Indians. These negroes are without schools; they are without any recognized rights in the Indian courts. They cultivate in commonalty the lands of that Territory but to have their improvements confiscated at the unfair and absurd complaint of any individual Indian. These people have no rights as jurors; they are incompetent as witnesses in those courts. Indeed, they are without protection of law for civil, religious, or personal rights, and this amendment is intended to relieve them. I hope for the honor and good faith of the nation that the House will accept it.

That these negro people did not make application to Government to be removed at the expiration of the two years mentioned and prior to the time when the ninety days stipulated had elapsed would not seem to bar these freedmen from their rights as stipulated for on any reasonable ground of negligence or lack of due diligence. It will be seen that at the time of the formulation of that treaty those negro people were slaves, and therefore property. Hence, they could not be and were not in any sense a high contracting party to the treaty. They were property so far as any preparatory agreement to the stipulations of that treaty was concerned.

Therefore it would be as consistent in the light of the terms of the treaty to require that the lands whose cession back to the Government was provided for at the same sitting and in the same treaty should come forward and claim that the Government should keep a stipulation as to require that those slaves, treated for as property, should have demanded before the expiration of the ninety days that the Government should execute those conditions which the Indian tribes had evaded and neglected to execute in the fulfillment of the promise to emancipate and enfranchise those negroes. Had the negroes been emancipated and standing nondescript before the law, then it would have been possible for them to have slept upon their rights, and those rights would have expired by "limitation" with the close of the ninety days. But the fact is that these people were property and therefore incapable of becoming a party to the treaty. Their very emancipation was attempted to be provided for in the treaty itself; hence the responsibility of neglect rests with the Government and the Indians. The Indians having forfeited all right to the consideration named and the Government having neglected their duty, the trust fund in all equity forfeits or escheats, so to speak, to the negroes referred to.

I therefore urge upon this Congress the wisdom of securing to these

negro people their just rights without further delay. And these are my reasons for asking the adoption of this amendment.

DEPARTMENT OF THE INTERIOR, *Washington, February 28, 1883.*

SIR: I have the honor to invite attention to the inclosed copy of letter of the 27th instant from the Commissioner of Indian Affairs, presenting an item for insertion in the deficiency bill now before your committee, appropriating the sum of $25,000, to become immediately available, to enable the Secretary of the Interior to settle persons of African descent noted in the treaties of 1866 with the Seminole, Creek, Choctaw, and Chickasaw Nations of Indians upon lands ceded for such and other purposes to the United States by the Seminole and the Creek Nations of Indians in their two several treaties of March 27, 1866, and June 14, 1866, respectively. (See third article treaty of 1866 with Seminoles, 14 Statutes, 756; third article treaty of 1866 with Creeks, 14 Statutes, 786.)

I approve of the object of this appropriation, and respectfully urge the early and favorable attention and action of the committee and of the Congress to the subject.

Very respectfully,

H. M. TELLER, *Secretary.*

Hon. FRANK HISCOCK,
Chairman House Committee on Appropriations.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 27, 1883.

SIR: By article 3 of the treaty of 1866 (14 Stat., 756), in compliance with the desire of the United States to locate other Indians and freedmen thereon, the Seminole Indians ceded to the Government their entire domain, &c.

By the third article of the treaty of 1866 with the Creeks (*id.*, 786) said Indians, in compliance with the desire of the United States to locate other Indians and freedmen thereon, ceded and conveyed to the Government the west half of their entire domain, &c. The eastern portion of these two cessions is what is understood to be the Oklahoma district.

There is now in this city a delegation of colored persons representing the various classes of freedmen mentioned in the several treaties of 1866 with the five civilized tribes, which freedmen, the delegation represent, are now anxious to avail themselves of their right to settle in the country ceded by the Seminole and Creek Indians in the treaties aforesaid.

I think there can be no doubt as to the right of the United States to settle them in the country referred to, and believe that the best interests of the freemen will be subserved by settling them there.

I have therefore had prepared and submit herewith a draught of an item intended to be inserted in the deficiency bill now before the House Committee on Appropriations appropriating $25,000, to be immediately available, to enable the Secretary of the Interior to settle in the country named such persons of African descent, and their descendants, as are mentioned in the treaties with the Seminole, Choctaw and Chickasaw, Creek, and Cherokee Indians of March 21, April 28, June 14, and July 19, 1866, respectively, with authority to the Secretary of the Interior, upon application made and proof submitted to his satisfaction that the applicant is entitled thereto, to assign one hundred and sixty acres to each head of a family, eighty acres to each single person over 21 years of age, and eighty acres to each orphan child under 21 years, which item, if you concur with the views herein expressed, I have the honor to recommend be transmitted to the chairman of the House Committee on Appropriations, with the request that the same be placed on the deficiency bill.

Very respectfully, your obedient servant,

H. PRICE, *Commissioner.*

Hon. SECRETARY OF THE INTERIOR.

THE AMENDMENT.

For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to settle such persons of African descent, and their descendants, as are mentioned in the treaties with the Seminole, Choctaw and Chickasaw, Creek, and Cherokee Indians dated, respectively, March 21, April 28, June 14, and July 19, 1866, upon the lands ceded to the United States by the Seminole and Creek Indians in their treaties dated, respectively, March 21 and June 14, 1866, for the location of other Indians and freedmen thereon: *Provided*, That of the lands referred to in said treaties with the Seminole and Creek Indians, upon application made and proof submitted, to the satisfaction of the Secretary of the Interior, that the applicant is entitled thereto, there shall be assigned to each head of a family of the class of persons herein named one hundred and sixty acres, to each person over 21 years eighty acres, and to each orphan child under 21 years eighty acres, the sum of $25,000 to be immediately available, out of which sum there shall be paid the necessary expense incident to carrying out these provisions.

The Tariff.

SPEECH
OF
HON. CLEMENT DOWD,
OF NORTH CAROLINA,
IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the bill (H. R. 5538) to impose duties upon foreign imports, and for other purposes.

Mr. DOWD said:

Mr. SPEAKER: At the last session I voted for the bill reducing internal revenue, the substance of which is included in the bill now before the House. In fact that bill is the nucleus or comet to which this gigantic tail has been attached by the Senate and the conference committee. I voted for that bill upon the principle that half a loaf is better than no bread, and that if we can not get all we want in the way of reduction we had better take all we can get. Being pledged to the extermination of the whole internal-revenue system, I felt that if we could not get it all destroyed at once we should take off a branch, a limb and root wherever we could.

A few weeks ago when the same bill was up for consideration in this House I again voted in its favor, this time having the satisfaction of the concurrence of every one of my colleagues.

But the Senate took this internal-revenue bill and ingrafted upon it a tariff bill, and after discussing it for months sent it to this House for concurrence. Here, without consideration, and without even being read, it was referred just two days before the end of the session to a conference committee, with the avowed purpose of having it doctored, or rather having a new bill fixed up in the interest of certain monopolists. I shall not pause to repeat the rumors that are floating through the Capitol, nor to do more than refer to the army of lobbyists that are thronging the hotels and corridors and restaurant of the House, where it is said the popping and flying of corks from champagne bottles represent a protracted battle of musketry.

But the bill, doctored and fixed up so as to please certain manufacturing interests, was presented to this House this day at about 12 o'clock. It consists of about one hundred and twenty pages of printed matter, and embraces all the various schedules and articles of merchandise that are imported into the United States, there being in fact more than 4,000 of these items or classes of articles. Neither the Senate nor the House had considered the rates of duty proposed in this bill, and we are obliged to vote upon it without the opportunity of even reading it or hearing it read. We know by the concessions of its friends that it raises the duty on steel rails and other articles upon the iron schedule. That it raises the rates on cheap woolen goods, while there is quite a variety of opinion as to its effect upon sugar, cotton goods, band-iron, cotton-ties, &c.

Upon articles of luxury we are told the rates are reduced, while articles of necessity are left to groan under existing burdens.

I should be glad to vote for a reduction of taxation, and I should be especially pleased to vote again for the bill for which I have already voted twice. But I am unwilling to vote for a bill that I do not and can not understand because I have neither read it nor heard it read. I do not believe that we should refuse to reduce taxation because we can not get all the reduction we want, or can not get it in the way we want it. But no prudent man, no wise and safe legislator can afford in any case to vote for a measure that he has not had an opportunity to consider carefully and intelligently.

Jefferson said that no bill should be passed until it had been engrossed and allowed to remain on the table for at least twelve months, unless passed by a two-thirds vote.

Such hasty legislation as that which gallops this bill, which is of more importance to the people than any that has been passed for years, into a law, without consideration in either House of Congress, should receive the emphatic condemnation of every man who holds the sacred trust of the people's right. And this is my sufficient excuse for voting against it.

Fitz-John Porter.

SPEECH
OF
HON. EDWARD S. BRAGG,
OF WISCONSIN,
IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883,

On the bill (S. 1844) for the relief of Fitz-John Porter.

Mr. BRAGG said:

Mr. SPEAKER: By permission of the House I submit my views on Senate bill 1844, for the relief of Fitz-John Porter. Did I not know him to have been a soldier unfaltering in duty, energetic and faithful in the execution of every trust, lion-hearted in battle, and true to his flag as the needle to the pole, and did I not feel and believe that he was sacrificed when excitement was great and the passions were hot by a cunning blending of truth with falsehood that in calmer times would not have the weight of a feather against the unsullied honor of a soldier, I should not be found raising my voice in his defense. But, sir, I speak the sentiment of men learned in the law, of military *savants* in Europe as well as America, of that body of brave men composing the Fifth Army Corps, and of impartial history, when I say Fitz-John Porter was unjustly condemned for the blunders and incapacity of others, and that an American Congress, with the record before it, is an unworthy representation of a chivalrous, generous people when it hesitates to give him full and ample reparation.

It is my purpose to discuss the case in detail from its inception, and though my argument may be dry and uninteresting to many it may give new light to a few.

My first proposition, sir, is:

The proceedings of the court-martial are void.

Before taking this extreme ground I have consulted civil and military

authority, and find my convictions sustained by jurists of great ability and by military men of high rank and distinction.

It is provided in section 1, chapter 179, of the Laws of the United States, approved May 29, 1830, as follows:

> Whenever a general officer commanding an army * * * shall be the accuser or prosecutor of any officer in the Army of the United States under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States.

The sixty-fourth article of war provides:

> General courts-martial may consist of any number of commissioned officers from five to thirteen inclusively; but they shall not consist of less than thirteen when that number can be convened without manifest injury to the service.

The seventy-fifth article of war provides:

> No officer shall be tried but by a general court-martial, nor by officers of an inferior rank if it can be avoided.

Under these provisions of law the court-martial which tried and convicted General Porter was convened and organized, and it is upon them that I make the point against the legality of the court-martial in its origin, organization, and composition; and most surely, if I can maintain my position, the whole proceeding, judgment, and sentence were absolutely void and of no effect, and Major-General Porter in law never lost his standing in the Army.

The proposition is a bold one, perhaps a startling one to minds educated to the idea that a Secretary of War and a court-martial are above the law and can do no wrong, but I maintain it to be true upon the facts of the case under consideration and the law applicable thereto.

It may seem by my presentation of this point that I desire to rest my case upon a technicality. Not so. Such an intention is furthest from my purpose. But it is claimed that the judgment of this court is a finality and beyond the reach of proper Congressional action. Hence I make this point, which, if well taken, dispenses with the need of arguing this claim, to see whether or not it be well founded, because it demonstrates there was no court and could be no judgment in law, and what was done has none of the qualities of a proceeding that can ever be a finality. This follows from well-known principles alike applicable to military as to civil tribunals: before there can be a judgment there must be a legally constituted court and that court must have jurisdiction of the subject-matter as well as of the person, or its proceedings will be "*coram non judice*" in all places and under all circumstances.

I will proceed to the discussion of the proposition enunciated under three subdivisions:

First. The authority convening the court.
Second. The number of officers constituting the court.
Third. The rank of the officers composing the court.

It should be always in mind during this discussion that courts-martial are creatures of statute defining how and by whom they may be called into existence and what powers are vested in them when they are so created. And the statute quoted heretofore, in most explicit language, declares that—

> If a general officer commanding an army shall be the accuser or prosecutor of any officer of the Army of the United States under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States.

Now, it is submitted, and probably will not be denied, that in any given case within the limitation of this statute, if an officer so accused or prosecuted were convicted by a court appointed by any other authority than the President of the United States, such conviction would be a sheer nullity in law.

General Porter commanded an army corps assigned to the Army of Virginia under command of General Pope; he was accused of grave military offenses in the execution of his office as corps commander while attached to the Army of Virginia under such command, and was tried for such offenses before a court-martial appointed November 25, 1862, by Major-General Halleck, was found guilty, "and sentenced to be cashiered and forever disqualified from holding any office of trust or profit under the Government of the United States."

And in view of the premises, it logically follows, if General Pope was the accuser of General Porter and brought him to trial for the offenses committed while under his command, and such trial resulted in the conviction and sentence stated, such conviction and sentence never had any legal force whatever.

Let us then critically examine and ascertain who was the accuser of General Porter within the meaning of the statute; and when we are prepared to answer that question we are prepared to say whether Major-General Halleck had any authority to appoint the court-martial.

The violations of duty specified under the charges upon which General Porter was tried and convicted were in substance as follows:

Disobedience of an order given by General Pope to him on the 27th day of August, 1862, to move his troops from Warrenton Junction to Bristoe Station, starting at 1 o'clock on the morning of the 28th.

Disobedience of an order of General Pope, dated August 29, 1862, directing Generals McDowell and Porter to move their joint commands toward Gainesville.

Disobedience of an order dated August 29, 1862, 4.30 p. m., directing Porter to push forward into action at once upon the enemy's flank.

Disobedience of an order dated August 29, 1862, 8.50 p. m., directing General Porter to march at once to the field and report in person for orders, in allowing Generals Griffin and Piatt to march their commands to Centreville, instead of bringing them to the field.

Disobedience of the 4.30 order of August 29, by falling back without fighting or trying to assist Federal troops contending against great odds.

Neglect of duty on the 30th August, 1862, by feebly attacking the enemy, and drawing back unnecessarily his troops without making effort to rally his men.

Having stated the gist of the accusations upon which General Porter was tried I will now endeavor to show their paternity.

It will be seen by reference to the exhibits attached to General Pope's official report (Executive Document, third session Thirty-seventh Congress, volume 8, page 256) that after his disaster at Bull Run he reached Ball's Cross Roads and established his headquarters there on the 2d day of September, 1862. Ball's Cross Roads are not to exceed four and one-half miles from Washington.

Turn now to the Report on the Conduct of the War (first session Thirty-ninth Congress, supplement, volume 2, 1865–'66) and read from General Pope's report:

> I made my personal camp at Ball's Cross Roads, and on the morning of the — day of September * * * reported in person to the General-in-Chief, the Secretary of War, and the President. * * * Great indignation was expressed at the treacherous and unfaithful conduct of officers of high rank who were directly or indirectly connected with these operations, and so decided was this feeling and so determined the purpose to execute justice upon them that I was urged to furnish for use to the Government immediately a brief official report of the campaign. So anxious were the authorities that this report should be in their possession at once that General Halleck urged me to remain in Washington that day to make it out. I told him that my papers, dispatches, &c., were at my camp near Ball's Cross Roads, and that I could not well make a report without having them by me. He still urged me to remain, with great persistency, but I finally returned to my camp and proceeded to make out my report. The next day it was I delivered it to General Halleck.

The question may well be asked, What precise day did this interview take place? I answer September 3, the day after General Pope reached his camp, four and one-half miles from Washington, he most undoubtedly reported in person to explain the victory he had reported by telegram on the night of the 29th of August, and to make excuses to the Secretary of War and the General-in-Chief for disaster, when he had led them to believe a glorious victory crowned his arms. Who made the report of the treacherous and unfaithful conduct of officers of high rank which led to the great indignation expressed, and the determination to execute justice upon them? I answer, unhesitatingly, General Pope!

And here comes a piece of unwritten history, which may have some significance to those, and they are not a few, who believe that Mr. Stanton did not hesitate, under his power as War Minister, to select agencies to crush at his bidding those whom he disliked or who stood in the way of his desires; and that he was not overscrupulous in his selection of the means, if the end he desired was thereby assured.

On the 3d day of September, 1862, the very day on which I think this conference referred to took place, and the very day the brief report bears date, Major John F. Lee was removed from the position of judge-advocate, and a bitter partisan and follower of the Secretary was named from civil life, Colonel and Judge-Advocate General Joseph Holt, of Kentucky. I do not deny his ability, but must say if the aim of the Secretary was to reach ends regardless of judicial impartiality he was fortunate in his selection. If the selection was made in view of subsequent events culminating in the prosecution and conviction of Porter, the result showed the unerring sagacity of the Secretary in his choice.

On the next day General Pope, in compliance with the request of General Halleck, submitted his brief official report, to the end I suppose that "justice might be executed" speedily. That report bears date September 3, 1862, and contains the gist of all the charges against Porter. It will be found, by such as desire to peruse it, on pages 1038, 1039, 1040, and 1041 of the new record.

In a more extended form, with accompanying documents in General Pope's official report, the same charges are made. His report will be found in volume 8 of executive document of third session Thirty-seventh Congress, on page —, on which appears: The charge against General Porter of disobeying the order to march from Warrenton Junction, August 27, 1862; the charge of disobeying the joint order of August 29, 1862, and the charge of disobeying the 4.30 order of the same day; the charge of permitting Generals Piatt's and Griffin's brigades to go to Centreville in disobedience of orders; and the crowning charge "of failing to attack with vigor" on the 30th August, 1862, all are there. And they are the accusations of General John Pope, commanding the Army of Virginia, against General Fitz-John Porter, a subordinate commander in that army.

The first action taken upon these charges was the change in the office of Judge Advocate of the Army, already commented upon. The next step was an order by the President of the United States, dated September 5, 1862, directing "An inquiry as to Major-General Fitz-John Porter." "Whether he was with his command in the battle of Friday, August 29, 1862, and if not, where was he, and why was he not in such battle?" This order, like others issued by the President of the United States, was buried in a pigeon hole of the Secretary of War, and only saw the light at the sessions of the West Point board, in 1878. Why was it not obeyed? Porter had asked for an inquiry, and there was no objection to it, except if carried into execution the Secretary would

have been thwarted in his purpose of immolating Porter as a sacrifice to atone for the blunders of others.

On the same day this order bears date Mr. Lincoln confided the care of the defenses of Washington to the so-called traitor, Major-General Fitz-John Porter.

Porter continued with his command through the Maryland campaign and until November 12, 1862, when he was relieved at Warrenton. As the enemy were driven from the presence of the capital, so came to the front the enemies of the chief of the Army of the Potomac. Absence of extreme danger revived internal plotting. The snake had been scotched, not killed. The victories in Maryland, received in grim silence by General Halleck and the War Secretary, had created a popular sentiment that they dare not face. McClellan was safe from prosecution, but their power could reach a subordinate—his known friend.

On the 17th day of November, 1862, a military commission was created by the command of Major-General Halleck for the trial of General Porter, on charges made by General John Pope.

The Judge-Advocate General states (court-martial record, page 11) that in point of fact no charges were ever preferred by General Pope.

Think of this declaration. Porter was relieved of his command on the 12th, and on the 17th a commission was detailed of five officers to try General Porter upon charges preferred by General Pope. Colonel Holt was named as Judge-Advocate—Porter was in arrest—and on the 25th of November, 1862, the prisoner and the world are coolly informed that the official orders and records of the War Office are false; and to make the pantomime complete General Pope swears (court-martial record, page 21), "I have not preferred charges against him; I have merely set forth the facts in my official reports."

What necromancy was at work to produce such a sudden change in the line of operations? I think it can be easily answered, and the answer supported by the strongest kind of circumstantial proof.

A military commission was one of those arbitrary tribunals that the Secretary of War delighted to indulge in; the limitations and restrictions of the written law were thrown off and the law of might was too often their rule of action. The article of war which required the President to convene a court-martial was avoided by selecting a military commission as the tribunal, "to execute justice" I believe is General Pope's term, upon the alleged offender, and hence there was no hesitation in boldly stating upon the record "that it was for the trial of Porter on charges made by Major-General Pope." But General Porter was an officer of the Army. The offenses of which he was charged were defined by the articles of war, and the method and trial of them was prescribed by the military code. Presumably this was overlooked in the haste of the newly-made Judge-Advocate to win his spurs, by "executing justice," and when reflection showed that Porter must be tried for violation of the articles of war it was necessary to abandon the avowal that he was to be tried upon charges preferred by General Pope, for that would oust the cabal from the power of making the detail for the court. Hence we find the distinction made between charges in the official report and the charges and specifications and accusations drawn thereon, and the avowal both of the Judge-Advocate and of General Pope that General Pope had not in fact preferred any charges; and it was upon this flimsy technical distinction that the Judge-Advocate proceeded and declared to the court-martial (court-martial record, page 11):

> There is no reference in the order appointing this court to General Pope at all. I wish to state distinctly that Major-General Pope is not the prosecutor in this case; nor has he preferred these charges; nor do I present them as being preferred by him.

And upon this statement the court, acting presumably under the advice of the law officer of the Government, overruled the objection of General Porter: that the court was not appointed by the President, as required by law.

It will be seen the language of the judge-advocate is guarded. He does not say that General Pope is not the accuser, but says "he is not the prosecutor." The law which I have cited uses both terms, "accuser or prosecutor."

> Whenever a general officer commanding an army * * * shall be the accuser or prosecutor * * * the general court-martial * * * shall be appointed by the President of the United States.

It is true the charges and specifications were signed by "B. S. Roberts, Brigadier-General of Volunteers and Inspector-General Pope's Army," but they were the same charges and accusations made by General Pope against his subordinate, the same charges and accusations upon which the commission was assembled by General Halleck to try General Porter as upon charges preferred against him by Major-Generel Pope; but on the 25th day of November, 1862, this commission was dissolved and a court-martial was detailed to try Porter instead of a military commission, and then the charges became the charges of Pope's Inspector-General, to defeat the right of the accused secured to him by law of a trial before a court appointed by the President of the United States.

Was not General Pope the real accuser? Can an officer be cheated of his rights guaranteed him by law by such jugglery, for I know no better term to describe it? And can the signing of General Pope's accusation by General Pope's staff officer so far change the nature of the accusation as to deprive the accused of his reliance upon the President, far removed above any cabal, when he shall be accused of offenses not only affecting his character and office, but his life?

If this thing may be done, we nullify the law in the very cases where it was intended as a protection. With such a precedent any general commanding an army, or colonel commanding a department, who may wish to strike a man down has but to signify to his staff officer his accusation and procure his signature to the charges. And he may appoint his own court to carry into execution his own desire.

But we are not left to the argument from inference that General Pope was the accuser. General Pope himself, by his own declaration, made subsequent to the trial, confesses that he was both the "accuser and prosecutor." He says to the committee on the conduct of the war, in bold and distinct language (Supplement, volume 2, Report on Conduct of the War, first session Thirty-ninth Congress, page 190):

> I considered it a duty I owed to the country to bring Fitz-John Porter to justice, lest at another time and with greater opportunities he might do that which would be still more disastrous.
>
> With his conviction and punishment ended all official connection I have had with anything that relates to the operations I conducted in Virginia.

There can be no mistake in this avowal; "he brought Porter to justice and he did it officially;" but, more than this, he claimed the price of blood, for he says in the same connection:

> When the trial of Fitz-John Porter had closed and when his guilt had been established I intimated to the President that it seemed a proper time then for some public acknowledgment of my service in Virginia from him.

Modest man! he had finished the work; the "Mordecai" of the General-in-Chief and of the Secretary had been stricken down and he claimed the reward! The President did not seem to appreciate his genius and services, for he banished him from the field and located him at Milwaukee for the remainder of the war.

But we have another significant declaration. On the 16th day of September, 1867, General Pope, having learned that General Porter had appealed to General Grant for a review of the proceedings of the court-martial, addressed a letter to General Grant and commenced it with the use of the following words: "General, as I am one of the principal parties concerned in the case of Fitz-John Porter," declaring himself a party in the case. When and how did he become so if he were not the accuser or prosecutor?

In the light of this new evidence, added to the facts patent upon the record, who was Porter's accuser, who was his prosecutor?

Major-General John Pope, commanding the Army of Virginia, says he was. If he is a credible witness when he speaks against his own interest, this House must believe and the country will believe that the declarations of Judge-Advocate Holt were the declarations of an attorney to serve his client, and that the declarations of the client are true.

It then follows logically that the law required in this case a court convened by the President, and as there was no such court the proceedings had were *coram non judice*. And it would seem to follow that an intrigue among persons high in position was in operation to produce a conviction of Fitz-John Porter.

I will now proceed to discuss the second subdivision of my proposition:

The number of officers constituting the court.

The court consisted of nine members instead of thirteen, as the sixty-fourth article of war requires; but the detail concluded with the formal declaration:

> No other officers than these named can be assembled without manifest injury to the service.

It is claimed, and such has been its usual construction, that article 64 in its mandate is directory merely, and that the words "without manifest injury," &c., leaves the number above five and less than thirteen purely a matter of discretion resting in the officer convening the court.

I do not believe such should be the construction given to the article. I believe that to constitute a legal court the number must be thirteen, unless in fact that number can not be assembled; and that whenever the fact appears that the certificate appended to a detail is one of form, because it might be inconvenient to assemble the full number, that such fact goes to the organization of the court and affects the validity of its proceedings.

This, of course, is contrary to the tenets of military teaching; but I am not addressing military men, but the law-making power of the country and the legal profession, who form public opinion on matters of legal construction.

If the mere certificate of an officer calling a court may limit its number from thirteen to five upon his own volition, and that volition is conclusive, then it is in the power of such officer to deprive the accused of a trial by a full court and opens the door for malice or jealousy under cover of discretion to work a most foul and grievous wrong for which there is no remedy.

> Attorney-General Wirt declares (1 Attorney-General's Opinions, pages 299, 300), in speaking of this article of war, "The phrase is not where that number (13) can be conveniently called, but where they can be convened at all, not only without probable injury but without manifest injury to the service; * * * and if a smaller number act without such manifest emergency, I repeat 'that they are not a lawful court and an execution under their sentence would be murder.'"

Major-General Gaines declares his views to the same effect, with clear and cogent reasons therefor (first session Twenty-second Congress, report of committee No. 269, page 11).

The opinion of the Attorney-General cited was given when partisan bias formed no constituent element in forming the opinion of the great law officer of the Government; when the Government was young and the despotic discretion of arbitrary power was looked upon with distrust and fear. I commend it and the views of General Gaines to your careful consideration.

In Martin *vs.* Mott, the language of the court would seem to imply that the formal certificate was a final adjudication by the officer calling the court, which could not be questioned. But when the facts are critically examined in reference to which the language is used it will be found that the case goes no further than to hold upon demurrer that the declaration of the officer that the emergency authorizing a lesser court than thirteen could not be examined *dehors* the record, and the opinion in that case means that and no more—applying the rule to public officers *omnia rite esse acta præsumuntur;* and within the same limits, upon careful construction, is the opinion in Dynes *vs.* Hoover, 20 Howard, and to the same effect are the opinions of the Attorney-General, volume 10, page 67, and cases cited. But where the record itself disproves the existence of the emergency, the sentence is not conclusive if the want of jurisdiction appears on the face of the record, but is an absolute nullity. In the record under consideration we find the seed of its own destruction, and so is within not only the views of Attorney-General Wirt cited, but of all the cases and opinions.

The order recites, "No other officers than those named can be assembled without manifest injury to the service." But the record itself impeaches the certificate, a certificate of form and not of fact, in a case where honor and life were in jeopardy.

By reference to the proceedings of the court-martial (court-martial record, page 5) it will be seen that on the 26th day of November, 1862, Brevet Brigadier-General Morris was relieved from the court and Brigadier-General J. P. Slough was detailed as a member of the court in his stead. And upon December 2 the judge-advocate stated to the court, and he was the representative of the General-in-chief who called the court, and made the statement by the authority of the General-in-chief, and it is part of the record (court-martial record, page 6)—

He had consulted the General-in-chief, by whom this court-martial was ordered, and his reply was that he did not consider any further order necessary to enable this court to proceed to business, but that General King was expected by every arrival, and if he did not reach here very soon his place would be supplied.

This declaration impeaches the certificate out of the mouth of the man who made it. He certifies, "No other officers can be assembled," but upon the same record, and before the court is organized and proceeds to business, he announces his ability to fill vacancies. It may be said this is a mere declaration. I answer, his certificate was a mere declaration. One declaration says he can not and the other says he can, and the record should be construed most favorably to the accused, every presumption being *in favorem vitæ.*

But we are not confined to declarations to impeach this certificate. The order substituting General Slough shows by official acts that the certificate was untrue. If no other officers but those named in the detail could be assembled how comes it that General Slough could be spared without injury to the service and that there were other officers from whom General King's place could be supplied?

The record shows one additional officer assigned and a declaration that others were at hand to fill vacancies. Had this court condemned Porter to have been shot, as it ought to and would have done had he been guilty, I say, in the emphatic language of Wirt, "The execution of such a sentence would have been murder."

Hence I say the court was defective in its organization as to the number of officers composing it, and its proceedings were null and void.

The third subdivision of the proposition rests upon

The rank of the officers composing the court.

It is an old truism that every man is entitled to be tried by his peers, and nowhere should the doctrine be more strictly held than in the military code; and it was to prevent any infringement of it that it was made the subject of statutory enactment in prescribing the rules and regulations for the organization of courts-martial. The seventy-fifth article of war declares:

No officer shall be tried but by a court-martial, nor by officers of an inferior rank if it can be avoided.

Mark the language and see the difference between it and the language of the sixty-fourth article, which defines the number of officers of which a court shall be constituted. The number is fixed at thirteen, "when that number can be convened without manifest injury to the service." The rank is fixed in the seventy-fifth article by more restrictive and imperative language: "nor by officers of inferior rank, if it can be avoided."

The change of language is significant, and while "manifest injury" to the service gives a discretion to call a court of a less number than thirteen, "manifest injury" is not sufficient to deprive the accused of the benefit of a trial by his peers; the law enacts he shall not be tried by officers of an inferior rank "if it can be avoided," that is to say the trial of a superior before a tribunal composed of inferior officers, if it is possible, "must be avoided."

General Gaines, in the paper heretofore cited, insists that whenever there are officers of equal or higher grade than the accused sufficient to form a court or at least a majority of a court in such case, the trial of a superior by a tribunal composed of inferior grades can always be avoided.

The reason of the difference in phraseology is this: Congress recognized the weakness of human nature, and the dangers arising from the trial of a man for his commission by a court the members of which may be advanced in grade by the conviction of the accused and the making a vacancy to be filled from the lower grade.

The court which tried General Porter was composed of nine members, seven of whom were officers of a lower grade than he. Could not this be avoided? The General-in-chief does not even certify it could not be avoided, but he uses a certificate under the sixty-fourth and not the seventy-fifth article which fixes the rank of the court. There is a dictum cited from 20 Law Journal, treating the words of the two articles of war as synonymous; but the facts upon which the dictum rests are not stated; and I protest that nowhere in the legal profession will it be received as good law that the important change of the language of the sections does not require a construction giving a different effect to the words "cannot be avoided" from the words "manifest injury." And I repeat that for the violation of the provisions of the seventy-fifth article of war the judgment of this court-martial lacks every quality which is an attendant upon a judgment entitled to be spoken of as a finality.

Before leaving the discussion of this branch of the case I can not refrain from further comment upon certain circumstantial evidence that should go to the country with the history of this case. The records of the War Department show that when the detail for this court was made there were forty-five major-generals in commission in the United States Army. Surely seven of these could have been spared from their posts without "manifest injury to the service" even. Notably three major-generals—Dix, Wool, and Cadwallader—exercised no field commands. They were men of brains and character. Had these three even been made members of the court in lieu of its three junior members, Major-General Porter would have been tried by a court in which his peers were a majority.

But such was not the will of the War Secretary. Whether there were occult reasons governing him, and what they were, the judgment of history will determine. The Secretary possessed great brain power combined with energetic force, but coupled with them was a cold, cruel, despotic, and crafty nature, crowned with a greed for power that conquest could not glut nor enjoyment cloy.

General Grant is accredited at a later period with having said of him:

His greed of power prevented the Commander-in-Chief of the Army from controlling the minutest details without interference.

The popular mind was wrought almost to frenzy by the repeated disasters which had befallen our Army under his administration. What an hour for the execution of a grand *coup de main*, by turning the wrath of the people from himself in holding up another and having him judicially declared to be the cause of all our woes! How propitious the time to hold out the glittering stars "as a reward for faithful performance of duty in striking down treachery and treason and upholding loyalty!" And how easy the task at such time by subtle and insidious influence to control and direct the mind, unconsciously to its possessor, to an honest belief in a conclusion that after-generations look at with wonder and astonishment. History is full of such instances, and it is not to be expected that during the exciting hours of the great rebellion our history should fail to swell the number.

It was in the sacred name of liberty that the horrors of the French Revolution were committed. Can we be so blind as not to see and so dull as not to know that "in the name and for the preservation of the Union" men were stricken down, and rights of person and property were ruthlessly trampled under foot?

The past is gone; its record is made up for history. The present is ours, and if we are worthy to represent a free, magnanimous people, we can not shirk our duty by talking of our reverence for the memory of the living or dead. The American people are too practical to be gulled by any such nonsense. If a citizen was illegally deprived of his rights, if a soldier was unjustly degraded and dishonored, they want to know what all the facts and circumstances were, not only the facts which were put forth as a justification, but all the facts, without regard to men or memories; and believing this, I have described some of the attributes, as I believe, of the War Secretary, Mr. Stanton, and have referred to the felicitousness of the occasion for the exercise of those attributes. And I now supplement this with a statement of what the records of the War Office show, and leave to the judgment of the present and the future to determine whether the doctrine of rewards and punishment had anything to do with the judgment of the court-martial in the Fitz-John Porter case:

Brigadier-General N. B. Buford, appointed major-general January 16, 1863, with rank from November 29, 1862; Brigadier-General Silas Casey, appointed major-general January 22, 1863, with rank from November 29, 1862; Brigadier-General B. M. Prentiss, appointed major-general January 22, 1863, with rank from November 29, 1862. These were three members of the court-martial which convened November 27, 1862, and convicted Porter January 10, 1863. The president of the court, Major-General Hunter, had been relieved from command at Hilton Head, South Carolina, for an alleged fiasco before his detail on this court. He was restored to his command after the court was dissolved. Brigadier-General Rufus King had been relieved from the command of

his division after the battle of Bull Run; and was restored to command after the court-martial.

Colonel Thomas C. H. Smith, a witness whom the judge-advocate deemed important by reason of his psychological powers, was after the finding made a brigadier-general to date from the 29th day of November, 1862, having seen little if any service except for the few days of Pope's campaign in Virginia, upon whose staff he was and as a witness before the court-martial.

These rewards may have been for merit, but none of the beneficiaries, either before or after, except General Prentiss, can be said to have done anything which would justify the promotion so given.

There is still another circumstance worthy of note in reviewing the history of the *personnel* of this court.

Brigadier-Generals King and Ricketts, who were members of the court, seem, from the official reports of McDowell and Pope, to have removed their commands from between Longstreet and Jackson on the night of the 28th of August, 1862, in violation of positive orders.

And I will add yet one more fact, which can not fail to shock the honest sentiment of every lover of law and justice. For forty-five days the judge-advocate was engaged in hot conflict with Hon. Reverdy Johnson in the trial of this case, and when the case was concluded he (the counsel) wrote what he called an impartial review of the proceedings to direct the President's mind to a fair and impartial judgment; and it was upon his statement and argument that Mr. Lincoln approved the finding; upon his statement and showing that Mr. Lincoln believed the accused guilty. How unsupported by fact that statement was the world knows, and it will stand a marvel of specious sophistry, mingling fact and fancy, "adder's fork and blind-worm's sting," a perversion of truth for the subversion of justice. God forbid that ever again in this land of freemen shall we see a prosecutor pronouncing judgment upon his victim, and grant that day is at hand when this judicial outrage shall fail to receive a single voice of approval in the legislative halls of America.

I have not made this review of the court-martial with a purpose to stand upon this strong position alone and give the enemies of Porter an opportunity to cavil at what they may not answer. As I have before stated, this is far from my purpose; but I desire the country to know the true history of the case, and having shown the disregard of right and law in the inception of the proceeding, I now cast aside the legal shield and without other armor than truth will defend the justice of my cause against all comers.

Mr. Speaker, before entering into an analysis of the evidence in the record before us it may not be amiss to call to mind the rules, or some of them, which experience has established for weighing evidence; the interest of the person testifying; the facilities for information upon the subject with regard to which he testifies; the consistency of the statements made with known facts; the manner of the witness, his tendency to quibble, his anxiety to volunteer irrelevant matter to distract attention, his substitution of opinions and inferences for facts, his contradiction of himself upon material facts, the difference of his statements at different times; the general character of the witness for truth; the liability of witnesses to err in the repetition of a conversation; the motive of the witness, if any, to lead him to exaggerate or suppress; the loss of memoranda in writing, whether properly accounted for; the suppression and fabrication of evidence, and the like, for we shall have occasion to apply them all in sifting out the truth in this complicated mass of testimony.

It is also proper to recall certain well-known maxims of the law alike applicable to all courts.

All presumptions are in favor of innocence.

To establish guilt the facts must be inconsistent with the hypothesis of innocence, and when the facts proven are consistent with the hypothesis of innocence, as well as with the hypothesis of guilt, no conviction can be had.—*Greenleaf on Evidence*, volume 3.

Major-General Porter was tried, convicted, cashiered, and debarred the rights of citizenship for alleged disobedience of orders issued on the 27th and 29th days of August, 1862, by Major-General Pope. I will consider the charges, with the proofs touching the same, in their order:

First. *Disobedience of orders under the ninth article of war.*

[Order No. 1.]

HEADQUARTERS ARMY OF VIRGINIA,
Bristoe Station, August 27, 1862—6.30 p. m.

GENERAL: The major-general commanding directs that you start at 1 o'clock and come forward with your whole corps, or such part as is with you, so as to be here by daylight to-morrow morning. Hooker has had a severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary on all accounts that you should be here by daylight. I send an officer with this dispatch who will conduct you to this place. Be sure and send word to Banks, who is on the road to Fayetteville—probably in the direction of Bealton. Say to Banks also that he had best run back the railroad trains to Cedar Run. If he is not with you write him to that effect.

P. S.—If Banks is not at Warrenton Junction leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the junction instruct Colonel Cleary to run the trains back to this side of Cedar Run and post a regiment and section of artillery with it.

The spirit and meaning of this order was to get Porter's troops at Bristoe as soon as practicable, or I may say possible, conditioned to take part in the pursuit of Jackson and in the battle necessary to drive him from Manassas. It was not General Pope's desire to secure a straggling detachment of Porter's command at Bristoe, jaded and weary, insufficient in number and unfit in condition to pursue and give battle to Jackson, but it was to secure the presence of Porter's corps of all arms, with legs to march and spirits to fight at Bristoe so soon as it could be done and fulfill these conditions, and no sooner. How that result could be accomplished was best known to the corps commander, who knew the condition of his troops, their capacity, their situation, and the difficulties to be surmounted to accomplish the end in view, all of which were unknown to the officer issuing the order nine miles away and a total stranger to the command. And herein from necessity springs the discretion which is recognized and must from the very nature of things exist in a corps commander at a distance from his chief. Else why the difference in grade and rank of subordinate officers? Why is skill and experience sought for when corps commanders are selected if they are to be mere automatons? But I forbear to enter upon the discussion of the questions of "blind obedience" and "wise discretion" at this branch of the case. I will return to it later.

Having stated what the face of the order shows its spirit and purpose to be, I shall endeavor to show from the evidence and examples occurring in cotemporaneous history, demonstrating the correctness of my deductions:

I. That a literal obedience to this order was not only impracticable, but was a physical impossibility.

II. That General Porter promptly advised General Pope of the situation and of his proposed action, and that General Pope acquiesced in his decision.

III. That General Pope recognized not only in General Porter, but in many other officers, the existence of the discretion used by General Porter in this instance.

IV. That the evidence given to the court, to give an air of importance to this order and its violation, was sheer afterthought and to make weight to the other charges.

Before proceeding further let us look at the State of Porter's command and his conduct in the movement of it to join General Pope.

Porter's command had marched continuously every day from the 14th of August, with the exception of one day, and one day and night on transports; the 25th of August it rested, but marched all night and all day of the 26th, and on the 27th of August Morell's division marched one brigade nineteen or twenty miles, and the other two sixteen to seventeen miles. (Court-martial record, page 145.)

They were very much exhausted when they arrived at Warrenton Junction on the evening of August 27. (Court-martial record, pages 139 and 144.)

While we were marching Porter was constantly urging us forward and was always attentive to see that our supplies were kept up as well as they could possibly be.

This is the testimony of General Morell, who commanded one of Porter's divisions, and against whose integrity and loyalty no caviler has yet ventured to breathe a suspicion.

General Sykes, who commanded the other division under Porter, had marched twelve to fourteen miles that day. (Court-martial record, page 170.)

General Burnside says of Porter (court-martial record, page 176):

He moved his troops off rapidly and marched them at night, and everything within my limits appeared to me that he was determined to get his troops up there as soon as possible.

This brief statement of the evidence shows that Porter was no laggard; that he faltered not in his duty to his country, though he distrusted Pope's capacity. It shows also the condition of the troops that General Pope continually refers to as fresh.

But there is another piece of evidence in this same direction (court-martial record, page 232):

HEADQUARTERS ARMY OF VIRGINIA,
Warrenton Junction, August 27, 1862.

* * * * * * *

Major General Fitz-John Porter will remain at Warrenton Junction until he is relieved by Major-General Banks, when he will immediately push forward with his corps in the direction of Greenwich and Gainesville to assist the operations on the right wing.

The precise date of receiving this order is not stated, but it was received before the Drake de Kay order of 6.30, for Porter acted under it as soon as received.

Captain Monteith testifies (page 123):

On the evening of the 27th of August General Porter sent Captain McQuade and myself to look out the road to Greenwich.

Here we have an order from General Pope to General Porter late on the afternoon of the 27th of August, and find Porter promptly sending out his aid upon a reconnaisance to learn the roads that he might move not only promptly but expeditiously to the support of the chief that we are gravely told three hours after he resolved to betray, because it is said the reasons which in his judgment and in the judgment of his chiefs of brigade and divisions were sufficient to delay the hour of march, in the judgment of a non-combatant in 1883 are insufficient!

Desirous of attempting literal obedience (General Butterfield, court-martial record, page 179):

Porter upon the receipt of the order handed it to General Morell or to General Sykes and said there was a chance for a short nap, or something of that sort. * * * General Sykes or General Morell, I do not remember which, spoke

with regard to the fatigue our troops had endured, and the fact that in their judgment the troops would be of more service to start at a later hour than they would be at the hour named. In reply General Porter spoke rather decidedly; that there was the order; it must be obeyed; that those who gave the order knew whether the necessities of the case would warrant the exertions that had to be made to comply with it. That is the substance of what he said. Captain De Kay, who brought the order, was asked some questions about the road. He stated "that it was very dark, and that the road was full of teams." General Porter called two aids and sent them off to investigate the condition of the road, and to ask General Pope to have the road cleared so that we could come up. When we got outside the darkness was so apparent (to use such expression) and it seemed to be such a matter of impossibility to move that General Porter said, "In consideration of all the circumstances, I will fix the hour at 3 instead of 1; you will be ready to move promptly;" and I subsequently wrote an order in General Porter's tent for my command to be in line at 3 o'clock.

After stating circumstances of General Porter's sending for him on receipt of the De Kay order, General Sykes says (court-martial record, page 170):

I met General Morell, General Butterfield, and Captain Drake De Kay. * * We talked it over among ourselves, and thought nothing was to be gained by moving at midnight, or 1 a. m., rather than dawn. I was very positive in my opinion, and gave General Porter my reasons. They were: First, that a night march was always exceedingly fatiguing and injurious to troops; that my command had already marched from twelve to fourteen miles that day; that I thought the darkness would cause confusion; that a constant stream of wagons had passed ahead of us, from the time my command reached Warrenton Junction until dark; and, above all, that as but two or three hours at most would elapse between 1 o'clock and daylight, we could make the march in better order and much more rapidly by starting at dawn than by starting at the hour prescribed.

After stating the presence of other general officers, General Morell says (court-martial record, page 140):

General Porter said to us that he had received this order to march at 1 o'clock that night. We immediately spoke of the condition of our troops, they being very much fatigued, and the darkness of the night, and said we did not believe we could make any better progress by attempting to start at that hour than if we waited until daylight. After some little conversation General Porter said, "Well, we will start at 3 o'clock; get ready!"

At the hearing before the West Point board, General Warren said (West Point record, page 91):

He was present at the consultation on receiving this order, and repeats the statement made by Generals Sykes and Morell and concludes: "Finally General Porter said, after considerable discussion and with a good deal of reluctance, that he would defer the starting for two hours."

It is submitted that this evidence proves that Porter acted upon the advice of his officers, men of experience and of known attachment to the Union cause, and for the best of reasons that the troops would reach the objective point stated in the order just as quick and in much better plight for action. Certainly the most zealous opponent of Porter can not say that in following that advice he so grievously sinned that the cry should rise at the mention of his name, "Crucify him!"

These general officers gave their reasons. Were those reasons well founded? Was the night dark? The three general officers who consulted together touching the question of moving, and weighed the circumstances and surroundings, say it was a very dark night, and assign that as one of a combination of reasons against a night march.

General John F. Reynolds, than whom no truer soldier ever sat in saddle, and who gave his life to his country at Gettysburgh, says (court-martial record, page 164):

He was on the Warrenton pike at Buckland Mills on the night of the 27th August; it was a very dark night.

Question. Did you consider it too dark a night in which to move troops in masses over an unfamiliar country?

Answer. I do not think it possible to have marched troops on such a night without having a good guide or marching on a road, if the road were obstructed in several places. I should not have considered it practicable to march that night; I should have considered it a very precarious undertaking.

General Charles Griffin bears witness the night of the 27th and the morning of the 28th August, 1862, was very dark. (Court-martial record, page 155.)

Colonel Cleary had charge of the railway transportation. He was up all night and says the night was dark and cloudy. (Court-martial record, page 118.)

Captain Fifield was attached to General Pope's headquarters in charge of the transportation and railway for the Department of the Army of Virginia, and up most of the night and on the road from Warrenton to Bristoe on horseback. He says (court-martial record, page 352):

The night was very dark, and it was like a man groping his way in darkness without being able to see his hand before him much of the way through the woods.

Captain Monteith, who was sent out just before sundown to find the road to Greenwich and was not able to return to camp without difficulty on account of night-fall, says it was very dark. (Court-martial record, page 123.) Colonel Locke declares (court-martial record, page 133) that one great difficulty about movement of troops was the darkness of the night. I received a very severe injury groping about in the darkness. This officer has an especial reason for remembering the night.

Lieutenant-Colonel Joseph P. Brinton testifies (court-martial record, pages 197-200) to the darkness of the night, and that it was so dark he lost his way on horseback, going from Catlett to Warrenton Junction. "I do not think I could distinguished a wagon five yards off. I left Porter's headquarters about midnight. I should think it would have been very difficult to move a body, either of infantry or cavalry, over that road at night—almost impossible. Artillery could not have been moved without moving the wagons.

General Pope testifies (court-martial record, page 14):

It was a clear night; there was no difficulty in marching so far as the night was concerned. * * * There was some obstruction in a wagon train stretched along the road * * * marching in the rear of Hooker's division, not sufficient in my judgment to have delayed for a considerable length of time the passage of artillery; but even had the road been entirely blocked up the railroad track was clear, and along that trac': had passed the larger portion of Hooker's infantry. There was no obstruction to the advance of infantry.

The utter worthlessness of this testimony deserves immediate criticism. The witness neglected to state that his knowledge was derived from a ride over the road the afternoon before in broad daylight. He omits to state that he was not with Hooker's column and therefore did not know on what road they marched. He forgets that his order to Porter directed the trains to be run on the railway, and thereby occupied it. He forgets that Hooker's column moved in advance of the trains and gave battle, and he ignores the fact that he, in company with his escort, were from 12 o'clock m. on the 27th till 6 o'clock in the evening in getting over the road from Warrenton Junction to Bristoe Station, and when his attention is called to it attempts to explain and account for the loss of time in stopping to see the wounded and in looking up stragglers.

Who believes that a general-in-chief, riding to his column that had just been engaged and was in pursuit of the enemy, dawdled by the way two, three, or four hours hunting up stragglers and sympathizing with the wounded? It is too diaphanous. He was six hours going over a road on horseback by daylight that he says Porter ought to have passed over in the night, and could have done, with a corps of troops, accompanied by its artillery, in three hours. Let his acts stand as answer to his words. But he says infantry could have moved; he knows that. His order does not call for infantry, but in plain terms calls for all arms.

Captain Drake De Kay is the next witness for the Government. He declares (court-martial record, page 48) the night was not dark and that there were no serious obstructions; but still he bore an order bearing date 6.30 p. m., and he started soon after its date, but did not reach Porter until 9 p. m., and accounts for his delay only that he was obstructed by wagon trains, and states that he passed the last train east of Catlett, in which he was clearly mistaken, because Colonel Brinton, as I shall show, ran into a train west of Catlett as late as 10 o'clock the same night.

General Heintzelman testifies (court-martial record, page 80) that the night was very dark.

Colonel Fred. Myers, chief quartermaster of the Army of Virginia, testifies (court-martial record, page 106) he was up nearly all night on the 27th, and it was quite dark—no moon; it was quite dark.

Major Barstow, adjutant-general to General McDowell (court-martial record, page 109) thought the night of the 27th was not different from other nights. He experienced no difficulty in marching troops. It will be noted that this gentleman was an adjutant-general of a corps, riding at the head of column, on the Warrenton Pike, without obstruction. Let me call the attention of the House to the statement of old General Patrick, of the regular Army, who commanded a brigade in that column, on the subject of that march (West Point board, page 223):

It was one of the darkest nights, that night of the 27th. When I came in with McDowell I got lost on account of darkness; it was a very dark night to march, so much so that we stretched men across the road quite a distance each side lest they should pass by the bivouac. It was so dark that the openings on the side of the road where the men were could not be seen. I recollect they were calling out to the men as they came up through the night to their respective commands, not being able to see.

I let this evidence answer the testimony of the man who rode at the head of the column. Lieutenant Edward P. Brooks says (court-martial record, pages 112, 113):

The night of the 27th was not very dark. It presented no unusual difficulties for marching troops. It was not so dark but that I could find my way through the wood. It was starlight. *

Here is one witness who recollects, as General Pope recollects, but he was mistaken. And if he had been examined by one who knew the facts, I have no doubt it would have been shown that he incurred dangers to life and limb by riding against trees in the darkness. He was acting adjutant of the Sixth Wisconsin Volunteers, and I think I know wherof I speak. He was acting as courier for General Pope, and he rode fast, for a commission in the regular Army was the prize he desired to win. But scale down his evidence, and see what it in fact aggregates. He rode from Bristoe to Greenwich, in a direct line across the country, leaving Bristoe at 9 o'clock and not reaching Greenwich until 12.10, three hours and ten minutes, in a starlight night, making six miles! Verily, his was not a steed that rode on the wings of the wind!

Captain W. B. C. Duryee, an assistant adjutant-general in Rickett's division, says (court-martial record, page 113):

On the night of the 27th August we halted I should think some three or four miles this side of Warrenton, about midnight. Did not experience any unusual difficulty growing out of the character of the night.

Oh, no!

But it was a very tedious march, and I should think they halted every ten or fifteen minutes.

In the new record it appears from the evidence of General Pope's chief of staff, concerning the night of August 27, as follows (new record, page 307):

I know it was very dark, so dark that I lost my way going a few hundred feet from the bivouac.

Colonel Buchanan, commanding the First Brigade of regular infantry, testifies that the delay in marching on the night of the 27th of August, 1862 (new record, page 250)—

Was on account of the excessive darkness of the night and inability for proper movement to be made at that hour or during the night.

Without further presenting in detail the evidence on this point, I submit that any candid mind must concede that not only does it establish a condition of things making an attempt at a march at 1 o'clock under the 6.30 order impracticable by a great preponderance of testimony, but by an overwhelming preponderance.

Next let us consider the nature of the road and the obstructions to be overcome in this dark night, impracticable for military movements.

Colonel Brinton says (court-martial record, pages 197, 198):

I left Catlett at about 10 o'clock on the night of the 27th and went to General Porter's, where I arrived about 12 o'clock. The road from Catlett for a half-mile westward was blocked up with wagons. We ran into them constantly. The road is there a narrow one, leading through a wood, and it was difficult for us to get along on that account. We ran into a tree upon the one hand or a wagon on the other, without being able to distinguish until we were upon it.

The railroad bridge over Cedar Creek is one which I think it would be difficult to pass a party of infantry over at night; almost impossible, certainly with danger. I passed over it, I think, two days before and led my horse across it, but that was in the day-time. Even then it was a difficult matter. Infantry could pass over it well in the day-time, but the planks were thrown loosely on and they would be likely to fall through at night. As I was leading my horse across I saw one fall through that was being led over.

General Ruggles, chief of staff to General Pope, testifies (new record, page 307) in answer to his question:

Does your experience enable you to form a judgment as to the practicability of an army corps, with a road obstructed as you understand this to have been, starting from Warrenton Junction at 1 a. m., to reach Bristoe by daylight?

Answer. I don't think it could have been done. I recollect that road as I came through; it ran part of the way through groves or woods, and I recollect that there were stumps of trees and saplings in the road; that the road was filled with these little stumps; that the road itself was tortuous. I think the men would have been impeded on the road by the trains, by these stumps, and by the crookedness of the road. According to my recollection there were several runs that cross the railway between those two points, and over these runs were open bridges. I think the men could not have marched upon the railway, because in the darkness they would have fallen through these open bridges.

Colonel Chauncey McKeever, chief of staff of the Third Army Corps, Heintzelman's division, rode over this rode from Warrenton Junction with Generals Pope and Heintzelman on the afternoon of the 27th of August, 1862. He says (new record, page 191):

The road was obstructed; a great many wagons on it and stragglers. The enemy had torn up the railroad track for some distance between Warrenton Junction and Bristoe Station, and the ties and rails piled up in some instances on the road. It was a narrow country road.

General Heintzelman, called by the Government, passed over the road from Warrenton to Bristoe on the afternoon of the 27th of August. In speaking of the road at that time he says (court-martial record, page 79):

It was a narrow road, in tolerably good condition. A part of it ran through some woods. * * * Troops could only march in one line. There were a few little ditches that were bad crossings, and I think the road crossed the railroad once or twice. These crossings were bad. I do not recollect distinctly about the road. It was not a very good road, however. There was a large train of wagons behind us—a considerable obstruction. The wagons were in front of the accused.

Captain De Kay, of General Pope's staff, testified (court-martial record, page 47):

The road runs through the woods part of the way, through an undulating country of small hills and valleys, so that I could not tell whether troops were closed up or not. * * * General Porter then asked me how the road was. I told him the road was good, though I had difficulty in getting down on horseback owing to the number of wagons on the road; but I told him I had passed the last wagon a little beyond Catlett from this direction, and as they were moving slowly he would probably get up with them by daylight.

That this witness was mistaken as to the last wagon the testimony of Colonel Brinton clearly shows, for he passed from Catlett to Warrenton Junction much later that night and found more wagons!

General B. S. Roberts, on General Pope's staff, testified (court-martial record, page 49):

The condition of the road was good generally; the first three or four miles of the road passed through open country, some wood intersecting it. Some bridges had been burned, and the passing the streams were the only difficulties I now remember, and they were not material, a large number of wagons having passed them without any difficulty.

If this officer had ever moved troops in a dark night, in an unknown country, he would have found "some woods" a great annoyance, and the fording "streams" a check that would delay a column of 10,000 infantry several hours, which could be readily passed in daylight, and had he campaigned any considerable time in Virginia in that section he would have known that the greater the number of wagons that had passed through the stream the deeper and more inextricable would the mire become for the batteries moving with the column.

Colonel T. C. H. Smith, on General Pope's staff, the psychologist, who read treason in General Porter's eye, says of this road (court-martial record, pages 69, 70):

For the first mile and a half until you go to Cedar Run the road was bordered on either side by open fields or open woods—

Query: How much by fields and how much by woods?

over which troops could march easily in great part without going on the road. Indeed, I doubt if there is any regular road a good part of the way up. The troops marched through the fields to Bristoe Station; a road has been worn by the troops, I suppose. At Cedar Run, on the west, just above the railroad, there is a bridge and a ford with it, and men coming from this side of Cedar Run soon struck a small piece of woods, which is, perhaps, less than a quarter of a mile. I give these things as I remember; I may be mistaken on this point. * * * At Kettle Run there was another bad place. There was, however, a very practicable ford there; a narrow ravine, the road running down with high banks to it on either side. I should say that there was half or three-quarters of a mile of the road in which if there was a wagon train the march of troops would be badly impeded. The railroad track was good, all that I saw of it; men could march upon it.

Mr. Speaker and gentlemen of the House, I now desire to call your especial attention to certain testimony which, I find in the CONGRESSIONAL RECORD of January 6, 1883, is cited as proof not only of the condition of that road, but also as proof absolute that there were no obstructions by wagon-trains, because they were all parked. Perhaps you may find some difference in the testimony as I shall read it from the statement in that RECORD purporting to state it. I think you will; and that the newly discovered part of it will lead to the opposite conclusion from that deduced in the RECORD to which I refer. In addition to the evidence cited in that RECORD to prove that the trains were parked I wish to add Colonel Myers's evidence touching that point, contained in another part of his evidence, which is as follows (court-martial record, page 107):

I think all my train went into park; the wagons were coming in all night, and I could hear the wagons rolling all night. No trains passed me that night. * * * There were no wagons whatever in front of me. I was with the head of the train. There might have been a good many in rear of me. That I could not tell about.

If the train was "parked" and the road was unoccupied, where did the wagons come from "that were rolling all night?" That presents a question that I do not believe the Atlanta campaign can furnish a solution for! There can be but one explanation as it occurs to me. The general commanding having adopted the military theory of the Bedouins, headquarters in the saddle, the commentator, on the evidence of his chief quartermaster, may have thought the quartermaster had fallen back upon the tactics of the ostrich. The head of the train was parked. *Ergo, &c.*

How much of a train was that? Hear what the witness says (court-martial record, page 108):

Question. You have been understood to say that the wagons were rolling all night?

Answer. Yes, sir. Coming into park as they got along all night. The rear wagons take a long time to come up in a long train of 2,000 or 3,000 wagons.

If you will turn to General Heintzelman's evidence you will see that he was at the head of the column, and he says (court-martial record, page 80):

Our wagons—

Referring to headquarter wagons—

did not come up for an hour or two, perhaps more, after night.

Where probably was the rear of the train at 8.30 p. m.? If Captain De Kay is correct he passed the rear wagon near Catlett Station at that hour. Catlett Station is about six miles from Bristoe. If what is said in the record referred to about the distance such a train would occupy well closed up is correct (and I think it is), if the wagons were three abreast, the rear would have been beyond Catlett Station at the hour named by Captain De Kay.

This proves to my mind beyond question that the witnesses who seek to have an unobstructed road in order to prejudice Porter made the facts yield to their wishes, and the more they struggle against the facts the more they show themselves unreliable as witnesses.

Perhaps if we had before us a witness who was there, who knew that General Pope commenced a retrograde movement from White Sulphur that afternoon, and that each corps, division, and brigade commander was directed to and very generally did order his trains to Warrenton Junction and Bristoe, to get them safety to the rear, we should understand that each train struck for the road leading to Warrenton Junction, and stood not much upon the order of their going; and if some one could explain to us how quick a mule would become panic-stricken when Jackson or Mosby was reported in his rear, we could form some proper estimate of the value of the evidence which intimates that a train of 3,000 wagons, drawn by such animals, guided by panic-stricken drivers, in a dark night, upon a narrow road, or any road, might have a tendency to impede but would not obstruct the road for marching!

As I said, if we understood the order about sending back the trains we could readily appreciate the testimony of Captain Monteith when he relates his experience on the evening of the 27th of August, which he reported to General Porter (court-martial record, page 123):

We found wagon-trains on the road from Warrenton Junction going by Catlett's Station. We also found wagon-trains coming in on the Warrenton road, intersecting the road that runs by the railroad just below Catlett's Station.

I will now refer to the evidence of Colonel Robert E. Clary to show that the railway was in use running trains to the rear until after 2 o'clock a. m. of the 28th; to show the nonsense of talk about moving troops on the grade, and the condition the witness found the road riding to Bristoe after that hour (court-martial record, page 118):

At 10 o'clock on the night of the 27th I received a note from General Porter to move the trains east on the railway (this was by General Pope's order) beyond and east of Cedar Run toward Bristoe Station. I gave the orders to the proper persons connected with the trains and they commenced immediately to move. * * * The removal of the trains occupied me from about 10 o'clock till about 2 o'clock in the morning, at which time or perhaps a little later I myself left for Bristoe. * * * The road for some three miles, I think, was occupied by wagons and was obstructed so as to render it very difficult for me and my party to pass along.

And to the same effect Captain Fifield, who had charge of railway transportation, testifies (court-martial record, pages 120–122):

I left [Warrenton Junction] myself about 2 o'clock, in advance of one train that was left behind, while an engine had to run down with a train and return. * * * Leaving the last train I myself left on horseback about 2 o'clock. * * * It must have been near 4 o'clock in the morning when this train reached its destination. * * * I should think it was three or four miles from the place where I first struck the wagons to where I passed the main body. * * * The culverts on that line of road are all open culverts. I can not state the number between Warrenton and Bristoe, but there were several of them. * * * The wagons were very much jammed and remaining stationary. I found a great deal of difficulty even in getting through on horseback. * * * The jam was just after leaving Catlett's Station, between that and Kettle Creek. * * * At the time I saw the wagons the railroad was on one side of them, and for some portion of the way where this jam occurred was timber country. * * * In some places it would have been very difficult to move these wagons without great trouble.

I believe I have now stated all the evidence, in substance, given to the court-martial in relation to the darkness, the nature of the road, and the obstructions in it up to the time Porter's troops attempted to move.

It will not be necessary for me to explain to a soldier that every ditch, every bad place on the road, every bridge, every ford, operates as a serious impediment to a march at night. Soldiers stretch out into single-file and pick their way carefully at the slightest obstruction. If there was a little stream to wade, and a log lay across it above or below the ford, they will take to the log in single-file until the officers, finding the column broken, ride to the rear for the cause and force them across the stream, even at the risk of muddying their boots. The same result follows the miring of a battery.

But for the benefit of such as have had no experience I beg leave to read an account of what took place upon a broad turnpike in daylight the following day to a column of General McDowell's troops, that all may understand what the effect of such a train as it must be conceded was on Porter's road would have produced had he started from Warrenton Junction at 1 o'clock in literal obedience to General Pope's order. I read from General McDowell's statement before a court of inquiry sitting at the same time Porter was being tried:

The orders I gave General Sigel to march on the turnpike from that place directed him as follows: "No wagons but for ammunition will accompany your trains on this road; your baggage trains will immediately proceed to Catlett's." * * * General Sigel had, notwithstanding this order, nearly two hundred wagons, which kept blocking up the road and retarding the movement, and notwithstanding I had seen him on the morning of the 28th and I had urged on him personally to march immediately and rapidly, * * * yet his advance was so slow that the note written by me at 10.15 a. m. * * * reached him * * * about three miles from his bivouac of the night before. His division had been on their feet since 2 a. m., over nine hours, and in that time had not gone twice the length of his division front. * * * For an account of the efforts to get troops over this fine road see testimony, &c. * * * I knew well the difficulties in moving so large a body of men and artillery over the same road under the most favorable circumstances, and wished therefore it might be unobstructed. The first battle of Bull Run was seriously affected by a small baggage train getting into the column. * * * We had great delay and confusion on account of baggage wagons at Culpeper and on the march to Warrenton.

A layman who reads this statement of history, and learns that this nine-hours' delay was of a column pursuing Jackson under Generals Pope and McDowell, will wonder why Porter was cashiered, because he said, under the advices of his general officers, that he could not expedite a march by mixing his column with the wagon train of the Army of Virginia in a night so dark that you could scarcely see your hand before your face.

It seems clear that I have sustained my position, that it was not practicable to march at 1 o'clock, and that Generals Reynolds, Sykes, Morell, Butterfield, Griffin, Heintzelman, and Colonel Buchanan were correct in their evidence.

I will next show the result of an actual attempt to march in the dark, and establish, I think, conclusively that no matter what somebody else thinks he did under just such circumstances (but which are sure to be different when investigated) this army could not make the march until daylight, and that General Porter's error was, he did not let his men sleep until 3 o'clock before he sounded reveille!

The troops attempted a start before daylight, and I will permit the officers to detail their experience.

Captain A. M. Randol says (new record, page 142):

I was first lieutenant First Artillery, commanding Battery E of that regiment, assigned to Sykes's division. * * * On August 27 I received two orders to march—one to hitch up at tattoo and be ready to move at midnight. That order was countermanded to move with batteries at 3 o'clock.

Note this evidence, as it corroborates Porter's statement, showing an original determination to move at 1, but which he changed to 3 on advice of his officers.

Witness continues his statement (page 143, 144):

It is my recollection we remained hitched all night. At 3 o'clock we moved out in accordance with orders. * * * Wagons were constantly passing or attempting to pass. They had blocked the ford so that they were jammed at the place where our batteries were parked, filling the space between us and the creek. * * * Riding to the front I found that the ford across Owl Run, a branch of Cedar Run, was blocked by wagon-trains, as I understood at that time, of Sigel's Corps. Captain Weed, myself, and other officers endeavored to make an opening by forcing teams across, but we found it impossible. I remembered that I had seen a ford higher up the creek. * * * I turned the head of my battery up the creek toward the railroad crossing. Arriving at the ford I found it was blocked also. There was a part of a battery and some wagons in it. I then moved higher up and put my horse in the stream, until I found a place I thought we could cross. We cut down brush and filled it in the stream and cut out a roadway, and then cut a roadway on the other side. * * * After this was accomplished, we crossed our batteries, my battery leading. * * * It must have taken two hours or more to cross this stream. Our own teams stalled in crossing the ford. * * * It was not five hundred yards from our camp.

And here let me pause and inquire: Would not Porter's artillery have been found, had they started at 1 o'clock, within five hundred yards of their own camp at daylight, instead of being at Bristoe, as General Pope ordered? And would not the same have been the result had they started at 10 o'clock the night previous? There may have been officers in other sections of the army that would have carried these batteries over on their shoulders, but such prodigies were few, and they were all absorbed elsewhere.

After we got started our next difficulty was at Cedar Run, not over a mile and a half or two miles from camp. * * * Here the approaches to the creek were abrupt, and the bank on the other side was very abrupt. Here we found the creek blocked again on both sides. The wagons going up were stalled in the creek four or five deep, and the drivers watering their teams, and it was almost impossible for us to get through. * * * At last we managed to mount the hill, and when we got near the station (Catlett) we found difficulty again in passing through the teams which had halted to feed, and wagons and stragglers.

This, it will be remembered, is the particular part of the road that the last team had passed off from at 8.30 the night before, if you credit Captain De Kay's evidence. Does it not show how utterly he failed to appreciate the condition of things on that road and how little credit should be given his opinions:

At each of the crossings, of which there were some dozen little branches—runs, as we call them in Virginia—at each of these nearly every one of the teams was stalled. We would have to make new crossings. The soil was a kind of quicksand. I know on one occasion we crossed in almost battery front, so that each piece would have a crossing of its own, so that the ground would not be cut up. Under this water the bed was clay, then built over with sand. The wheels would go up to the hub. We had difficulty constantly until we arrived at Kettle Run.

This is the actual experience of an officer of the regular Army. Not opinion or guesswork. He was from 3 o'clock a. m. until noon in making the march to Bristoe. About what probability is there that it could have been made in the darkness between 1 and 4.30 in the morning? Not a shadow. But Porter was found guilty of a grave offense, because he had sense enough to know it could not be done! But it is said he should have marched his infantry and let his batteries care for themselves! What, leave all the artillery of the Fifth Army Corps and the reserve artillery sent forward by Burnside, and ordered by General Pope to report to him, without infantry in a neighborhood overrun with Jackson's troops and Stuart's cavalry? Had Porter done such an act he would have not only disobeyed General Pope's written order, but he would have violated every military principle and convicted himself of being a dolt without sense enough to be trusted with a squad!

Having read to you the experience of an officer in the regular Army, now listen to the commander of Morell's artillery, a volunteer officer, Colonel Martin (court-martial record, page 136):

We had reveille about 1 o'clock, * * * ordered to move at 3, and moved between 3 and 4 across the run, less than a mile from camp, and halted there and remained until after daybreak. * * * I only knew there was some artillery and teams we had to pass by going through the field as we passed over that road. * * * We encountered a difficulty in getting out of camp in the darkness, and getting many of our carriages stuck in the run near the edge of camp. Some of them were not got out until after daylight, especially one battery wagon.

These were the batteries probably that Captain Randall found stalled when he went up the creek and found the new ford, as related by him.

Having heard from the artillery of the two divisions of Porter, we will now see how the infantry column progressed.

General Sykes, speaking of the march from Warrenton Junction, says (court-martial record, pages 170, 171):

Reveille in my own division was beaten at 2 or 2.30 o'clock a. m., and the advance was sounded as soon as I could distinguish the road. * * * Before I directed the advance to be sounded I sent an aid-de-camp to find the road, so as to lead the column upon it. He returned in a short time and told me the darkness was so great that he could not distinguish the road. He also told me he was assisted in that search by several soldiers. * * * As I anticipated, we ran upon this train of wagons within two miles of my camp; they encumbered the road for miles. Myself and staff officers were constantly engaged in opening the way for the head of my column. On several occasions I had to take my mounted escort and place them on the road with drawn sabers to prevent the wagons from closing up any intervals that occurred. I do not think that in my military life I had so much trouble with a train as I had that day. The wagon-masters and teamsters were alike insubordinate. About two miles from Bristoe Station a stream crossed the road. On the Bristoe side of the stream General Porter and his staff officer directed and compelled all their wagons to be parked so that none of them should precede my troops. * * * I was compelled to halt the head of my command on the Bristoe side fully an hour that my rear brigades might be united with a brigade in advance, and the cause of this separation was the train or trains on the road.

Question. In your judgment could anything have been gained by starting at 1 o'clock in the way of early arrival or efficient service at Bristoe's Station?

Answer. Nothing whatever.

In the citations of evidence I have confined myself to witnesses of known character and standing, and have principally made the selections from the records of the original court-martial. But I can not in justice leave this branch of the discussion without showing the wholly unreliable character of the evidence on the part of the Government by its new evidence given before the West Point board. I find in the CONGRESSIONAL RECORD of January 6 copious extracts of what is termed evidence attempting to disprove the condition of things as stated in the evidence which I have quoted. I shall only refer to one or two as types of all that class of evidence the maligners of Porter give to the country as proof of the correctness of their assertions. On page 16 of the CONGRESSIONAL RECORD of January 6 I find published the evi-

dence of Major J. H. Duvall, of the First West Virginia Regiment, belonging to Ricketts's division, who swears:

On the evening of August 27, 1862, I was with my brigade; we were four miles northwest of Warrenton at that time—north or northwest—and I was directed by my colonel to carry a letter that he handed me from General Ricketts to General Pope. * * * I found General Pope near Manassas Junction. * * * There were a great many wagons along the line, but I went along without any particular obstruction.

This is the evidence; that because one man on horseback swears he rode through without obstruction all the other witnesses who were obstructed on the same road were mistaken; that is the logic.

Now, it is matter of history (*vide* General Ricketts's official report, executive document, third session Thirty-seventh Congress) that General Ricketts was not at or near the point designated on the night of the 27th, but he was in the rear of King, near New Baltimore, on the Warrenton pike.

It is true that he moved to the point designated on the afternoon of the 28th of August to defend Thoroughfare Gap, and that on the evening of the 28th he sent two different messengers to General Pope.

On his cross-examination (new record, page 821) this man Duvall fixes the date of the receipt of the letter from the fact that General Ricketts was ordered to Thoroughfare Gap. Ricketts was not ordered to Thoroughfare Gap until the afternoon of the 28th, as will be seen from General McDowell's official report (executive document, third session Thirty-seventh Congress).

Witness further says (new record, page 822):

He delivered the message to General Pope between Centreville and Manassas Junction, near to Manassas Junction.

Who in this land at all familiar with the events of those days does not now know that General Jackson's troops occupied Manassas Junction the night of the 27th of August and extended their lines toward Centreville, and that General Pope claimed they went to Centreville? General Pope was at Bristoe Station. But the witness, in the face of these facts, insists that it was the 27th. Why? He was brought to swear that what he did was on the night of the 27th, and he swore to it. The use of such evidence and imposing it upon the country for truth ought to bring the blush of shame to the cheek that would give it currency. One more witness, Colonel McCoy, of Pennsylvania—his evidence appears on page 14 of the CONGRESSIONAL RECORD referred to—he testified (new record, page 632) that he belonged to Ricketts's division, marched till 1 o'clock that night of 27th August, and had no difficulty in marching. His cross-examination shows that he marched on the broad turnpike running from Warrenton to Centreville; that his command passed through Warrenton between 4 and 5 o'clock in the afternoon and halted at New Baltimore at 1 o'clock the next morning.

The distance is between five and six miles, and the time taken to march it was eight and one-half hours! And this, too, when I am told the troops were kept under whip and spur in pursuit of Jackson. What cause kept those troops that length of time on an open turnpike? It was the darkness and difficulties attending this night march on an open road. The words of the witness are for the Government, but the facts which he gives are for the accused and corroborates General Patrick, who marched on the same road a little in advance of him. And these facts answer the testimony of every witness in Ricketts's division.

Next come Haddon, Tiffany, and Beach (page 16 of the Record). What did they do? They went from Bristoe on the road by Catlett, eight miles and back, on the 28th, making sixteen miles; they started very early in the morning and got back at night. "We must have had three ambulances." They were empty when they went out and had stores when they returned. They moved by daylight and avoided troops by going out into the fields. And this we are told is proof that Porter could have moved his corps on the night before.

O Prejudice, where thy reason; where, O Bigotry, thy h sh?

This summary contains substantially all the evidence touching that night march; and I will go to the country upon it as establishing the fact that no guilt of either intent or act attaches to General Porter by reason of what he did or what he did not do.

Porter had no cavalry, and that nine miles of road filled with insubordinate mules of both species, running away from danger with their trains, could not be cleared by infantry moving from their rear except by forcing them from the road and filling up the vacated space by a column of troops. These trains were not Porter's; they were not under his control, but they belonged to General Pope and his army, and were subject to his orders.

At 12 o'clock at night Porter learned that Lieutenant-Colonel Brinton had a detachment of cavalry at Catlett Station. He applied to him at once for a force to clear the road. Colonel Brinton says (court-martial record, page 198):

He requested me to try and have the road cleared, stating his intention to pass along with his corps. On my return I told the adjutant to send out some men to get these men out of the way.

He sent out his own aid, and like a faithful, vigilant officer as he was, he reported the situation with the line of action he thought wisest to pursue to General Pope for approval or disapproval, and asked assistance to be applied at the Bristoe end of the line in clearing the road that he might quicken his arrival at the point he was ordered to reach. I make this statement *arguendo* from the data we have furnished us by General Pope, for it is a curious circumstance, and one that lawyers always draw inferences from, not wholly consistent with the integrity of parties and witnesses, that in this case every paper, every dispatch, every written communication sent by General Porter to General Pope or General McDowell which would tend to explain Porter's action and show his true purpose—were lost, and only such as would make color against him unexplained by others were preserved and presented to the court. Porter's lips were sealed, his correspondence lost, and he stood voiceless at the mercy of his enemies.

General Pope says (court-martial record, page 14):

He wrote me a note, which I received on the morning of the 28th—very early in the morning, perhaps a little before daylight; I am not quite sure about the time. The note I have mislaid. I can give the substance of it—I remember the reasons given by General Porter.

Before I conclude I expect to satisfy this House that the memory of this witness is so treacherous that it is not safe to rely upon his memory at all.

Again, in the testimony of this witness (court-martial record, page 28), I find in answer to this question:

Did you receive from the accused, after you sent him the order just referred to (the 6.30 order of the 27th), a note or message requesting you to have your end of the road cleared, so as to enable the accused to get to you as rapidly or as fast as he could with his corps?

Answer. I received at least one such request, probably more than that. I am inclined to think two—one I am sure of, to that effect. * * * On the contrary, from a note that I received from him I did not understand that he would march until daylight.

In the record, "I can not" is the answer to the question to produce the dispatches. The evidence proves my statement, and to a mind in search of truth is evidence of zeal and desire to conform to the requirements of his chief; but so bitter are Porter's enemies, so malignant in their assaults, and so persistent in the effort to deceive the country, that within a few days past it has been publicly announced and has been sent broadcast over the country in the CONGRESSIONAL RECORD—

That from the days of Cyrus and Alexander down to the present time this is the only instance in which a subordinate officer ever sent to a superior officer to clear the road for him so that he could march; and there was never a commanding officer yet, unless it was Pope, who would not have retired such an officer from his command that moment. * * * That very fact, that very act in itself shows that man did not intend to obey the order.

If the case against Porter requires such a distortion of evidence and such illogical conclusions to sustain it it must be weak indeed. We have seen from General Pope's evidence that he was promptly advised by General Porter of the situation and his conclusion thereon, and are left to present now the remaining branch of the proposition: Did General Pope acquiesce in the correctness of the decision? Consider the following acts and conduct of General Pope, and you have an affirmative answer:

General Pope swears (court-martial record, page 19):

I saw Porter at Bristoe Station about 8 o'clock on the morning of the 28th. * * * I do not remember having any conversation with him in reference to obeying or disobeying the order, although I had much conversation with him. * * * I am very sure I did not complain. I am not sure that he gave me any explanation. I have a general recollection that he spoke to me of his march and the difficulties, &c.

General Pope describes himself (page 23) as a frank, open man. When this frank-spoken gentleman learned of General McDowell's disobedience of orders and being absent from his command, he freely expressed himself to a subordinate of General McDowell (new record 282) in pretty harsh language. General Pope was prejudiced against Porter long before Porter joined him. He said to his chief of staff (new record 308), "Porter will fail me," or "Don't you think Porter will fail me?"

What are the corollaries from these premises?

It is submitted, they are:

Had Pope not acquiesced in Porter's action upon being advised of what he contemplates and the reasons for it, he would have signified his dissent by a response, "More irrespective of the difficulties you state!"

Had not Pope acquiesced in the correctness of Porter's action; this "frank man," who did not hesitate to use harsh language to a subordinate, touching the action of one of his corps commanders, would have reprimanded him at once, instead of receiving Porter without a syllable of dissatisfaction.

I now desire to show, in support of this acquiesence of General Pope, that he recognized and acquiesced in the right of his corps commander to the use of discretion when detached from him all through this campaign, and I give several of the more prominent instances. General Pope, on the night of 27th August, 1862, the same night he sent to Porter, gave McDowell this order (Report on Conduct of the War; first session Thirty-ninth Congress, volume 2, page 145):

MAJOR-GENERAL MCDOWELL: At daylight to-morrow morning march rapidly on Manassas Junction with your whole force. * * * Jackson, Ewell, and A. P. Hill are between Gainesville and Manassas Junction. * * * If you will march promptly and rapidly at the earliest dawn of day upon Manassas Junction we shall bag the whole crowd. I have directed Reno to march from Gainesville at the same hour, * * * and Kearney, who is in his rear, to march on Bristoe at daybreak. Be expeditious and the day is ours.

General McDowell disobeyed this order. General Pope says in his official report (Report of the Committee on Conduct of the War, first session Thirty-ninth Congress, volume 2, page 147) that—

General Sigel, who commanded McDowell's advance, instead of moving forward from Gainesville at daylight, as he was ordered, was absolutely with his advance in that town as late as 7½ o'clock in the morning.

And of McDowell's personal action he says:

He had, without my knowledge, detached Ricketts's division in the direction of Thoroughfare Gap.

We hear nothing of a court-martial for this double disobedience of orders, but on the contrary General Pope testifies before the court of inquiry, sitting in Washington at the same time Porter was being tried and found guilty, because he had no discretion but literally to obey the order to march from Warrenton Junction. (Proceedings of the McDowell's court of inquiry, page 307.)

I sent nothing to General McDowell concerning Thoroughfare Gap, and regretted afterward that any portion of his forces had been detached in that direction. General McDowell had the discretion, however, necessarily incident to his position and to his distance from me, to make such a disposition to cover his rear from the direction of Thoroughfare Gap.

Again, upon the night of the 28th of August, 1862, after King's division struck Jackson near Groveton and occupied the road between Longstreet and Jackson, General Pope, in his official report heretofore cited in the report of the Committee on the Conduct of the War, says (volume 2, page 147):

I felt sure then, and so stated, that there was no escape for Jackson. I accordingly sent orders to General McDowell, as also to General King, several times during the night, and once by his own staff officer, to hold his ground at all hazards and prevent the retreat of Jackson to the west, and that at daylight in the morning our whole force from Centreville and Manassas Junction would be up with the enemy, who must be crushed between us.

Surely these were orders given upon the field of battle, the execution of which was vital to the success of our arms and the disobedience of which lost many hundred lives and brought disaster to the Union cause. McDowell was absent from his command and could not be found until the next day. King abandoned his position without a shot (I mean after receipt of these orders), "thus leaving open the road to Thoroughfare Gap." (See same report, page 148.)

And now I can not pass without glancing at the sequel. Bull Run was lost, and the court of inquiry summoned at the request of General McDowell (see report of McDowell court of inquiry) find that he was unjustifiably absent from his command, and that—

The misconduct of his own corps thwarted a plan the execution of which afforded an opportunity for easy victory. * * * His subsequent efforts on the 29th to repair the consequences of that unfortunate movement of his corps and to press them forward into action were earnest and energetic, and show fully that the separation of which the court has just stated its disapproval was inconsiderate and unauthorized, but was not induced by any unworthy motive. * * * His commanding officer, General Pope, not only omitted to hold him culpable for this separation but emphatically commends his whole conduct while under his command, without exception or qualification.

McDowell was exonerated and excused because of his conduct on the next day, when he, in fact, did nothing but interfere with Porter and prevent his movement on Gainesville, and because General Pope did not blame him. General King was recognized and placed upon the court-martial that tried Porter. Porter offered to prove his conduct on the following day, when his troops bore the brunt of the battle, and he was personally present on the field under fire to disprove "any unworthy motive" attributed to him for his non-action on the 29th. But no, one rule of military law would do for McDowell, but another one must answer for General Porter. He was denied the privilege under Colonel Holt's declaration of the law and General Hunter's administration of it.

Here is another case. General Pope on the 29th of August, 1862, at 9 p. m., gave the following order:

HEADQUARTERS BRISTOE.

MAJOR-GENERAL KEARNEY: At the very earliest blush of dawn push forward with your command with all speed to this place. You can not be more than three or four miles distant. * * * I want you here at day-dawn, if possible, and we shall bag the whole crowd.

General Pope says (Pope's report, Committee on the Conduct of the War, first session Thirty-ninth Congress, page 146):

This latter order was sent to Kearney to render my right on Bristoe perfectly secure against the probable movement of Jackson in that direction. Kearney arrived at Bristoe at 8 o'clock in the morning.

Kearney was three or four miles from Bristoe; had a clear road, but delayed the movement until 6 on account of fatigue of his troops, and arrived at 8 a. m. (New record, page 807.) Porter, nine miles away, with an obstructed road, as we have seen, arrived at 8 a. m., the head of his column halting at the run to close up. Kearney received nothing but encomiums. Porter was charged with disobedience of orders, of failure to support his chief. Comment is unnecessary.

Here is another order:

NEAR BULL RUN, *August* 28, 1862—9.50 p. m.

GENERAL: General McDowell has intercepted the retreat of the enemy and is now in his front. * * * I desire you to move forward at 1 o'clock to-night, even if you can carry with you no more than 2,000 men. * * * The enemy is not more than three and a half miles from you. Seize any of the people of the town to guide you. Advance cautiously and drive in the enemy's pickets to-night and at early dawn attack him vigorously. Be sure to march not later than 1 with all the men you can take.

* * * * * * *

JOHN POPE,
General Commanding.

To Major-General KEARNEY.

Here is an order for battle, positive in its terms, and showing on its face the emergency requiring immediate action. Does anybody question Kearney's fidelity?

Kearney, notwithstanding the pressing necessity and imperative character of the order, did not move till after daylight.

General Heintzelman testifies (new record, page 605):

Kearney did not get off until after daylight. We were all detained by him.

Here we have instances, repeated in the same campaign, of the exercise of discretion on the part of the several commanders under General Pope, men who know and practiced the rules of the military code, and in every instance their right to exercise such discretion was recognized and acquiesced in.

The West Point board, who will be recognized by the country as being authority on this point, say:

Abundant experience in situations similar to that above described leave no room for doubt what General Porter's duty was. He exercised only the very ordinary discretion of a corps commander, which it was his plain duty to exercise, in delaying the march until 3 o'clock, and in his attempt to move at that time instead of at 4 o'clock he only showed too anxious a desire to comply with the letter of his orders.

I will recur to and discuss the questions of discretion, literal and intelligent obedience, more fully in another branch of the case.

And now I come to the last proposition: That the evidence given to the court to give an air of importance to this order was sheer afterthought.

This Order No. 1 describes the enemy fleeing before Hooker. That is the military situation at Bristoe as it is described by General Pope in his order. Now, to give this order an air of importance there is injected into the case upon the trial a mental condition of General Pope's mind not disclosed to any one, to wit, that he thought that perhaps Ewell or Jackson was not running away quite so much as he had given Porter to understand; and Hooker being out of ammunition, General Pope says (court-martial record, page 13):

That made him so anxious that General Porter's corps should be present by daylight, the earliest moment at which the attack (Jackson's attack) would be made.

It was certainly a strange way to apprise General Porter that he feared an attack and was out of ammunition, to tell him "The enemy has been driven back and is retiring along the railroad. We must drive him from Manassas" (not from Bristoe)!

General Pope's chief of staff (Colonel Ruggles), who wrote the order, says (new record, page 301):

I knew nothing more than what is set forth in that dispatch of the military situation at that time. I heard nothing of an anticipated attack in the morning. * * * I understood the enemy had been driven back and was retiring.
Question. That order states we must drive the enemy from Manassas. * * * Did you understand that was the purpose?
Answer. Yes, I understood that from the instructions given me by General Pope to write the order that way.

Now, before we go any further let us understand. Hooker was in command of the troops that fought at Bristoe. He commanded the second division of the Third Corps—General Heintzelman's corps. His division was alone engaged, and the battle was principally between the Excelsior brigade in his division and Early's brigade. The loss was some three hundred killed and wounded, principally of the Excelsior brigade. (See General Heintzelman's official report, executive document, third session Thirty-seventh Congress.)

This left the first division of the Third Corps in front of Early, who had a single brigade, so that Hooker may have been short of ammunition, but the first division was ample to meet Early's brigade, which was only in position to cover Ewell's retreat and after dark was withdrawn to Manassas, which proves for a wonder that General Pope stated the military situation in his order to Porter correctly.

Now, supplement this with the testimony of the chief of staff of Heintzelman's corps, Colonel McKeever (new record, page 193):

Hooker's division was not at Bristoe that night when we arrived. They had gone off to the northward in pursuit of a force of confederates that he had been having a fight with. There was no large body of troops at Bristoe when we reached there.

Now, bear in mind, General Pope arrived at Bristoe with General Heintzelman and Colonel McKeever, and it was there and then that he had the order written for Porter to come up.

Colonel McKeever also states (page 200):

I did not hear anything of an anticipated attack. I saw nothing that gave me the impression that any attack was expected. There was no disposition of troops made to meet any attack of the enemy. I understood they were in retreat.

Here, then, we learn that no attack was expected and no disposition of troops made to meet any!

General Pope's acts at the time are better evidence of what he thought and expected than his declarations made long afterward! His action shows his subsequent declarations were a makeshift! But I will not stop here in exposing this pretense. When did General Pope first learn that Hooker was out of ammunition? General Pope says (court-martial record, page 13):

Just at dark Hooker sent me word, and General Heintzelman also reported to me.

General Heintzelman says:

A portion of Hooker's division was nearly out of ammunition. It was made known to General Pope late in the afternoon.

General B. S. Roberts testifies (court-martial record, page 14):

That the order to Porter was written about sundown.

Now, it will be seen the order was written before dark, and the information as to the scantiness of ammunition was "just at dark." But there is another piece of evidence which came to light after the court-martial trial which shows almost conclusively what General Pope would have embodied in his order had he been possessed of the information when he sent the order to Porter. Here is a dispatch found in one of

General Pope's dispatch-books, which was not sent, presumably because he had received information from Porter of his approach:

BRISTOE STATION, *August* 28, 1862—6.05 a. m.

GENERAL: Major-General Pope directs me to say that General Hooker reports his ammunition exhausted. General Pope desires, therefore, that you come forward with your command at once, with all possible speed, and that you send back to hurry up your ammunition train.

If anything had been needed in addition to the other evidence to disprove the idea that the order of the evening before had been written in view of Hooker being out of ammunition, this is certainly conclusive.

From the evidence sustaining my several propositions, referring to Porter's action under the order to move from Warrenton Junction at 1 o'clock a. m., August 28, 1862, I deduce the following corollaries:

I. That there was not, in a military sense, any violation of this order.

II. That if the failure to obey the letter of the order was an offense, it was *damnum absque injuria*, for which a reprimand would have been the gravest punishment under the military code.

III. That a corps commander, situated as Porter was, had a discretion, and though he may have erred in judgment, such an error might disclose weakness or incapacity, but not a crime.

It may be said that I have consumed too much time on an immaterial matter. Perhaps so; but my purpose is to commence at the root and show how utterly groundless all the charges of misconduct are, that the country may the better know the great wrong done one of its most faithful soldiers. We have now reached Bristoe, and have

POPE AND PORTER IN CONFERENCE.

It was a pleasant conference, without any bitterness or accusation; and we may naturally suppose that the commanding officer of a veteran command like the Fifth Army Corps upon joining a new army with which he was to co-operate or of which he was to become a part on the eve of an impending battle would inquire something as to the plan of campaign, that he might understand the military situation and be ready to co-operate in bringing to a successful termination whatever plans his new chief had determined to execute. It will be manifest that Porter sought this information that he might act understandingly when his new chief was engaged with other detachments of his army and not present with Porter upon the field. But General Pope gave him no information concerning nor insight into proposed future operations, but rode away leaving Porter with 10,000 men at Bristoe utterly in the dark as to General Pope's plan of action, if he had one. Of course Porter knew that Pope had an army scattered about somewhere and knew the confederate army, or a part of it, was roaming around loose, striking from time to time Pope's disconnected divisions. He forecast the result in a communication to Burnside, and his gravest sin is that he forecast it truthfully.

I have had occasion to allude to the bad memory of General Pope and am here obliged to recur to it again. Upon the trial before the court-martial he was asked this question in relation to what took place at that conference (court-martial record, page 18):

Question. Will you state to the court whether or not you had made known to General Porter the position of the enemy's forces and your plans and intentions so far and so fully that he knew the critical condition of your army and the importance of rapid movements and prompt and energetic action to secure your supplies and guarantee your success?

This was not a difficult question to answer, and "a frank, open man," as General Pope describes himself to be, ought to have had no difficulty in promptly responding yes, as it seems to me he would have done if "yes" had been the truth. But "yes" was not the truth, and so we find him evading a direct answer, and by a multitude of words covering up a fact and conveying an impression contrary to the fact. Read his answer:

It has been my habit to talk very freely with all officers having large commands in the army which I commanded. How far I informed General Porter I am not now able to say.

Now, hear him.

But I should presume from my habitual practice and from conversations I had with him that he understood pretty fully the condition of the army and the position of the various corps of the army. What I regarded as a necessity, it is altogether possible he might have had a different opinion about. Therefore I can not say that he understood the necessity that I understood.

This I call an adroit evasion, swearing to no fact but containing a fling at Porter. And this style of answer will be found all the way through the proceedings.

Now I propose to show, to discredit this witness, that the facts do not support him and his statement rests in his imagination.

The Army of Virginia consisted of McDowell's command, Sigel's command, Banks's command, Porter's command, Reno's command, and Heintzelman's command; Banks's was not engaged at Bull Run.

McDowell swears, referring to the morning of the 29th of August, 1862 (new record, page 715):

I had no knowledge of General Pope's future policy.

Question. What knowledge did you then have, if any, of General Pope's plans and the changes likely to occur through any possible concentration of the enemy?

Answer. I could not know them and I did not know them.

General Heintzelman says (court-martial record, page 80), in answer to this question:

Were you made acquainted by General Pope with or did you know what were his plans?

Answer. I did not know what his plans were.

Here we have General Pope's *alter ego* in the Bull Run and court-martial campaign denying all knowledge of Pope's plans; and the other corps commander, General Heintzelman, also in ignorance, leaving only Sigel, who was not questioned on the point, and Reno, who fell on the field before the court was held. Was not General Pope a little unfortunate in presuming that Porter knew his plans because his habit was to talk so freely with officers of high command? Now, let us see what General Pope's chief of staff knew of the plan of this campaign. Speaking of the conference between Generals Pope and Porter on the morning of the 27th at Warrenton Junction, Colonel Ruggles says (new record, pages 306, 308):

General Porter came in and reported to General Pope, and asked him the situation of affairs and what was proposed to be done and the future of the campaign. General Pope was rather reserved in his manner; he was reticent and uncommunicative, as it seemed to me. * * * I thought possibly my presence might be an embarrassment, so I left the room. General Porter remained alone with General Pope some five or ten minutes after I left. * * * When General Porter came out he asked me what was the plan of the campaign. I told him that if there was a plan of campaign it had not been communicated to me; that so far as I understood, the enemy was threatening and occasionally turning our flank; that we had been getting out of tight places as fast as we got into them, and that we had been doing it with eminent success, and that as far as I understood we were to keep communication with Alexandria. I think I told him we were getting along as best we could until the Army of the Potomac all came up. That was my impression. Perhaps I may have derived that from general conversation, but I had no plan of campaign to communicate.

This was all the knowledge General Porter received, and he gave Burnside, for the President, the benefit of the information, as he had been requested to do. And it was this sort of information, conveyed in pungent style, that made Porter, in the eyes of the judge-advocate and the court-martial, to be held up to the country "*monstrum horrendum, ingens nefas.*"

This information, coupled with the knowledge that Sumner, Franklin, and Couch, with their veteran troops, were on the march from Alexandria to Centreville, is especially important when you come to consider the joint order to McDowell and Porter and the construction to be put upon it by an officer having this light to guide him in understanding its purpose.

But before going to the events of the 29th of August, 1862, there are two unfortunate statements of General Pope in his official report that deserve attention in chronological order. In speaking of General Porter's arrival at Bristoe, he says (see Report on Conduct of War, Supplement, volume 2, first session Thirty-ninth Congress, pages 146 and 147):

The moment he (Porter) found that Jackson had evacuated Manassas Junction he requested permission to halt at Bristoe and rest his men * * * I sent orders to General Porter, whom I supposed to be at Manassas Junction, where he should have been in compliance with my orders of the day previous.

The facts, when considered in connection with these statements, show them not only grossly incorrect, but tend strongly to show a design to cast a cloud and suspicion upon Porter on the part of General Pope, irrespective of the truth. The purpose being, it seems, to show Porter adopting pretexts to avoid coming to the front and supporting General Pope, and so making evidence to sustain the charge of improper inaction on the 29th of August, when the truth is that Porter was anxious to move forward and solicited orders to move; and when he heard the firing in the battle of Gibbon's brigade with Ewell on the afternoon of the 28th sent a written request to General Pope for orders, but received in reply notice to remain where he was (Bristoe) until he was sent for, and he was not notified to leave Bristoe until the morning of the 29th; all of which General Pope ought not to have forgotten.

And now I will give you the undisputed evidence to support what I have said. General Sykes, who commanded Porter's advance division, says:

My command was thrown in position a little in advance of Bristoe; remained there all day. We camped there that night and we did not leave until an early hour on the 29th. General Pope being there in person, the only inference was that he sanctioned our camping at that place. My men, when we reached there, were fresh and could have gone wherever it was desired.

Lieutenant Monteith, of the Fourth Michigan Infantry, aid to General Porter, says (new record, page 333):

General Porter sent me, between 1 and 2 o'clock that day, August 28, to Manassas Junction with a message to General Pope. * * * General Porter sent me to say his troops were resting at Bristoe and to inquire if he had any orders. I found General Pope and gave him my message. He replied that he had no orders for General Porter and for him to remain where he was.

Lieutenant Weld, of Massachusetts, who was also an aid to General Porter, testifies (new record, page 291) that on the afternoon of the 25th of August, 1862—

I was sent by General Porter to General Pope from Bristoe Station. General Porter told me he thought I would find him in the direction of Bull Run. * * * I met General Pope I should think a mile to the west of Bull Run. I gave him General Porter's message, which was "to ask if he had any orders." * * * They were using field-glasses, looking at a fire going on at Groveton.

That was Gibbon's battle, when McDowell got lost looking for Pope at Manassas, and did not get back until next day.

He told me to tell Porter to remain where he was; that he would be sent for when wanted. * * * My opinion is that this was between 5 and 6 o'clock. I went back and gave that message to General Porter.

Now, I fancy I can see a sneer upon the face of some unbeliever, accompanied with an ejaculation, "This evidence has been trumped up after sixteen years' preparation, and an official report written at the time is much the most reliable." Well, I am prepared for just your

case, and ask you to turn to page 339 of the new record and find some more "trumped-up" evidence; but this time the evidence is written, and is found among General Pope's miscellany:

HEADQUARTERS FIFTH ARMY CORPS,
Bristoe, Virginia, August 28, 1862—5 p. m.

COLONEL [RUGGLES]: I send Lieutenant Weld, of my staff, for orders, if any there be.

I am, your obedient servant,

F. J. PORTER,
Major-General, Commanding.

What lingering shadow of doubt can there be that the official report is a —— mistake?

Who now can believe Porter hung back that day, and who can believe General Pope thought he was at Manassas? Why, Mr. Speaker, General Pope's order to move from Bristoe was not dated until August 29, 1862, at 3 a. m. (see page 151, Report of Committee on the Conduct of War, Supplement, volume 2). And to conclude upon this day's operation and show how all these charges against Porter for misconduct and unwillingness to act on the 27th and 28th were fiction, I cite General Pope's order detaching King's division, which contained, as Generals Pope and McDowell each bear witness, "some of the finest men in the Army," from McDowell, an especial favorite, and placing them, unsolicited, under Porter's command on the morning of the 29th of August, 1862.

I must believe, then, and the country will believe, that Porter on the 29th of August, when he received the order to move on Gainesville at 9 o'clock, was a soldier with record as unsullied as when he turned back the tide of battle at Malvern and received the plaudits of his countrymen everywhere, except in and around the War Office of the Government whose battles he was fighting.

Next in order is the movement on Gainesville. General Pope sent to McDowell an order on the morning of the 29th day of August, 1862. This order was delivered to McDowell at about 9 o'clock in the morning. It was carried by an aid of General Pope. This aid met Porter at the head of his column near Bull Run Creek, moving to Centreville, having marched from Bristoe under General Pope's order of August 29, 3 a. m., which reached Porter about 6 a. m. The aid in passing General Porter stated to him the purport of the order, which was: "An order to McDowell, directing Porter to take General King and move toward Gainesville." (See Captain Piatt's statement, new record, page 1064.)

General Gibbon says:

General Pope, on the morning of the 29th, gave me a written order, which I delivered to General Porter. This is the order:

"HEADQUARTERS ARMY OF VIRGINIA,
"*Centreville, August* 29, 1862.

"Push forward with your corps and King's division, which you will take with you, upon Gainesville. I am following the enemy down the Warrenton turnpike. Be expeditious or we lose much.

"JOHN POPE,
"*Major-General Commanding.*"

General Pope in his official report thus speaks of this order:

I also sent orders to Major-General Fitz-John Porter at Manassas Junction to move forward with the utmost rapidity, with his own corps and King's division of McDowell's corps, which was supposed to be at that point, upon Gainesville by the direct road from Manassas Junction to that place. I urged him to make all speed that he might come up with the enemy and be able to turn his flank near where the Warrenton turnpike is intersected by the road from Manassas Junction to Gainesville. Shortly after sending this order I received a note from General McDowell (whom I had not been able to find on the night of the 28th) dated at Manassas Junction, requesting that King's division might not be taken from his command. I immediately sent a joint order to Generals McDowell and Porter.

General Gibbon says (new record, page 277):

I delivered the order to General Porter, and almost immediately General McDowell made his appearance. General Porter placed the order in his hands; he read it and expressed dissatisfaction that a portion of his command was assigned to Porter, and he requested General Porter to place King's division on his right when he formed line of battle.

This order brings Porter into contact with General McDowell, or, to use a very common expression, made Porter cross his track, for it stripped him of his favorite division, and the scheming to regain that command on the part of McDowell began at once. McDowell has been held up as a very model of official propriety; a Chevalier Bayard in honor—faithful, watchful, and energetic. This order deprived him of King. Ricketts was at Bristoe, six miles away. Reynolds was over near the Warrenton pike; and Major-General McDowell was at Manassas without a command. Porter marched away toward Gainesville, and King's division closed his column. What did McDowell do? Go and search for his command? No. He staid at Manassas Junction and sent a note to Pope, and waited for a reply; and when he succeeded in getting it, rode to the front, found Porter deploying for battle under the order brought by Gibbon; but McDowell assumed authority under the joint order; directed Porter to discontinue offensive operations, rode back to King's division detached it from Porter, and rode away; sending his compliments to Porter, and saying he was going by another road and would take King with him.

From this time on we shall find McDowell a central figure in this prosecution. But learned and polished as he is, if we criticise his conduct and testimony we shall find his tongue as subtle as the poison of a Borgia, and be led to wonder—

That deceit can steal such goodly form,
And under a virtuous visor hide deep vices.

We have now reached in chronological order the second order set out in the charges and specifications, known as the joint order, which is in the words and figures following:

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

You will please move forward with your joint commands toward Gainesville. I sent written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton Turnpike and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own the whole command shall halt. It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton Pike until the troops from here should fall on the enemy's flank and rear. I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts and instruct him to join the other divisions of his corps as soon as practicable. If any considerable advantages are to be gained by departing from this order it will not be strictly carried out. One thing must be held in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or the next day. My own headquarters will be for the present with Heintzelman's corps or at this place.

JOHN POPE,
Major-General, Commanding.

Generals McDOWELL and PORTER.

General Pope between the issuing the Gibbon order and this one seemed to have undergone one of those sudden mental transitions so peculiar to him in this campaign, and which made it so difficult for subordinate commanders, receiving an order at one moment and a different one immediately following, to have any distinct idea either of the position of the enemy which they were to attack or of the troops they were to act in concert with. One would think, reading the mass of orders, that the general commanding had no defined plan of operation nor certain information as to the location or position of the enemy, but, acting on impulse instead of information, fired off a new order on the report of each straggler or contraband that might find his way past headquarters.

General Pope seems infatuated with the idea that Jackson was in full retreat. King's division had found him near Groveton, and left him there on the morning of the 29th, but still this order informs the officers to whom it is addressed that Heintzelman and Reno are moving on the Warrenton pike and must be now near Gainesville, when in fact Jackson's whole force lay between them and Gainesville, at least three miles east of Gainesville, with his right resting near Groveton and commanding the Warrenton pike! A junction of two Federal columns, one moving from Manassas Junction on the Gainesville road and one moving on the Warrenton pike from Centreville, reads well in an order where Jackson's part in the piece was left out; but with Jackson lying across the route of the Centreville column it was easier to write the order than to execute it, as General Pope soon found to the sorrow of his troops.

This order has no indication of battle in it, and is one of the few orders issued about that time that leaves out the "bag" that Jackson and his troops were to be stored in and carried off the field. This order upon its face would seem to indicate that at last the general commanding had begun to perceive that the enemy could not be vanquished with orders, and to realize that there should be a junction of his forces preparatory to action, and that behind Bull Run would give him a better line and at the same time give the troops marching from Alexandria time to come up and take part in the general engagement then impending. And for that reason it will be noticed, while he gave discretion to deviate from the terms of the order "if any considerable advantages are to be gained," the order is explicit upon one point, from which there must be no departure, "that the troops must occupy a position from which they can reach Bull Run to-night or by morning."

This is the way I read the order; this corroborates the idea of the campaign given by Pope's chief of staff at Bristoe, and this, I believe, is what General Porter understood and had a right to understand that order to mean. Take a view of the situation and see if this construction is not borne out by the lack of readiness for battle of the Union forces. Banks at Bristoe, and not under marching orders, with 10,000. Ricketts was near Bristoe, with a division of worn-out men, 8,000. King's division was jaded and weary, 7,000. Sumner, Franklin, and Couch were on the march from Alexandria. The dictates of sense and ordinary prudence at once answer that it would be foolhardy to imperil the Union cause by delivering battle under such conditions against the combined army under General Lee. But some one may say, why did General Pope deliver battle if he had no design to do it when he issued this order? I answer, he lost his head, and this court-martial that is now under consideration was to punish somebody else for it.

I remember full well how the country was electrified by the following address:

WASHINGTON, *Monday, July* 14, 1862.

To the officers and soldiers of the Army of Virginia:

By the special assignment of the President of the United States I have assumed command of this Army. I have spent two weeks in learning your whereabouts, your condition, and your wants, and preparing you for active operations, and in placing you in positions from which you can act promptly and to the purpose.

I have come to you from the West, where we have always seen the backs of our enemies, from an army whose business it has been to seek the adversary and

to beat him when found, whose policy has been attack and not defensive. In but one instance has the enemy been able to place our Western armies in a defensive attitude. I presume that I have been called here to pursue the same system and to lead you against the enemy. It is my purpose to do so and that speedily. I am sure you long for an opportunity to win the distinction you are capable of achieving; that opportunity I shall endeavor to give you. In the mean time I desire you to dismiss from your minds certain phrases which I am sorry to find in vogue among you. I hear constantly of taking strong positions and holding them, of lines of retreat and of bases of supply. The strongest position a soldier should desire to occupy is one from which he can most easily advance against the enemy. Let us study the probable lines of the retreat of our opponents and leave our own to take care of themselves. Let us look before us and not behind. Success and glory are in the advance. Disaster and shame lurk in the rear. Let us act on this understanding, and it is safe to predict that your banners shall be inscribed with many a glorious deed and that your names will be dear to your countrymen forever.

JOHN POPE,
Major-General, Commanding.

But before this proclamation was made I find that General Pope, under oath before a committee, described his method of accomplishing these grand results foretold in this order (supplement report Committee on Conduct of War, volume 2, page 107):

By laying off on their flanks if they should have only 40,000 or 50,000 men I could whip them; if they should have 70,000 or 80,000 men I would attack their flanks and force them, in order to get rid of me, to follow me out into the mountains.

Bull Run was evidently lost while General Pope was studying the line of the enemy's retreat, and Porter was derelict because he did not strike Jackson's flanks! Our lines of retreat took care of themselves, and on August 30 were occupied by the greater part of our soldiery, in compliance with the precept "*Sauve qui peut.*"

Really we are so remote from the war that we may indulge in a little amusement over the "fustian" of such orders and such evidence. And perhaps when the promises are compared with results it will not be treason to say, in the words of Jomini:

I have seen many generals, marshals even, attain a certain degree of reputation by talking largely of principles which they conceived incorrectly in theory and could not apply at all. I have seen those men intrusted with the supreme command of armies and make most extravagant plans, because they were totally deficient in good judgment and were filled with inordinate self-conceit. (Jomini, Art of War, page 345.)

I commend this declaration to the consideration of such as are looking for the cause of disaster in the Bull Run campaign of 1862.

Until the rennaissance of fustian on the discussion of the Porter case I had supposed that "The Life of Napoleon and his Marshals," by Headly, had been laid aside to fire the ambition of some bucolic youth who might seek glory in the next war. But, sir, I find myself mistaken, for I read in the CONGRESSIONAL RECORD of January 6, 1883:

One of the great leading maxims in Napoleon's military experience—you will find it in all his campaigns, and it was a standing order to all his corps commanders—was that when the general of the army was not present to give orders, each corps commander shall march to the sound of the enemy's guns. That was a general order in all his campaigns.

This is nearly as good as General Pope's address to the Army of Virginia, and is fully up to it in style. There is but one thing omitted to complete its dramatic effect—a battle-scene, with a drummer-boy leading a charge.

Blind obedience is a favorite maxim of military writers, and I concede that an indiscriminate questioning of orders would be wholly subversive of discipline in peace, and in war fatal to the success of many a campaign. But, sir, in war, in the handling of large bodies of men, that doctrine implicitly followed would lead oftentimes to death and disaster. No general commanding understandingly issues an order that would defeat the purpose he seeks to obtain by the destruction of his troops. If he be present and direct a movement he must be blindly obeyed, irrespective of consequences. Not so if he be absent, in a distant part of the field. The reason is manifest. With a line of battle of 100,000 men, extending across a country miles in length, with country broken and view obscured and hidden, the general commanding sends an officer from the right to the left of his line with an order of movement; an hour, two hours may intervene before its delivery. In the mean time the whole condition of the left is changed. The enemy, weak at the giving of the order, at the time of its reception may have massed his force on his right, and the attack which an hour earlier might have been practicable has become utterly hopeless; and a failure in it, followed by an "offensive return" of the enemy, be the loss of the field that might otherwise have been won. What would be expected of an officer in command of the left under such circumstances? Archduke Charles answers this question for me:

Jourdan's army having forced the passage of the Lahn (July 7, 1796) the first intention of Wartensleben, who commanded the Austrian corps left before it by the Archduke Charles, had been to fall back behind the Widda. * * * But the 9th of July, having received a dispatch, in which the Archduke wrote to him to withdraw from the environs of Friedburg only after having tried the fortune of arms, he changed his design and resolved to attack Jourdan the same day. However, Wartensleben should not have attempted an attack. He could in fact direct it only against the center of the French army. * * * In spite of these dangers he had the temerity to attack, and in what a situation? With forces inferior in number, in a position in which his wings deprived of support and threatened with being constantly outflanked, had no reserve.

In vain will it be said that the order which the Archduke Charles had sent him was the ground of his resolution. Wartensleben had the right not to execute it. The Archduke Charles, then near Pforzeim, did not know his situation when he gave him the order. A general-in-chief who indicates to subordinates detached afar their lines of operation and the strategic points of their defensive positions, has performed his duties. One can not expect from him precise and detailed orders when their execution depends not only on the circumstances of the moment, but also on the actual position of the troop.

L'ARCHDUC CHARLES.

A reprimand of one of his own officers for obedience to one of his own orders!

The Duke of Wellington issued a general order from the camp at Jansen, 1803, containing the following enunciation of military law:

Major-General Wellesley thinks proper to explain to the troops that it is necessary to well distinguish the cases in which it is allowable or not for an officer to act at his own will. It may frequently happen that an officer receives an order which, through circumstances unknown at the moment of giving it by him who gave it, is impossible to execute, or the execution of which would be so difficult or so dangerous that there would be a moral impossibility to conform to it. In a case of this nature Major-General Wellesley would be very far from wishing to prevent detached officers from acting freely. But Capt. * * * was not in that situation; he had, and has had, no private information which the officer who had given him his orders did not also have, and then it was his duty to obey.

ARTHUR WELLESLEY.

In a little work translated from the French by Colonel D'Aguilar, entitled Napoleon's Military Maxims, I find under maxim No. 52—

A blind obedience is due only to a military command given by a superior present on the spot at the moment of action. Being in possession of the real state of things, the superior has it then in his power to afford the necessary explanations to the person who executes his orders.

In a translation from the French of "Duparcq," by General Cullum, entitled Elements of Military Art and History, I read from the chapter on battles, page 310:

The order of the day, often completed by verbal instructions, also exhibits each person's part in the attack, develops and explains the principal maneuver * * * in order that each general may intelligently perform his part toward the success of the maneuver, even should circumstances oblige him to depart from his orders and to make use of the large discretionary power necessarily intrusted to him.

General Grant has given his recognition to the same principle. Generals Schofield, Terry, and Getty in the case under consideration expressly recognize and approve it and declare—

It is a well-established military maxim that a corps commander is not justifiable in making an apparently hopeless attack in obedience to an order from a superior who is not on the spot and who is evidently in error in respect to the essential conditions upon which the order is based.

But, sir, we are told that the great Lord Mansfield and Chancellor Loughborough, in the case of Sutton *vs.* Johnstone (1 Term, 548), declared that the doctrine of "blind obedience" was military law, "and that nothing but physical impossibility can excuse non-performance." I answer yes, so they said; but that does not make it military law. The question before them was, how far an officer was protected from civil action for damages sustained by an act done under color of office in arresting and sending before a court-martial a subordinate for alleged disobedience of orders. The court-martial found the disobedience justifiable; which established by the only military authority in that case that it is justifiable under certain circumstances not to blindly obey. But the court held, in the civil action for malicious prosecution, the gist of which every lawyer knows is "probable cause," that the finding of the court that the disobedience was justifiable showed there was probable cause, and hence the action would not lie, overruling the unanimous judgment of the exchequer delivered by Baron Eyre (1 Term, 493).

The language used not relating to the points involved is mere *obiter*, and no more establishes a rule of military code than it would have settled a theological dogma, if the learned court had discussed it and given their views upon it. Napoleon, Wellington, Archduke Charles, and General Grant, may not equal Lord Mansfield in knowledge of commercial law; but their opinions upon the duties of a subordinate to his chief on the battle-field are infinitely preferable to his. I would not break down the discipline of a command depending largely upon the rule of "blind obedience," but I say there are periods in the field when from necessity the subordinate must use his judgment; and the subdivision of troops into corps, divisions, and brigades, permits the investment of discretion to men of experience, courage, and fidelity, whenever the corps is absent from the general-in-chief, whenever the division is absent from the corps and the brigade from the division, which will in no sense impair the discipline of the service, but will, on the contrary, advance its best interests.

Having reviewed to some extent the recognized rule of the military code, defining the powers and duties of a corps commander, I ask you to join the Fifth Corps on its march from Manassas Junction. General Morell leads the column, followed by Sykes, Sturges, and King's division; an effective force of 15,000 men ready and willing to fight under a corps commander, whose name was a prestige of victory. We meet a mounted man just fron Gainesville; he tells us the enemy's skirmishers were there to the number of about four hundred, and their main body was not far behind them. (General Morell's evidence, page 141, court-martial record.) If we are to reach Gainesville it is apparent the sooner we get to work and clear the road the more likely we will be to reach the point of our destination, for we know that every moment increases the force in our front. Without hesitation Griffin's brigade halts, throws four companies of the Sixty-second Pennsylvania to the front with instructions to move on in advance about half a mile, throwing out flankers to the side and skirmishers to the front. We then move on until we reach a cleared place, about five miles from Manassas Junction. Our skirmishers have found the enemy's pickets and

firing commences; the other eight companies of the Sixty-second Pennsylvania are ordered out to the front to support their comrades—there are twelve companies in this regiment. (General Griffin's evidence, page 156, court-martial record.) Our skirmishers capture and send in to us three mounted prisoners. (Griffin's evidence, court-martial record, page 159.) We are now on the crest above Dawkins Branch, and it is at least 11 o'clock, and General Porter immediately formed line of battle on the crest. (Morell, new record, page 431.) General Porter examines the prisoners and learns they are Lonstreet's men. (Lieutenant Weld, new record, page 292.) Griffin puts a battery in position. (Griffin, court-martial record, page 156.) And General Porter receives the joint order. Let us see where Butterfield is. He has an order from Porter to move his brigade across the branch and take position in the vicinity of the Carraco house. He puts his brigade in motion and then rides forward to make a personal reconnoissance of the ground. McDowell comes up in his absence, the order he gave his brigade is countermanded without his knowledge, and he soon rides back in a rage to find out who gave orders to his troops without sending it through him; and found his brigade had gone to the right in the woods. He complains of the method used in changing the direction of his troops. He inquires for General Porter and finds that he had gone into the woods on the right with General McDowell, and learns that the change in the direction of his troops was a sudden movement in consequence of something that had occurred between McDowell and Porter. (General Butterfield's evidence, new record, pages 467–468.)

M'DOWELL HAS COME AND TROUBLE BEGINS.

Porter is made a subordinate. His orders to advance are countermanded, and we withdraw from the head of the column and let the witnesses who remained tell what took place. Colonel Locke, adjutant-general of General Porter, testifies (court-martial record, page 131):

First saw General McDowell at Dawkins Branch. Porter was forming his corps in line of battle. He had made considerable progress in the disposition of his troops; a battery was in position and the troops were being deployed. General McDowell said: "Porter, you are too far out already; this is no place to fight a battle." McDowell remained some little time in private conversation with Porter. They then mounted their horses and rode off across the railroad to a woods upon our right of the road. I was sent by General Porter with a message to General King. General McDowell answered, "Give my compliments to General Porter and say to him that I am going to the right and will take General King with me. I think he had better remain where he is, but if it is necessary for him to fall back he can do so on my left."

Captain A. P. Martin, who commanded the artillery of Morell's division, saw the meeting between McDowell and Porter on the morning of the 29th at Dawkins Branch. These two officers met at the head of Porter's column about 11 o'clock. After the formal salutation, General McDowell said (court-martial record, page 136): "Porter, this is no place to fight a battle; you are too far out." This evidence was undisputed before the original court-martial, but was ignored by the judge-advocate in stating the case to the President. It is undisputed still.

Before the West Point board the following cumulative evidence was given on this point:

Captain Earle, Morell's acting adjutant-general, formerly adjutant of the Fourth Michigan Infantry, testifies (new record, page 421):

Between 11 and 12 saw McDowell come on to the field. The remark which General McDowell made when he came up attracted my attention from the abrupt manner in which he spoke. His remark to General Porter was, "Porter, you are too far out." I saw him make a motion with his hand back and heard the word "back."

Walter Scott Davis, First Lieutenant Twenty-second Massachusetts, acting staff officer of Martindale's brigade, testifies (new record, pages 405–406):

We marched directly down here (pointing on the map), near Dawkins Branch, on the right of the Manassas and Gainesville road; it was 11 o'clock at least. After forming line of battle there we were moving slowly forward. * * * General Porter was there in person. General McDowell rode down there rapidly and rode up to General Porter * * * and said "Porter, you are too far out; move your troops back into these woods." Then in an undertone he said, "This is no place to fight a battle."

Question. You have used a gesture. Will you describe that gesture?

Answer. With his thumb pointing backward over his right shoulder. General Porter spoke to me and asked to have the brigade moved back. Witness then recites circumstances impressing the facts on his memory.

General Patrick says:

McDowell said to him as he turned back his brigade, "I am going to take you away from Porter." * * * "Porter has gone as far as he can go," or "Porter is as far as he can go." General McDowell's reply to all this is the Italian's shield, "*Non me ricardo.*"

If we believe it, we have Porter at noon of the 29th day of August pushing forward to engage the enemy under the Gibbon order, that he might strike connection with General Pope's troops moving up the Warrenton pike. This proves him no laggard. This disproves the insinuation he had no stomach for battle. This proves his willingness to fight under Pope or any one else who carried the Union flag. Who, then, was responsible for halting the troops and allowing the enemy to mass his forces across the way? It was Major-General Irvin McDowell, who said "Porter, you are too far out; this is no place to fight a battle." This man's testimony convicted Major-General Fitz-John Porter of neglect of duty; it was the keystone of the arch that held all else of the prosecution in position. It was upon him Pope relied; it was upon his statements the court-martial relied. It was to his declarations the judge-advocate pointed as absolute verities, and directed the mind of Mr. Lincoln to an approval of conviction.

And now, sir, I will consider his evidence—I will compare his statements to the court-martial with his statements to the West Point board, and with printed circulars distributed by him. I will read dispatches produced after sixteen years' concealment. I will separate his facts from his insinuation. I will point to his evasions, misstatements, and equivocations—to his manner in testifying and to his conduct in the dissemination of untruthful statements, tending to mislead and deceive the public to the injury of a former companion in arms, and when I have done, if I shall repeat my former declaration, "That his tongue is as subtle as the poison of the Borgias," I thoroughly believe the country will respond, Amen!

General McDowell commenced his evidence, by putting forth the absurd pretense that General Porter's corps and King's division were under his command by virtue of the sixty-second article of war. Prior to the receipt of the joint order, he made this absurd claim, to account for his absence from his troops while he was scheming to get back King from Porter. He says (court-martial record, page 81):

On arriving at Manassas Junction I met Major-General Porter's corps coming up, and saw Major-General Porter. Soon after he showed me an order from Major-General Pope to himself, directing him to make a certain movement and to take with him King's division. * * * Some conversation took place between General Porter and myself concerning this order, I feeling some embarrassment at one of my divisions going off, as it seemed to me, under his command. He mentioned, as I was the senior officer I naturally and necessarily commanded the whole, his force as well as my own, and with that understanding the division followed after his corps on the road he was ordered to take toward Gainesville, I think.

In this statement he would seem to imply that General Porter conceded the command to him, which General Porter has always denied, and "that with this understanding King's division followed after Porter's corps;" impliedly insinuating that if it had not been for this understanding King's division would not have followed Porter; and this in the face of a direct order from General Pope to General Porter to take King's division with him. The order in effect detached King's division from McDowell and placed it under the command of Porter, but General McDowell seems hardly satisfied himself with his first statement, and on page 82 (court-martial record) he says:

In starting out on this road, as I mentioned before, General Porter had started out ahead of me under the order he had himself received to move with his corps and one of my divisions. * * * At that time I conceived General Porter to be under me.

On his cross-examination he still insists upon his theory, and says (pages 88 and 89, court-martial record):

I came down to take King's division and bring it up along with my other division, that is, with Reynolds's division then engaged at Groveton. I found it with an order to go with General Porter in another direction; that was what produced the embarrassment. * * * I do not know that embarrassment is the proper word; what I meant was that I found things different from what I expected. When I spoke of one of my divisions going under him he suggested that I was senior officer and that I could take command of the whole force, * * * and we went forward at first in that way before the joint order reached us. * * * The order was sent by General Pope upon the receipt of a note from me in reference to this matter of my division.

Again he says (court-martial record, page 90):

General Porter and myself started out from Manassas with the understanding that, under the article of war applicable to such cases, I had the command of the whole force, his own and my own.

Now, what are the undisputed facts? Porter and McDowell did not start from Manassas together; McDowell did not assume nor seek to exercise any control over the Fifth Corps and King's division or either of them, after the Gibbon order and before the joint order. He did not even accompany the troops on the march, but he staid behind and wrote a note complaining of his loss of command and sent it to General Pope at Centreville, and waited until he received in reply to it the joint order. Then he rode forward and overtook the Fifth Army Corps deploying into line of battle, and under the joint order assumed command. There is not a single particle of evidence in the case that sustains his statement; but, on the contrary, all the evidence proves the facts as I state them. I will go further than this, and assert that General McDowell knew better when he made the statement. General Gibbon swears (new record, page 177) that when he delivered the order to General Porter "General McDowell requested General Porter when he formed his line of battle" "that he would place King's division on his right, so that he (McDowell) could have his command together, it being known at the time that Reynolds's division, a portion of McDowell's command, was out in that direction somewhere, presumably on the right of what would be Porter's line."

On page 328, Senate Executive Document No. 37, first session Forty-sixth Congress, will be found a portion of a dispatch from McDowell to Pope, with this postscript:

I have just seen your last order to take King. Of course this is but temporary, and I have asked Porter to place King on his right that I may have him when you say so.

I. McDOWELL.

Verily out of thine own mouth art thou condemned!

But look at it from another view, and you will see the hollowness of the claim. If McDowell retained not only command of King's division, despite General Pope's order, but became commander of the Fifth Corps

as well, by virtue of his seniority as he puts forth claim, why did he write to General Pope complaining because King's division was taken from him and given to Porter?

The case briefly stated is this: The general commanding upon the field issued an order transferring a division of troops from one command to another. The commanding officer from whom the troops are detached still claims them to be under his command and insists that, by following them in person, he acquires command of the corps to which they were transferred, if he happens to be senior in rank, thus defeating the very purpose, presumably, which led to the transfer. It seems to me to be an absurdity that a pleb at the academy would not commit!

But it may be asked, what motive could have led General McDowell to make a fictitious claim? I answer, a very strong motive. And here we find it. On the night of the 28th, by his absence from his troops, he permitted King and Ricketts to abandon the lines between Longstreet and Jackson, for which we have seen the court of inquiry severely censure him. Reynolds was then engaged with the enemy at Groveton, so McDowell says. McDowell saw the order transferring King at 9 o'clock a. m. What excuse could he make for absenting himself from the field when he says his division under Reynolds was struggling with the enemy over at Groveton? None, unless one was manufactured to order. And his imagination seems felicitous in that direction. Gibbon fought Jackson on the night of the 28th; McDowell was absent looking for General Pope, because he wanted to tell him something. He heard the sounds of the battle, but got lost moving to the sound of the guns. Reynolds engaged Jackson in the morning, but McDowell left him and turned up at Manassas looking for King—he was performing the duty of an aid-de-camp. He finds King sent to Porter as early as 9 o'clock a. m. And he can only account for his continued absence from Reynolds and the field from that hour till 12 o'clock by alleging that he was in command of the Fifth Army Corps. It is apparent, then, that his motive was strong to shield himself from the charge of being absent from his command when engaged, a second time, within the limits of twenty-four hours.

But as I have said, the real object of his maneuvering was to get King back under his command and take his division back and connect it with Reynolds, resting near the Warrenton pike. He used the joint order for that purpose, and never thought of doing anything under it but that. Let us see. Before the court-martial he says:

I came down to take King's division and bring it up along with my other division—that is, with Reynolds's division, then engaged at Groveton. (Court-martial record, page 88.)

There he avows his original purpose. Before the West Point board, upon being examined with reference to the movements going on in Porter's command, relative to an offensive movement against the enemy at Dawkins Branch, when he rode to the head of the column with the joint order, General McDowell was asked this question (page 758, new record):

Question. Did you make any observation at that time as to what his troops were doing?
Answer. No, sir! * * *
Q. Did not you understand that one of his brigades was deployed?
A. I don't know whether it was a brigade, division, or regiment. I was not there for that purpose.

But if General McDowell's testimony is to be believed these troops had been under his command since 9 or 10 o'clock, and they, under the joint order, were at this time unquestionably subject to his command and were preparing for battle. He did not even pretend to know or inquire as to the preliminary dispositions. "He was there for another purpose." What did he do indicative of that purpose? He did not move to the front. No, but he rode down on to the woods on the right, in the direction of where he supposed Reynolds was, to see if he could get through. Failing in that he decided to take King and Ricketts over the Sudley Springs road. What for? "With a view of putting them on the left of Reynolds." (New record, page 759.)

I was excessively anxious to join Reynolds. (New record, page 759.) I thought I could get my troops into action quicker that way than I could by bringing them in the rear of General Porter, because the road was blocked up with his corps.

General Reynolds says (court-martial record, page 167):

I knew that troops were over at Manasses, and was expecting to have them brought upon my left. I was informed such would be the case.

Who but McDowell, his corps commander, gave him the information?

Here we find another of these blunders that a man makes when he abandons himself to his imagination. He feels it incumbent upon him, when he finds his acts criticised, to constantly iterate and reiterate expressions of zeal to get engaged with the enemy. This has served before to mislead and cajole, but we can not let it pass now unchallenged. Let us weigh it for what it is worth. The enemy were then in his front, the skirmish firing was going on, and the batteries were exchanging salutations—these troops were not Porter's, they were McDowell's. Under the joint order he had control of his own corps and Porter's corps. He was general commanding the left wing of Pope's army. He stopped that preparation for battle and decided to take King and Ricketts over onto the Sudley Springs Road, "because," to use his language, "because I thought I could get my troops into action quicker that way." Now, notice the following questions and answers:

Question. Did you then have any idea how long that movement would take you?
Answer. No; I don't know that the question came into my mind; but whether it took long or short, it was a movement I wanted to make. (New record, 758.)

* * * * * * *

Q. Did you know how far you would have to take your troops to get around where you believed Reynolds to be?
A. I had only a general knowledge. I had not ridden over the road the day before.

Here, then, we have presented the curious spectacle of a brave man and zealous officer who was excused for negligence, criminal in its character, on the night of the 28th, on account of his heroic conduct this day, leaving a field within range of artillery and musketry and moving where he did not know, to some point the distance to which he did not know, with a body of 15,000 troops, in search of an enemy to engage. He was so impatient that he could not wait for the deployment of a corps under his command in front, but was so zealous and anxious to fight that he gave up the command of the left wing of Pope's army and went off over an unknown route with two divisions in quest of some enemy that his force might be applied against. The reasons General McDowell assigns for his action place him in this ridiculous attitude, when a frank and ingenuous statement would not have made him subject to criticism, and would have furnished General Porter a full and complete justification. He went after King to put him in on the left of Reynolds. He obtained the joint order putting Porter under his command. He found Porter confronted by Longstreet. He knew it was not the purpose to bring on a general engagement from the terms of the joint order if from no other source. Hence, finding Porter's roadway cut off he directed him to rest his line there and took his division and moved to the rear and right to go round the road and come in on Reynolds's left, fulfilling the condition of the joint order making a continuous line from the east to the west.

Porter, McDowell, Sigel, Reno, Heintzelman, and if there needed anything more to settle this construction as the true one, General Pope gives it to us, before he had started out on the prosecution of Porter:

HEADQUARTERS ARMY OF VIRGINIA,
August 29, 1862.

To Generals Heintzelman, Reno, and Sigel:

If you find yourselves heavily pressed by superior numbers of the enemy, you will not push matters further; Fitz John Porter and King's division are moving on Gainesville from Manassas Junction and will come in on your left. They have about 20,000 men. The command must return to this place to-night or by morning on account of subsistence and forage.

JOHN POPE,
Major-General, Commanding.

The "this place" mentioned was Centreville, from which point it was sent. The existence of this order was not known until after the court-martial closed its session. (Senate Executive Document 37, first session Forty-sixth Congress, page 329.)

This order to the right wing corresponds with the construction Porter has always given to the joint order to the left wing.

But we have not yet done with General McDowell's zeal to attack the enemy which led him away from Porter. He did not get over on to the Warrenton pike till nearly if not quite 6 o'clock with the head of his column, and he moved it toward Reynolds's left, but General Pope countermanded the order. One brigade was sent in one direction and one in another; and the balance of King's division went into the fight at dark under General Pope's order. Ricketts's division did not get farther than the Henry house, and only three brigades of King at most were engaged. This is a summary of that hero's record of the 29th, which has been spoken of and which led the court of inquiry under Pope's evidence to excuse McDowell's delinquency. But there are other meshes in the net woven about General Porter by this witness to be unraveled.

General McDowell was permitted by the court-martial to testify as to the meaning of the joint order, which was a question arising on the face of the order to be determined by the court having the facts before them; and here again he proves himself a swift witness. He says (court-martial record, page 82):

That order contemplated a line being formed, which was to be joined onto a line that was to come up from the east to the west.

That is just what we claim the order contemplated as is patent on its face. But that did not suffice this witness. He injected into the order the following additional meaning (court-martial record, page 82):

And have the troops on the Gainsville road attack the flank and rear of the enemy, as I understood it.

Is there a word in that order about attacking the flank and rear of the enemy? I submit there is not. Nor do I believe General McDowell so understood it. Let his actions speak. If he understood that the troops on the Gainesville road were by that order to attack the flank and rear of the enemy, why did he stop Porter from making the attack, and why did he take two-thirds of the force off the Gainesville road, where it was to attack on flank and rear, and move it to the rear and west five miles away from the Gainesville road, leaving 10,000 troops to do the work assigned by General Pope to 25,000? Actions speak louder than words!

In looking over the evidence I discover where General McDowell

received his idea that the joint order contemplated an attack in flank and rear of the enemy.

General Pope says (court-martial record, page 31) in reply to this question:

Will you state as accurately as you can recollect from the information that you have received up to the present time from any quarter, in what particular or particulars the accused failed to carry out that joint order?

Answer. I have stated that the accused had failed to carry out that order; first, because I believed if he had attacked the enemy on the flank as he was directed, &c.

Here is where General McDowell obtained his light, which he blindly followed as his polar star through the whole case. He understood General Pope to testify to that construction and he echoed it! But General Pope did not intend to so testify. It was one of his hasty, ill-considered statements. He was chock-full of desire to show Porter disobedient, and he fired off answers irrespective of questions. General Pope's answer related to his 4.30 order and not to the joint order, and this is apparent from the context, for immediately following the declaration stated and in the same answer he says (court-martial record, pages 31, 32):

In relation to the joint order of the 29th, I have General Porter's note to Generals McDowell and King, in which he himself states that he has not fully obeyed the joint order of the 29th of August.

Now is it not apparent that although the question related to the joint order the witness answered as to the 4.30 order as well as to the joint order? His testimony reads:

If he had attacked the enemy on the flank, as he was directed, I should have known it, being myself on the field of battle and near to the front.

He states why he knows he did not attack the flank, because he was there to see; but when he speaks of the joint order he says:

In relation to the joint order of the 29th, I have General Porter's note, * * in which he states he has not fully obeyed.

One order he swears disobedience to from personal knowledge; the other, the joint order of the 29th (he specifies it by date), he knows he did not obey, because he has written evidence from the accused himself.

Now where is the motive that could lead General McDowell to follow General Pope's lead blindly? It was his self-interest, his self-preservation. It was freely charged that his neglect of duty permitted the junction of Lee with Jackson that brought disaster upon our arms. He occupied the position of a suspected witness who must convict another to save himself, and his safety in any event rested on the preservation of his relations with General Pope, who had the power to save or destroy him. And here in this motive we shall find the key to his whole evidence, and to his conduct afterward in attempting to injure Porter when he was struggling for a rehearing.

Having injected "the flank and rear" into an order that had no allusion to either of them, but directed the formation of a line of battle simply, and having himself clearly violated the order by the removal of the troops that were to strike "that flank and rear" from the Gainesville road, he commences to throw up a line of defenses to shelter himself. He says (court-martial record, page 84):

General Porter made a remark that showed me he had no question but that the enemy was in his immediate front. I said to him, "You put your force in here and I will take mine up the Sudley Spring road," on the left of the troops at that time engaged with the enemy.

It is shown by the evidence of General Patrick, Colonel Locke, Captain Martin, Captain Earle, and Lieutenant Davis that he said just the contrary; that instead of an order to go in, he gave the order to come out. We have shown by his action a denial of his words, in corroboration of these witnesses. Why did he make this statement except to cover his own failure to fight by charging it upon some one else? He fell back like the captain in the story who said he was lame. But he says he ordered somebody else to fight. But this witness is not content to stop here. He seems to desire to fan public prejudice, and by gentle insinuations brand Porter as a coward, for he knew that whatever else the American people might condone, cowardice placed an officer beyond the pale of sympathy. Hear him:

Question. You have said that the accused made an observation which showed he was satisfied that the enemy was in his immediate front; will you state what that observation was?

Behold the hesitating, doubtful rôle assumed, as he says but little and implies so much:

Answer. I do not know that I can repeat it exactly. I don't know that the accused meant exactly what the remark might seem to imply. The observation was to this effect, putting his hands in the direction of the dust rising above the tops of the trees, "We can not go in there anywhere without getting into a fight."

Q. What reply did you make?

A. I think to this effect, "That's what we came here for."

He don't know exactly what Porter said, and he thinks what his reply was. More of this occurs on page 92 of the court-martial record:

Q. When the accused said to you there he could not go anywhere without getting into a fight, did he or not appear to be averse to engaging the enemy?

This question came from the court, who seem from the form of the question to desire a categorical answer. The witness dare not say yes; he knew Porter too well. He dare not say no, for he knew what was expected of him. See how nicely he goes between the rain-drops:

A. I can not say that it made that impression on me.

But he can not stop after answering this question, and must put an *addendum* to it:

Though in giving my answer I took the view he did so imply and made the remark; but I did not think he was averse to engaging the enemy.

He can not stop here with safety, but in an additional *addendum*—

I mean by that, that that was not seriously a question with me, for when I left him I thought that he was going to engage and would engage the enemy.

Translated it reads: "I can't say that it did, but still I gave you to understand that it did. I did not think he was, meaning by that, I did not think of it at the time."

But we have some more light on this question of what Porter said. On page 88 of the court-martial record General Porter asked General McDowell in reference to his conversation with General Porter at the interview between them at Dawkins Branch, on the 29th of August, 1862—the identical conversation of which McDowell has been speaking—the following question:

During that conversation, that interview, did the accused say anything or do anything from which you inferred disloyalty upon his part, or unwillingness to perform his duty under the command of General Pope?

Answer. No, sir. What he said was the reverse. He professed to have but one feeling, and that was the success of his country. This was said, I think, in reference to the embarrassment, &c.

And yet, sir, this same man insinuates that Porter was afraid to fight, that he neglected willfully his duty, that he was treasonable to his flag and aided purposely in bringing defeat upon our arms, and the judge-advocate caught up the refrain, and made the executive office resound with its notes.

Had the judge-advocate scanned the evidence to arrive at the truth rather than to convict he would not have made this testimony pivotal, but would have answered it with his favorite maxim, "*Falsus in uno, falsus in omnibus.*"

Justice compels me to follow the tortuous trail of this witness to the end. He has testified, as we have seen on page 82, that the joint order contemplated an attack upon the "flank and rear" of the enemy. We have shown that such a construction was not a legitimate one, and have said he knew or ought to have known it was not. He confirms what we have said. Look at page 86 of the court-martial record:

Question. When did you first see the order of which you have spoken in your testimony in chief, that of 4.30 p. m., August 29th, which directed the accused to turn the right flank and attack the rear of the enemy? You have been understood as saying that was the effect of the joint order. That is not your meaning, is it?

The witness is quick to perceive the blunder made by him in his zeal, and he answers:

It was the effect of the joint order as modified by me, when I left General Porter—so far as I had the power to modify that order, and so far as the understanding with which I left him at the time.

Q. Are you to be understood as saying that before you saw the joint order of 4.30 of the 29th of August you, under the discretion you supposed was reposed in you by the joint order to yourself and General Porter, had directed him to attack the enemy's right flank and rear?

This seems to be a simple question calling for a direct answer; but it will be borne in my mind one of the rules for the detection of spurious evidence is the unwillingness of the witness to permit his answer to stand without voluntary explanations, and reciting other matters not pertinent to the question to distract the attention. This system of tactics marks all of General McDowell's evidence, and I give his answer to this one as an illustration:

To that effect, yes, sir. I knew I had the discretion, and I did not suppose. This is the clause under which I suppose, if you prefer that term, I had that discretion: "If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out." That joint order contemplated General Porter's corps and my own to be "employed differently from the way I had arranged when I left General Porter, which arrangement was to separate them, leaving him alone on the Gainesville road while I went up the Sudley Springs road."

The rule for detection of fraud in evidence which I have stated never had a happier illustration. He states in an *ad captandum* sort of way to the first question:

It was the effect of the joint order as modified by me, so far as I had the power to modify it.

That was intended to convey the impression that he had "ordered Porter to attack flank and rear" without saying so, for he left his power of modification open, but when pressed with the second question, to make it certain that he intended to say that, he answers, "To that effect, yes." He follows in the same breath and as part of his answer, assuming to resent a reflection that he finds in the question and makes an issue on the word supposed, and then cites his authority, running off in an independent collateral matter, but before he gets done, under cover of the smoke he has raised, he says, referring to what he had arranged when he left Porter (now recollect that was the time he has been giving you by his former answer to understand he directed the flank and rear attack), "which arrangement was to separate them, leaving him alone on the Gainesville road," &c., commencing by stating implicitly one thing and concluding by stating the fact showing he did no such thing, for if his arrangement for Porter had been to attack he would have so stated instead of saying his arrangement was to leave him alone on the road. Prevarication is a mild way of designating this sort of testifying. But there are some other things showing he gave no such order, in addition to the evidence of General Patrick and the others whom I have quoted.

BOARD MAP Nº 1.
Engineer Department, U.S. Army.
Bvt. Maj. Gen. A.A. Humphreys,
Brig. Gen. & Chief of Engineers.
MAP
of
Battle-Grounds of August 28th, 29th, & 30th, 1862
in the vicinity of
Groveton, Prince William Co., Va.
Made by the authority of
The Hon. G.W. McCrary, Secretary of War.
Surveyed in June 1878 by
Bvt. Maj. Gen. G.K. Warren, Major of Engineers, U.S.A.
assisted by
Capt. J.A. Judson, C.E. (A.A. Gen. "King's Division")
and
H.D. Gurden, C.E. (late Capt. & A.A. Gen. Confed. Army)
Scale
miles
feet.
NOTE There will be a descriptive memoir, and a sheet
exhibiting hill topography to accompany this map.
PROBABLE POSITIONS OF THE OPPOSING FORCES AT NOON
AUGUST 29th 1862, AS INDICATED BY THE INFORMATION THEN
IN POSSESSION OF THE UNION GENERALS.
Official Copy
G.K. Warren
Maj. Engrs & Bvt. Maj. Gen. U.S.A.
Capt. J.A. Judson, C.E. (A.A. Gen. Kings Division)
and
H.D. Gurden, C.E. (late Capt. & A.A. Gen. Confed. Army)
Scale
Sudley Ford
Cut Hairpin Run
Sudley Spring
Sudley Church
BULL RUN
Sudley Road
Matthews
Union Line
Centreville
Warrenton
Gainesville
Gainesville
Chapel
Whaley
Wood
NEW MARKET
Old Warrenton
Alexandria
Steers
Mt. Pass
Manassas Gap R.R.
Dawkin's Branch
Mass of Woods
Porter's Corps
Broad Run
Saw Mill
Thoroughfare Gap
Kings D

RUN
Bull Run
Bulls Ford
Flat Run
Manassas Gap R.R.
Kings Division
MANASSAS STATION
Alexandria Railroad

H.D. Gurden, C.E., (late Capt. & d.-a.-Gen. Confed. Army)
Scale
miles
four.
NOTE There will be a descriptive memoir, and a sheet exhibiting hill topography to accompany this map.
PROBABLE POSITIONS OF THE OPPOSING FORCES AT NOON AUGUST 29th 1862, AS INDICATED BY THE INORMATION THEN IN POSSESSION OF THE UNION GENERALS.
GAINESVILLE
WARRENTON
GAINESVILLE & WARRENTON TURNPIKE
Union Line
CENTREVILLE BRANCH
Centreville
Fairfax
Manassas
Bull Run
Stone Bridge
Sudley Ford
Sudley Church
Sudley Springs
Matthews
Henry
Chinn
Dogan
Brent
Carrico
Steers
Wheeler
NEW MARKET
Mr. Ross
B.F. Lewis
W.M. Lewis
Wm. Lewis
Jno. Lewis
Jno. Dogan
Mitchell
Merchant
Jeffers
Smith
Thos. Lewis
Mrs. Lewis
Old Warrenton Road
Alexandria
Manassas Gap Railroad
Manassas Junction
Gainesville
Haymarket
Thoroughfare Gap
Gainesville & Warrenton Turnpike
Dawkin's Branch
Mass of Woods
Porter's Corps
Kings
Ricketts Division
BRISTOE
BROAD RUN
Stone Mill
Longley's Mill
Official Copy
G.K. Warren
Maj. Engrs & Brt. Maj. Gen. U.S.A.

Bull Run
Bull's Ford
Kelkum Branch
MARKET
Merchant
Rogue Road
Kings Division
MANASSAS STATION
Orange & Alexandria Railroad

On page 85, court-martial record, the witness, speaking of whether he told Porter he was too far to the front, says:

Something may have been said about not going further toward Gainesville with reference to falling behind Bull Run that night. * * * It was hardly a question of going further on; it was more a question of turning to the right and going against the enemy passing down the Warrenton pike.

He admits something was said about not going further toward Gainesville, but why was it hardly a question of going further on? General Pope had designated the road. It reached Warrenton pike, and the point of intersection was several miles in rear of Jackson's line; but General McDowell has said that off from that road troops could move on the flank and rear of the enemy. There was no road to the right except the Sudley Springs road that General McDowell selected for his line of operation, leaving the Gainesville road to Porter. Now, I repeat, what made it "hardly a question of going further on?" I answer it was the enemy in front, which made it as early as 12 m. of the 29th of August impracticable for the troops of Porter and McDowell combined to attempt the passage of the road. And, hence McDowell left Porter to hold the enemy on that road, while he went around to come in on Reynolds's left and make a line that he could not otherwise make because of the lion in his path.

Again, McDowell says "turning to the right" was the true movement and the only one to be made. Turning to the right carried the troops away from the right of the enemy, who prevented McDowell's command (Porter, King, and Ricketts) from moving as General Pope directed. So that when he says "attack flank and rear," and defines the movement to be to the right, his orders are the reverse of his movement. But to cap the climax of this pretended order to attack "the flank and rear," the witness states, at page 213 of the court-martial record, "I do not know where the right wing of the main body of the enemy was at the time." And yet this was the flank he says he ordered the attack to be made upon. It is entirely consistent with the facts and the situation that McDowell moved to the right; but it is equally certain that a movement by Porter in the same direction must have resulted in leaving his rear and the left wing of the army uncovered, to be enveloped by the enemy's right, or he must have undertaken a flank march in the immediate battle-front of the enemy in position, moving through tangled thickets, wood, and ravine, to get to the Warrenton pike, either of which movements on the 29th would have spared the country the battle of the 30th, for we would have been *sans* men, *sans* guns, *sans* everything to fight a battle!

There is still another evidence that General McDowell gave no such order. It is not hinted at even in his official report! And there is no specification charging General Porter with violating any such order.

The crime charged against Porter which struck more keenly the American heart than any other was that he held his corps idle all day within the sound of the guns of his comrades in arms and refused to give them his support.

It was a most heinous charge, and I have no language to express my condemnation of it if it were true. That he was under orders not to move until he received the 4.30 order I think is settled beyond question, unless you believe McDowell. I will now show you that General McDowell was one of the principal agencies in creating that impression and procuring Porter's conviction for it, and that he did so by the use of the same tactics that have been discussed, and that he did so purposely.

On page 84, speaking in reference to the time when the supposed order was given by him to Porter to attack, he says:

Question. Were there any obstacles in the way of the advance of General Porter's command upon the flank of the enemy?
Answer. That depends upon what you call obstacles; a wood is an obstacle.
Q. I mean insuperable obstacles in a military sense.
A. I do not think we so regarded it at the time. I did not.
Q. Was or was not the battle "raging" at the time?
A. The battle was raging on our right * * * at Groveton.

I ask you to scan the board map No. 1, which I here attach and make part of my remarks. General McDowell says there was a "battle raging at Groveton at the time." "Reynolds's division was engaged," one of his own divisions. And in order to reach it and give succor to his comrades in arms he neglects to go across the country over which he says it was practicable to move troops, but goes off down the Sudley Springs road to the Henry house, and does not reach that part of the field where the troops are said to be engaged until after 5 o'clock, and then with only a part of King's division. What became of the combatants in that "raging battle" during that five hours? As I have said, scan this official map and tell me where the road lies for Porter to move upon that McDowell could not and would not have taken if he was pushing his troops rapidly to the field of battle to assist troops then engaged. General McDowell convinced the court that there were woods Porter could have made his way through. Just where they were it is not clear, for in his testimony at West Point, on page 775, he admits he had no reference to these woods extending across to Five Forks, as shown upon this map. "He don't know anything about them." "They were not before the court." On page 91, court-martial record, General McDowell gives some very peculiar reasons why he knew the face of the country and was competent to give an opinion. I can not avoid referring to them, as it shows what passed for evidence in the hours of passion and excitement. He enumerates:

First. Because he had been over the railroad to Gainesville, when he was so busy he did not notice the country through which the track passed.

Second. By marching from Buckland Mills to Gainesville and from Gainesville east a mile or so (this was four miles from the country in question), the turning off to the right and south and going across the country to Bethlehem Church and thence to Manassas. (This turning off carried him right away from the country under consideration and would seem to indicate that the détour was made because of the impracticability of marching through this broken wooded section.)

Third. Because Reynolds had gone nearer Groveton than the witness had and had then made a détour to the right. (Recollect these troops were coming from Gainesville and each détour to the right carried them south from these woods.)

Fourth. Because King had turned south from beyond Groveton and found his way to Manassas. Hence he thinks himself competent to speak of a section that neither he nor King had passed over.

The judge-advocate seized upon this evidence and, re-enforcing it with the evidence of Lieutenant-Colonel T. C. H. Smith, who had never been there at all, pronounces his judgment that it furnishes a conclusive reply to Porter's declaration that this country was impracticable for military operations. What does Colonel Smith say (court-martial record, page 294), as quoted by the judge-advocate?

I infer the corps of the accused could have moved up its right wing, joining with the forces engaged. * * * It is not all inference from the general character of the country. It is based also upon the fact, as I understand it, * * * that that portion of the country over which the corps of the accused would have moved upon the evening was sufficiently practicable to enable the enemy, as they did, to make a similar movement on our left the next day.

It does seem more than passing strange that the judge-advocate should have pressed these statements as "conclusive proof," and omit to allude to the evidence of the only men who spoke from knowledge.

Lieutenant James Stevenson made a trip from the left of General Pope's army between 1 and 2 o'clock across Longstreet's front in a direct line, and he says (court-martial record, page 194):

It was a rough country, partly wooded, with some ravines. It was not a country over which troops could be marched in large numbers. I saw the enemy's line; should judge from 12,000 to 15,000!

General John F. Reynolds, whom McDowell cites in giving his reasons, held the extreme left flank of our line during the 29th of August, and he says:

Question. Between New Market and Groveton what was the character of the country?
Answer. Very broken by ravines and wooded. I will state I know that from having passed over it on horseback that night from somewhere in the neighborhood of New Market over to the Warrenton pike near Groveton.

It may be well to explain when McDowell received his order on the afternoon of the 28th to push his troops on Centreville, Reynolds, who was in the advance, making the movement on Manassas, changed the head of his column for Centreville. He found he could not cross this country under consideration, so he made a slight détour and came in on the Gainesville and Manassas road, thence down to Bethlehem Church, and followed Sudley Springs road down to the neighborhood of New Market. King, who was in the rear of McDowell's column, turned into the Warrenton pike and in a few minutes Gibbon was engaged with a portion of Jackson's force near Groveton. Reynolds heard the firing, and, soldier as he was, rode across the country to King to let him know his position. McDowell heard the firing but got lost!

General Reynolds, on cross-examination, continues, in reply to the judge-advocate (court-martial record, page 165):

It was impossible to maneuver troops over that country.

This answer ought to suffice for McDowell's statement, based on what Reynolds did.

And now General Reynolds answers Colonel Smith's inferences, on which the judge-advocate relies as conclusive (court-martial record, page 167):

Question. Did not the enemy in attacking the left and rear of General Pope on Saturday, the 30th of August, pass with artillery and infantry over much of the country that General Porter would have had to pass over on the 29th to attack the right of the confederates?
Answer. I think not. I think he had gotten in, as it were, between that broken country and our position on that day, occupying a ridge which crossed the turnpike there, and having the broken country behind him, because I maneuvered the 29th all up to that broken country and got partially on that ridge.

Choose ye between that life-long soldier who knew and the soldier of a few months who guessed!

At West Point General Longstreet corroborates General Reynolds, and testifies his troops on the 30th did not pass over the wood east of Dawkins Branch, but his right moved by way of the old Warrenton, Alexandria, and Washington road (new record, page 121).

Porter, then, could not move to the right; he could not move to the front without bringing on an engagement not contemplated by General Pope's joint order and forbidden by General McDowell, his superior.

A suggestion may be properly made here not entirely in accord with the popular idea. It is as much a violation of military law and soldierly duty for a subordinate to bring on a general engagement prematurely as to stand aloof or give faint support, for it leads to as great—sometimes greater—disaster. I complain of this statement that there was a "raging battle" at the time spoken of by General McDowell, because it was not true, in the sense the court and the country were given to understand by the statement.

What the judge-advocate understood by that evidence is apparent from the picture drawn by him in his review presented to the President, where he says:

The accused had for between five and six hours been listening to the sound of the battle raging to his right. * * * That a vigorous attack at any time between 12 o'clock, when the battle began, and dark, when it closed, would have secured a triumph to our arms, and not only the overthrow of the rebel forces but probably the destruction or capture of Jackson's army, the record fully justifies us in maintaining.

This presentation of the case contains the germ of the theory upon which the court acted; a battle commencing at 12 and raging till dark; Porter lying idle upon his arms, when had he attacked, the rebel forces would have been overthrown and Jackson's army captured. It conforms to General Pope's and McDowell's theory, that it was Jackson, and Jackson alone, that was upon the field, and that the attack Porter should have made necessarily was an attack upon Jackson.

What McDowell meant to give the court to understand was exactly that thing. Not artillery here and there breaking the silence with irregular firing, but a raging battle of the troops of all arms, such as occurs at every general engagement. And that he, present with Porter, heard the sound and rushed to the field; while Porter inertly and listlessly loitered away the day and let defeat attend our arms and death overtake his comrades.

McDowell, in his official report, speaks of Gibbons's fight, wherein he had his four regiments, supported by two regiments of Doubleday's, and engaged Ewell's and Taliaferro's divisions of Jackson's army as "an affair" (see Executive Document, third session Thirty-seventh Congress, volume 8, page 44, for McDowell's report; and for Jackson's report see volume 6, Confederate Reports, page 225), which is the language used to distinguish it from battle, in the sense which he understands the word "battle" when applied to the operations of an army. Now, I maintain and prove by the official records that there were not more and I think not so many troops, including both sides, engaged at any one time on the 29th of August until after half past 5 o'clock p. m.; and that from 12 o'clock m. until late in the afternoon there was nothing that could be called more than a skirmish here and there; and that the sounds of that skirmishing were inaudible to Porter or his troops. I also think, I may say without fear of being contradicted by any one who is conversant with the evidence, that the sounds of what are called battle on the right by portions of the commands of Hooker and Kearney were at no time audible to Porter or his troops.

But we have General McDowell's evidence on this "raging battle," that he conducted before the court-martial with greater success than ever attended his operations in the field.

Called before the West Point board (on page 781), in answer to the question, "Did you hear any infantry firing at that time?" he says: "I do not think I did; I can not recollect at this day whether I did or not."

Now, he can not plead excuse that time has dimmed his recollection, because he has been for years engaged in discussing this campaign and his part in it, as I shall hereafter show. He has manifested the deepest interest, his reputation as a soldier and as a man of honor depended on his sustaining himself; and the natural sequence from these conditions is that, with memory dimmed, interest makes imagination supply facts favorable to one's self. Hence I say if he dare not trust himself to say "yes" to the question put, his negative answer should be given full strength, unimpaired by his excuse of lapse of time or dimness of memory.

Now, I submit if the firing of artillery means battle, in the sense of an army's engagement, the Army of Virginia was in a "raging battle" from Rappahanock Station to Falls Church, and by the same token General B. S. Roberts speaks truthfully when he says (page 10) in a pamphlet entitled Pope's Campaign in Virginia; its Policy and Results:"

In all these operations of Pope's on the Rappahannock, running through eight days, a confederate general of high rank has said "that Pope had not once been diverted into the smallest blunder and had been guilty of no mistake."

Who was he?

His indomitable energy, endurance, and vigilance defeated every purpose of a bold, determined, and crafty enemy, who had calculated with certainty to destroy or capture his entire army—

And describes Hooker's engagement at Kettle Run on the 27th, where the loss was three hundred killed and wounded, in his following strictly truthful, barren style:

Forming his columns for this purpose, he pushed at a double quick through an extension of open fields swept by the fire of more than 10,000 muskets and carried the position of every battery with the bayonet. Having driven every piece of artillery from the field, he changed his direction by his right flank and forming his line under a heavy musketry fire fell with fury on triple lines of the enemy's infantry, filling a railroad cut of a thousand yards, scattering their force in every direction and putting to rout Ewell's entire army. (Page 13.)

And also in the following description of Pope's battle on the 29th of August, 1862:

His attack was successful, and he carried at great cost the wood where the enemy had massed their forces and at dark was in the possession of the field with the enemy's dead and wounded. (Page 19.)

But this historian does not confine himself to dry statements of facts, such as I have quoted; but in describing the characteristics of his hero he is seized with poetic fervor and breaks forth (page 31):

General Pope and General Lee are not the type of opposing generals who throw large armies into combat without great losses. None will deny to Pope the imperium of a general (? sic.) He was supreme in command and the controlling magnetism of every battle and combat. * * * All his movements have been calculated with mathematical certainty and executed with a precision and exactness that has few examples in any war—none in this country. Within twenty-three days he fought seven important battles without mistake or disaster, and ended his campaign without a surprise or blunder.

I have digressed to give this piece of history, because its author, General Roberts, is the officer who signs the charges against General Porter, and is a witness in the case whose opinion as an expert upon the operations at Bull Run are cited as strong and reliable evidence against Porter by the judge-advocate in his paper laid before the President.

But to return. General McDowell testifies before the West Point board (new record, page 780) that—

Porter was too far off to know whether there was a contest of musketry going on on the right.

How does this leave McDowell? His "raging battle" dies down to some artillery fire without musketry, so far as he knows, with the admission that Porter's position was such that he could not hear musketry!

General Pope, touching this "raging battle," says, in his official report (supplement report of the Committee on the Conduct of the War, volume 2, pages 153, 154):

I arrived on the field from Centreville about noon, and found the two armies confronting each other. * * * I informed General Sigel * * * that I would not again push his troops into action. * * * I rode to the front of our line and inspected it from right to left, giving the same information to Generals Heintzelman and Reno, who were accordingly suffered to rest in their positions. From 12 o'clock until 4 o'clock, very severe skirmishes occurred constantly at various points in our line—

Note what made them—

and were brought on at every indication the enemy made of a disposition to retreat.

Now, then, we have "this raging battle," as it was described officially by General Pope, who rarely omitted to describe his battles in as high coloring as the pen and ink at his command would permit. Think of it, when you are told by the judge advocate that Porter sat unmoved as his comrades were stricken down in this raging battle!

General Pope says, on page 154 last cited, that "about 5.30 p. m." "I directed Heintzelman and Reno to attack the enemy."

General Heintzelman in his official report says Kearney did not engage until near 6 p. m.; that Hooker had previously engaged Grover's brigade of 2,000 men doing the fighting (the engagement lasting not more than twenty minutes), but they were repulsed before Kearney moved (see Executive Document, third session Thirty-seventh Congress, page 55); and being called as a witness before the West Point board, testified (new record, page 606):

There was no continuous battle on the 29th—just spurts. There was no general attack; the attacks were generally by brigades and regiments, not made by divisions—two divisions.

This officer commanded the right center.

Colonel McKeever, his adjutant-general, says (new record, page 197):

I don't think there were more than 3,000 to 4,000 men engaged at any one time. * * * I could see the right of the line and center.

I need not remind those who have seen battles that this officer's position made it his especial duty to know and see what was being done, and hence his testimony is entitled to great weight, because we all know from experience the general tendency of officers engaged to magnify the part taken by their commands, and that great battles on paper sometimes dwindle down to insignificant nothings in fact.

This battle was fought and lost, as many others have been and will be, by pounding the life out of regiments and brigades before the decisive battle begins. Every officer and man of the Fifth Army Corps who has ever spoken on the subject bears united testimony that no sound of infantry battle reached their ears until the last assault at dark, made on the left of the Warrenton pike. With such corroboration I concede the correctness of General McDowell's evidence "that Porter was too far off to hear musketry on the right."

The next thread is the location of Porter's troops at a point in rear and to the right of Jackson's flank and within striking distance, and this is most stealthily spun and deftly woven.

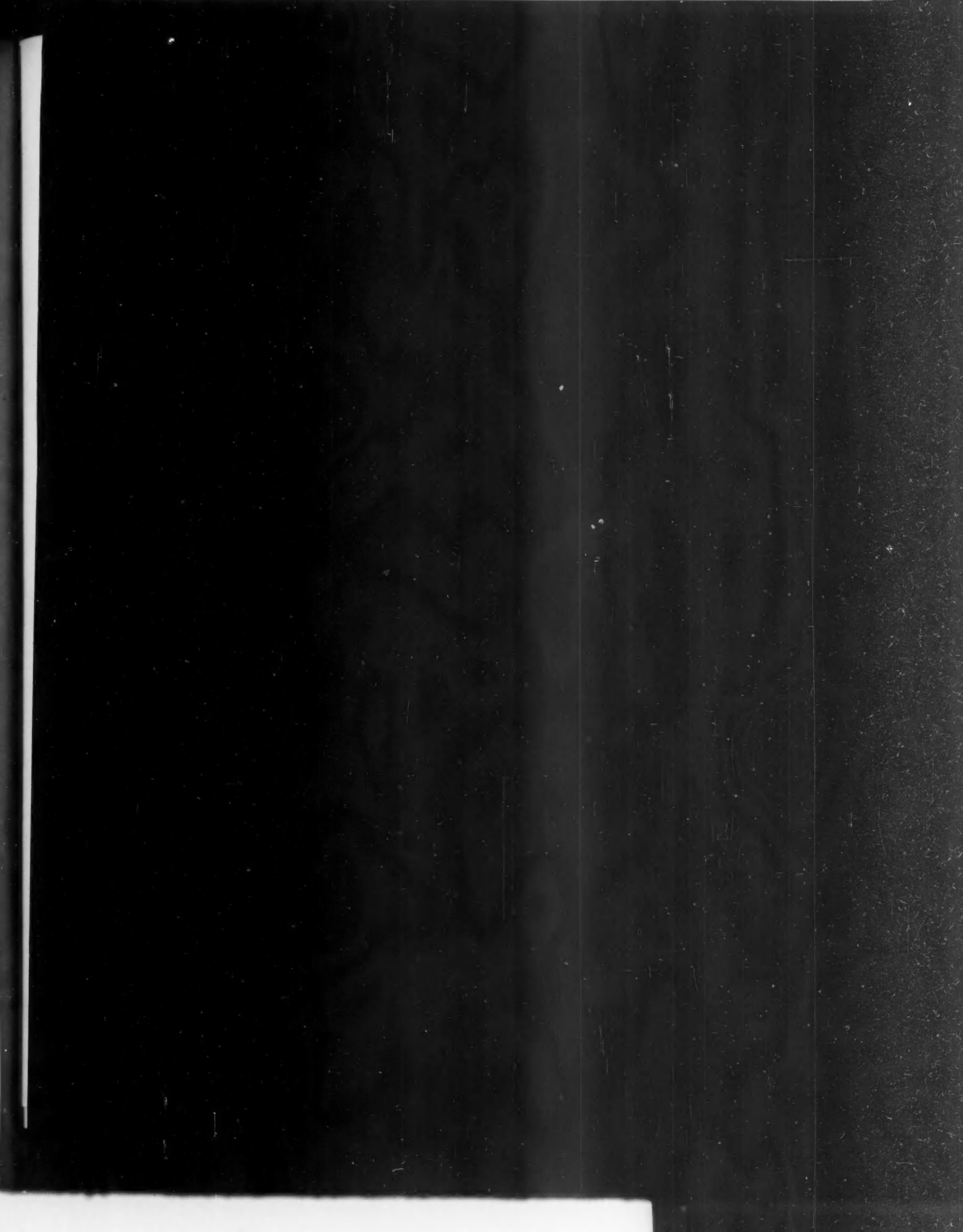
General McDowell says (court-martial record, pages 83, 84):

The country in front of the position where General Porter was when I joined him was open for several hundred yards, and near, as I supposed, by seeing the dust coming up above the trees, the Warrenton pike. I had an impression at the time that these skirmishers were engaged with some of the enemy near that road * * * the dust ascending above the trees seeming to indicate that force to be not a great distance from the head of Porter's column. I am speaking now of that force of the enemy referred to by General Buford as passing down the Warrenton turnpike toward Groveton.

This statement ingeniously puts Porter's skirmishers over near the Warrenton pike and the head of Porter's column across Dawkins Branch and near the enemy moving down the pike, but it is all done qualifiedly under a supposition or impression. But General McDowell before the West Point board, testified on page 758 of the new record, "that he made no observation as to what Porter's troops were doing, except there were some few persons out in the bushes and he heard a shot or two."

On page 93, court-martial record, he says:

The rear of Porter's column reached a distance from Bethlehem Church sufficient for the larger part if not the whole of one of my brigades to occupy that road. I should suppose this column occupied perhaps three miles of the road. * * * I considered him in the presence of the enemy.



Longstreet & William's Map.

Engineer Department, U.S. Army.
Bvt. Maj. Gen. A.A. Humphreys,
Brig. Gen. & Chief of Engineers.

MAP
of
Battle-Grounds of August 28th, 29th, & 30th 1862
in the vicinity of
Groveton, Prince William Co., Va.

Made by the authority of
The Hon. G.W. McCrary, Secretary of War.

Surveyed in June 1878 by
Bvt. Maj. Gen. G.K. Warren, Major of Engineers, U.S.A.
assisted by
Capt. J.A. Judson, C.E., (A.A.Gen. "King's Division")
and
H.D. Garden, C.E., (late Capt. & A.A.Gen. Confed. Army)

Scale
miles
feet

Official Copy
G.K. Warren
Maj. Engrs & Bvt. Maj. Gen. U.S.A.

Stone Bridge
Bull's Ford
Lewis Ford
Bull Run
MANASSAS STATION
Orange & Alexandria Railroad

On page 210 he fixes the distance from Bethlehem Church to the pike at three and a half or four miles. Here there is a basis for calculation. Porter's corps extended three miles and a brigade front beyond Bethlehem Church. It is three and a half to four miles from the church to the Warrenton pike. Hence the head of Porter's column would be in the neighborhood of a half mile from the Warrenton pike, and his skirmishers preceding his column would naturally be firing upon the enemy on the pike. Now, please turn to the Government map No. 1, and make the measurement by the scale and you find this calculation on McDowell's premises brings the head of the column near Hampton Cole's, beyond the old Warrenton, Alexandria & Washington road, which you see places Porter in the desired position necessary to charge him with the loss of the battle. The court found the head of his column there and judged him accordingly. By reference to Longstreet's map of his line of battle hereto attached, made part of my remarks, you will see it crosses the place where Porter's head of column was located by the court and by Generel McDowell. (It will be noticed that Wilcox with three brigades, located on this map in rear of Longstreet's left, were transferred to the support of Jones on the right, and there remained till between 4 and 5 o'clock p. m., when they were sent back to support Hood, but took no part in this fight.)

This was a foul blow dealt Porter, and was all the evidence which placed him in striking distance of Jackson's line, and taking no reckoning whatever of Longstreet's troops, but leaving him a clear field to make the assault, which they all swear in their opinion would have been fatal to the enemy, and the judge advocate tells the President, would have captured Jackson.

That there may be no mistake in this view that I have given you of the understanding of the court of Porter's position, I here insert as explanatory of and make part of my remarks General Pope's map, submitted to the Committee on the Conduct of the War, where it will be found in supplement volume 2 of the report of that committee. Map No. 4, between pages 190, 191 and the map of the West Point board No. 2, which is official. A comparative view of these maps shows at a glance more convincing proof of the error of the court-martial than pages of statements of witnesses could.

But I must not lose sight of the sinuosities, so to speak, of the witness under consideration. He may have erred innocently in the evidence I have recited; but in a case of life and death it is strange, to say the least, that he was not better advised before he ventured on his guess. It is a part of the history of this case, that the persons immediately connected with the conviction of Porter are extremely sensitive, and act as if a blow were struck at them when a bare mention of an application for rehearing has been made. This is not only strange, but it would seem as if an inner consciousness made cowards of them. One would naturally suppose that every officer of the United States Army would rejoice to know that the stigma cast upon a brother officer and upon the profession could be shown to have been the result of error in information; but not so these men. Years have not tempered their bitterness. The name of Porter throws them into spasms, and they rush in to print.

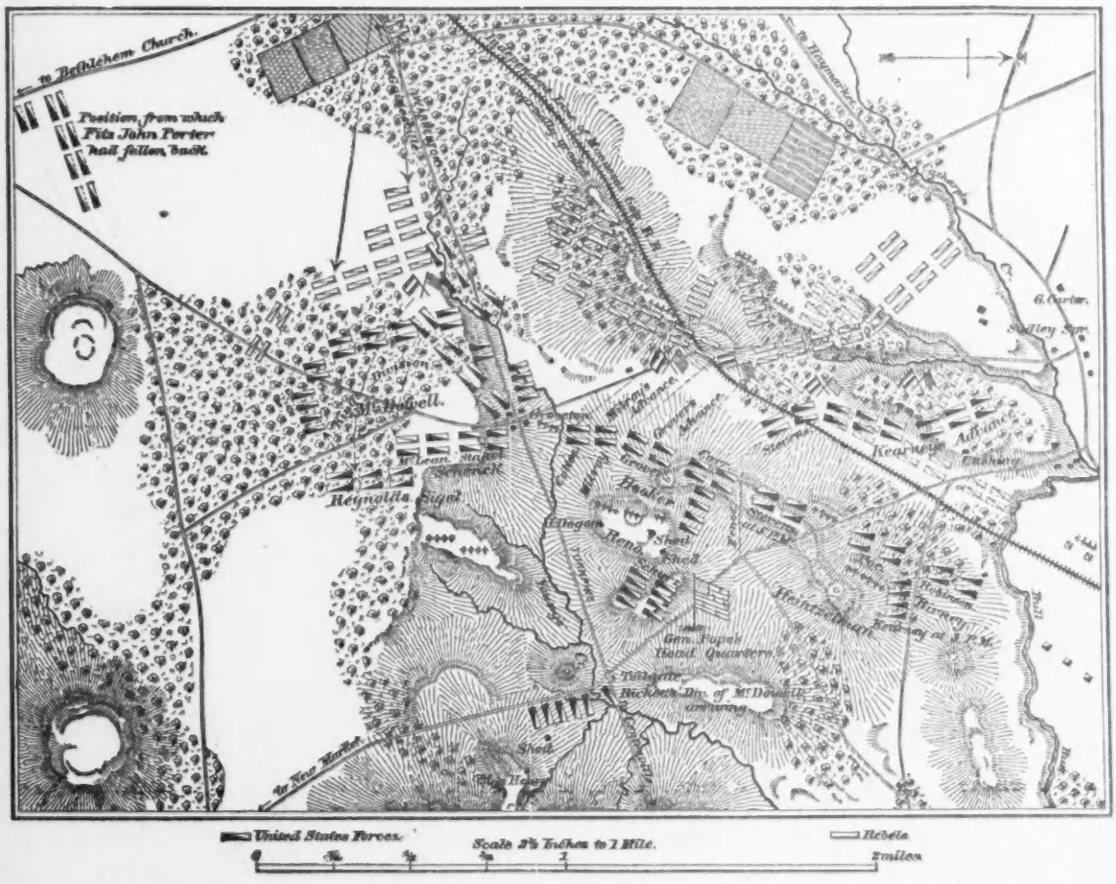
General McDowell printed and largely circulated in February, 1870, a document that it will do to compare with some of his evidence. The statement will be found on pages 720, 721, new record. Let me read:

> General McClellan seems to have been ignorant of the fact that up to the time of McDowell's separation of his command from Porter the opposing forces had not come within range of each other. The separation took place before conflict was possible.

Compare this statement coolly made by a major-general of the Army and thrown broadcast to the country with the statement of the same officer in 1862, made to convict a brother officer, where he says:

> I had an impression that these skirmishers (Porter's) were engaged with some of the enemy near that road (Warrenton pike). * * * That force seemed to be not a great distance from the head of Porter's column. * * * I considered him in the presence of the enemy.

POPE'S MAP.



Let these inconsistent statements stand a monument to the uncertainty of memory when controlled by interest or malicious intent.

The court-martial having by McDowell's estimates established Porter's troops at Hampton Coles's and his skirmishers over on the Warrenton pike, the work of entangling Porter would seem to have been complete; but the zeal of the prosecution pushes them on to show there were no troops in Porter's front, or at most so few that it was sheer pusillanimity on Porter's part that held him back. The tactics resorted to are, "Swell Porter's force; shrink the force of the enemy."

General McDowell says he estimates Porter's force from 12,000 to 15,000; he judges from riding by them. How singularly he corroborates General Pope, who says from 12,000 to 12,500 men. The official return shows the strength of the Fifth Army Corps at 9,583; of Piatt's brigade, 823—10,406; and that covers all present for duty.

We are now face to face with two questions of importance to be considered in reference to Porter. What enemy was in his front, and did he know it at the time?

LONGSTREET WAS IN HIS FRONT IN FACT, AND PORTER THEN KNEW IT.

As I am not yet done with General McDowell, I shall first show that he knew it and prevaricated to accommodate himself to Pope's infatuation.

Before McDowell came up Porter had captured three scouts, who said they were Longstreet's men. The countrymen who met General Morell apprised him that the enemy had reached Gainesville, with skirmishers to the front of about four hundred men, and the main body close behind. Jackson was known to be near Groveton, with his right resting near Warrenton pike. McDowell was handed, on his way to the head of Porter's column, this dispatch (court-martial record, page 82) from General Buford, who had been left to watch the approach of the enemy from Thoroughfare Gap:

HEADQUARTERS CAVALRY BRIGADE—9.30 a. m.

Seventeen regiments, one battery, five hundred cavalry, passed through Gainesville three-quarters of an hour ago on the Centreville road. I think this division should join our forces now engaged.

General Buford in his evidence says (court-martial record, pages 182, 183):

I saw them myself. I thought the regiments would average eight hundred men each. * * * At that time I made a particular estimate. I thought they were the largest regiments I had ever seen in motion.

This is not pretended to be evidence proving all the troops there were moving up, but it fixes the number that had passed Gainesville at the time mentioned, 9 o'clock. Here is one little circumstance in the proportion of arms of the service in the column seen that shows it was but part of a column—not the whole column. One battery is hardly a complement of artillery for a division of infantry of 13,600 muskets.

General McDowell, before the court-martial, declared:

I did not know anything about Longstreet's corps or Jackson's corps. I have mentioned the note I received from Buford. Seventeen regiments, one battery, and five hundred cavalry were marching from Gainesville to Groveton. To whom they belonged or to whom they were going was not a matter of which I was informed.

Just what mental reservation enables the witness to make this statement I do not quite see, if he desired to preserve his reputation for truth in any degree. He was himself engaged in burnishing his military prestige before a court of inquiry sitting in Washington contemporary with the court-martial, and in that court he produces the following order:

11.30 P. M., HEADQUARTERS THIRD ARMY CORPS,
Buckland Mills, August 27, 1862.

It being understood that a large division of the enemy under Longstreet left Salem at 4 o'clock p. m. for the enemy's position near Manassas, through Thoroughfare Gap, and is now on the march, the preliminary movements, &c.

* * * * * * *

By command of Major-General McDowell.

In this order General McDowell detaches Sigel's corps and one of his own divisions to hold and guard Thoroughfare Gap against Longstreet.

This order was changed the next day, the 28th, and upon receipt of a dispatch from his aid, W. Leski, captain, &c., dated the 28th, 10.15 a. m., in these words:

The enemy is advancing through the pass. * * * Colonel Wyndham will hold them as long as he can, and asks to be re-enforced. McDowell sent Ricketts with four brigades of infantry, of about 8,000 men, two brigades of cavalry and six batteries, to check the progress of the enemy. * * * And in defense of his action he refers to results and says: "General Ricketts went to Thoroughfare Gap; did hold Longstreet in check during the day."

Again he says, "It will be seen the provisions I made for Longstreet" was owing to Sigel's delays, &c. (See McDowell's statement before his court of inquiry.) What did the term Longstreet mean, and what ought every commanding officer to have known when he was informed Longstreet was approaching?

General Pope, in his report to the Committee on the Conduct of the War, on page 139 (supplement, volume 2), annexes a dispatch from Waterloo Bridge, August 26, 1862, 2.45 p. m., which informs him:

A deserter has just come in. Says Longstreet's corps, embracing Jones's, Kemper's, Anderson's, Whiting's, and Evans's divisions are located in the woods back of Waterloo Bridge.

Here is information of the body of troops composing Longstreet's corps. Certainly it is a body not to be overwhelmed with 10,000 men. General Pope testified before the McDowell court, July 14, 1863:

I believed then and believe now we were sufficiently in advance of Longstreet, who was supposed to lead the main body of the enemy, that by using our whole force vigorously we should be able to crush Jackson completely before Longstreet by any possibility could have reached the scene of action.

I will read General Ricketts's official report of his operations at Thoroughfare Gap (executive document, third session Thirty-seventh Congress, volume 8, page 170):

The men moved forward gallantly, but owing to the nature of the ground * * * when I ascertained the enemy in superior force were turning my right and left in the endeavor to surround us * * * I dispatched two messengers to you (General McDowell) with this report. * * * While considering the position critical * * * ordered that retreat, which defeated their anticipations of capturing the entire division by their overpowering numbers outflanking us.

And now, sir, in the face of this evidence, who can be expected to believe General McDowell, who had made these provisions against Longstreet, and had learned that his division of 8,000 infantry, six batteries, and two brigades of cavalry were in danger of being captured by overpowering numbers, when he says he does not know what troops they were; that he does not know anything about Longstreet's corps? Tell it to the marines!

General Porter in one of his letters to Burnside had predicted exactly this thing when he says, under date of August 28:

I expect the next thing will be a raid on our rear by way of Warrenton pike by Longstreet.

Porter had struggled with Longstreet on the Peninsula. He knew, as every private soldier knew, that Longstreet was pushing to support Jackson. The pickets and skirmishers at Sulphur Springs knew Longstreet was following Jackson's trail. Longstreet meant Lee and the combined confederate army. The Union divisions were marching and countermarching to bag Jackson, while the combined confederate force was stretched out in connected line for battle. Longstreet's corps lay idle all the day until nightfall, when Hood met a part of King's division and sent it reeling to the rear.

Porter sent messenger after messenger to find the location of our troops on his right, but failed to find them. So he stood on the extreme left flank of our army unable to make connection or learn the plans or designs of the commanding general other than as explained by the joint order. This was his position; responsible that the flank of the Union army should not be turned; responsible that the lives of his men should not be ruthlessly sacrificed.

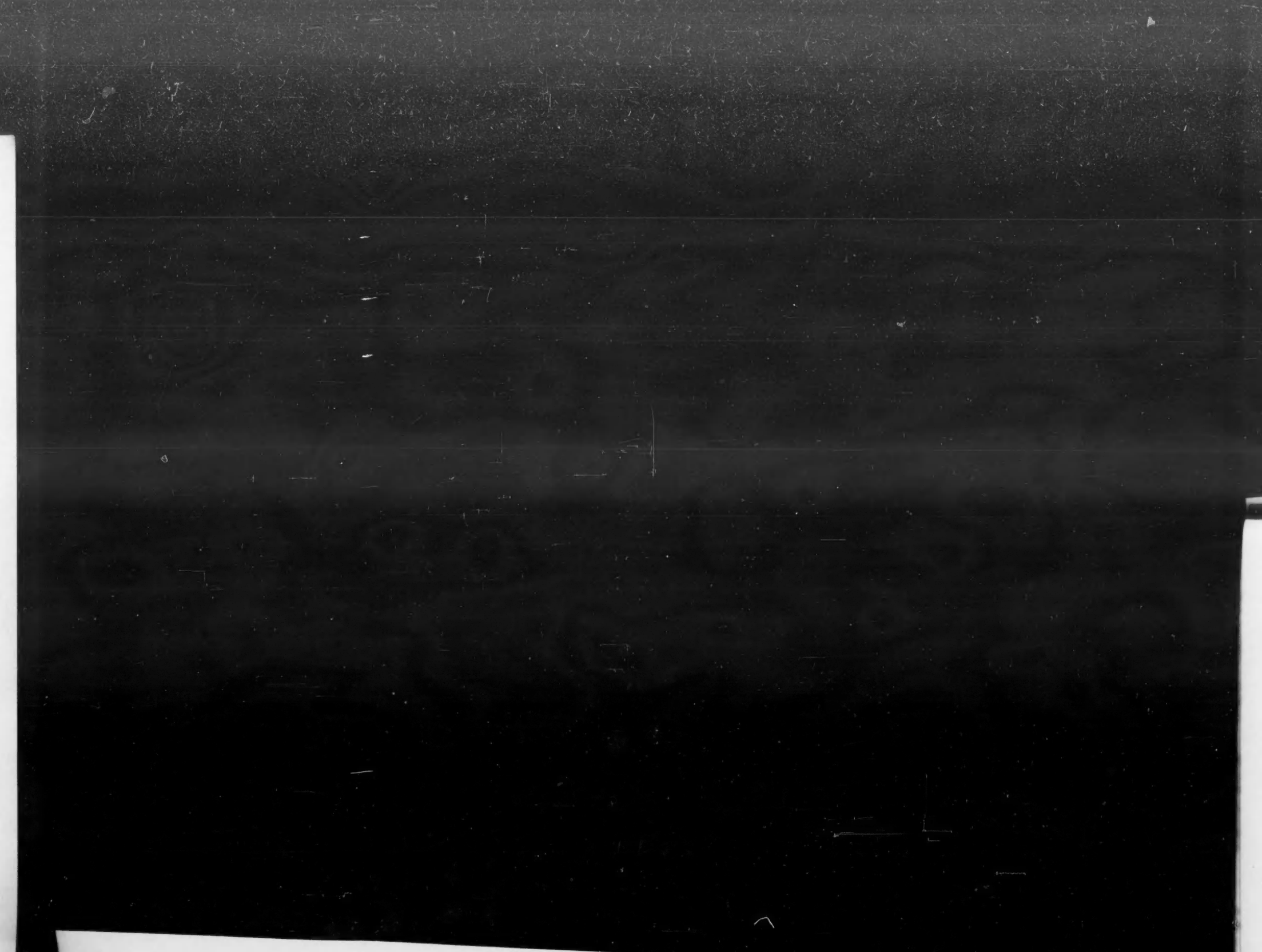
The West Point board, composed of officers of distinction, have found that he did his full duty under this joint order. It is a work of assumption on the part of a civilian to attempt to add to the force of their finding. We submit questions of the civil and common law to the opinions of men learned in the law, and their judgment is accepted as conclusive. Questions of military law, the force and effect of military movements, the discussions of campaigns, and the causes of success or failure, from the military standpoint, can only be properly determined by men learned in military science.

The character of evidence offered to sustain conclusions is within the province of my profession, and I have not hesitated to examine it in this case. The testimony of the Government in the case against Porter I have always believed entirely failed to support a conviction. The principal witnesses I have always believed were unworthy of credit in their statements affecting the action of Porter. It is for this reason I have so carefully held up to view their inconsistencies and the probabilities of the truth of their statements. I may have done it too unkindly, but I have done it from a conviction that the wrongs of an injured man and the truth of history demanded it.

But I have digressed too far from my review of General McDowell's evidence and conduct in this case. If it were consistent with my sense of duty, I would gladly leave him here. But having entered upon the review of his evidence and conduct, I must not shrink from any part of the task. In 1870, to prejudice the public mind, when Porter was asking to have his case reopened and examined, General McDowell assisted in widely circulating an extract from General Jackson's report to support his statement of "raging battle" on the 29th of August, 1862, and, as proof that Porter must have known it and coldly turned away and refused assistance, this history:

In a few moments our entire line was engaged in a fierce and sanguinary struggle with the enemy. As one line was repulsed another took its place, and pressed forward as if determined by force of numbers and fury of assault to drive us from our position. So impetuous and well maintained were these onsets as to induce me to send to the commanding general for re-enforcements, but the timely and gallant advance of General Longstreet, on the right, relieved my troops from the pressure of overwhelming numbers. As Longstreet pressed upon my right the Federal advance was checked and soon a general advance of my whole line was ordered.

To make the blow more deadly there was appended the certificate of the Adjutant-General of the United States Army to the correctness of the extracts. When that was done Major-General McDowell put on a heading "Operations of the 29th of August, 1862," although the report from which the extract was copied showed this statement to relate to the action of the 30th of August, 1862, and the battle therein described to be the attack of the Fifth Army Corps, Porter commanding in person. Colonel Smith called attention to the error, but no correction was made, and this major-general at West Point gave as his reason for not correcting the error, "that he did not think it in his province." Yes, sir, a major-general put forth a report sanctioned by the certificate of Adjutant-General, United States Army; altered its entire scope and meaning by a heading, circulated it among brother officers indorsed by himself as true, and when the error was detected "did not think it within his province" to undo the evil he had done. Ay, his sin was greater than that. He circulated a history from confederate sources of the deeds of bravery of the Fifth Army Corps on the 30th of August and changed its date so as to make it evidence of supineness and lethargy on the part of General Porter who led his men against Jackson in the conflict described.



BOARD MAP. Nº 3.

Engineer Department, U.S. Army.
Bvt. Maj. Gen. A.A. Humphreys,
Brig. Gen. & Chief of Engineers.

MAP
of
Battle-Grounds of August 28th, 29th, & 30th, 1862
in the vicinity of
Groveton, Prince William Co., Va.

Made by the authority of
The Hon. G.W. McCrary, Secretary of War.

Surveyed in June 1878 by
Bvt. Maj. Gen. G.K. Warren, Major of Engineers, U.S.A.
assisted by
Capt. J.A. Judson, C.E. (A.A.G. in "King's Division")
and
H.D. Garden, C.E. (late Capt. & A.A.Gen. Confed. Army.)

Scale.

NOTE-There will be a descriptive memoir, and a sheet exhibiting hill topography, to accompany this map.

SUPPOSED MILITARY SITUATION UNDER WHICH THE 4.30 P.M. ORDER WAS ISSUED AUGUST 29th 1862.

Official Copy
G.K. Warren
Maj. Engrs & Bvt. Maj. Gen. U.S.A.

CENTREVILLE
Bull Run
Stone Bridge
Lewis Ford
Ball's Ford
Blackburn Ford
Flat Run
Golding's Road
New Road
MANASSAS STATION
Orange & Alexandria Railroad.

LETTER-PRESS DESCRIPTIVE OF ILLUSTRATIVE MAP No. 1

The contours on this map correctly represent the directions and positions of the ridges and valleys and their approxim
arbitrary. National forces are delineated in blue, and

[This map has been prepared at request of the president of the board, *after* argument, to represent the views of the counsel for Gover

NATIONAL FORCES COMMANDED BY MAJOR-GENERAL JOHN P

P, Petitioner's corps in retreat.

- M, Morell's division.
  - B, Butterfield's brigade.
  - B^2, Martindale's brigade under Barnes.
  - G, Griffin's brigade.
- S, Sykes's division.
  - W, Warren's brigade.
  - B^3, Buchanan's brigade.
  - C, Chapman's brigade.
- Sturgis's division.
  - P^1, Piatt's brigade.
  - T, Taylor's squadron of 1st Pa. Cavalry.
- Smead's Battery K, 5th U. S. Artillery. } Attached to Sykes's division.
- Weed's Battery I, 5th U. S. Artillery. } Attached to Sykes's division.
- Davis's Battery E, 1st U. S. Artillery, under Randol. } Attached to Sykes's division.
- Griffin's Battery D, 5th U. S. Artillery, under Hazlett. } Attached to Morell's division.
- Martin's Battery C, 3d Mass. Independent Artillery. } Attached to Morell's division.
- Waterman's Battery C, 1st Rhode Island Artillery. } Attached to Morell's division.
- M P—McDowell and Petitioner at 12 m.

McDowell's Corps.

- R, Ricketts's division.
- K, King's division (Ha commanding).
- K^1, King's division (Ha commanding), at 12
- Reynolds's division.
- Buford's cavalry.

Sigel's corps.

- S^3, Schurz's division.
  - S^6, Schimmelfenning's (1st brigade).
  - K^3, Krzyzanowski's (2d brigade).
- Shenck's division (1st).
  - M^1, McLean's (2d brigade).
  - S^2, Stahl's (1st brigade).
  - S^4, Steinwehr's (1st brigade).
  - M^2, Milroy's Independent brigade.
  - S^5, Sigel's reserve.
  - S^6, Sigel's artillery.
- B^5, Bayard's cavalry, under Beardsley.
  - 1st Pa. Cavalry, Colonel Jones.
  - 1st N. Y. Cavalry, Colonel Windom.
  - 1st Maine Cavalry, Colonel Allen.

Hampton's Ind. Pa. Battery. } These batteries belong to porarily attached to Sch
Romer's Battery. } These batteries belong to porarily attached to Sch
De Beck's Battery, 1st Ohio Artillery.

All the batteries of artillery with the several divi

CONFEDERATE FORCES, COMMANDED BY GEN

L, Longstreet's force.

- W^3, Wilcox's division.
  - Wilcox's brigade.
  - Featherstone's brigade.
  - Pryor's brigade.
- H^1, Hood's division.
  - T, Texas brigade.
  - L^1, Law's brigade.
  - E^1, Evans's brigade.
- K, Kemper's division.
  - Kemper's brigade, under Colonel Corse.
  - Pickett's brigade, under Colonel Hunton.
  - Jenkins's brigade.
- J^3, Jones' division.
  - G. T. Anderson's brigade.
  - Drayton's brigade.
  - Toombs's brigade.
- W^2, Squires's and Miller's batteries Washington Artillery, at 1 o'clock p. m.
- W^1, Squires's and Miller's batteries, with others from Jackson's command, in all 26 guns, at 2 o'clock p. m.

J, Jackson's force.

- H,
- E,
- J^1,
- S^1,
- B,

Portion of the confederate army of Northern Virginia which did not arrive on th

Colonel Stephen D. Lee's reserve artillery, stationed at Thoroughfare Gap on the 29th. Arrived on the field at 3 a. m. August
Major-General R. A. Anderson's division (four brigades) on the march to join. Arrived on the field at 3 a. m. August 30.
Major-General D. H. Hill's division (five brigades with artillery) on the march to join. Arrived on the field in the afternoon of
Major-General L. McLaw's division (four brigades) on the march to join. Arrived on the field in the afternoon of the 30th.

Note by counsel for the Government.—While the enemy's forces are given a position in line of battle west of Pageland Lane, at 2 p. m., it is considered very do
and extend below the pike, as early as this time. When Jackson's right was threatened and attacked by Reynolds's division of Pennsylvania Reserves attache
Jackson's right, to move up to near Pageland Lane from the "defensive" position taken at Gainesville (part of Hood's division in advance). That "defensive"
of the Potomac, would come up from the Rappahannock, via Warrenton, on the Warrenton, Gainesville, and Groveton pike, instead of landing at Alexandria, an
overwhelm it before the third of his army, then absent, could arrive. Jackson's cavalry, under Stuart, were down in the indicated direction in order to watch t
General Banks's corps could have advanced and interposed at Gainesville between the portion of Lee's army under Major-General Longstreet and his re-enforce

AUTHORITIES FOUND IN THE GENERAL COURT-MARTIAL AND ARMY BOARD'S RECORDS USED IN PRE

National officers.

Major-General John Pope.	Brevet Major-General N. C. McLean.*	Brevet Brigadier-General E. D. Fowler.	Majo
Major-General Irwin McDowell.	Brigadier-General John F. Reynolds.*	Brevet Brigadier-General Charles Barnes.*	Majo
Major-General S. P. Heintzelman.	Brigadier-General John Buford.	Brevet Brigadier-General J. P. Taylor.	Majo
Major-General Abner Doubleday.	Brigadier-General Charles Griffin.	Brevet Brigadier-General T. F. McCoy.	Capt
Major-General S. D. Sturgis.	Brigadier-General M. R. Patrick.	Brevet Brigadier-General W. P. Richardson.*	Capt
Major-General Franz Sigel.*	Brigadier-General A. S. Piatt.	Colonel B. F. Smith.	Capt
Major-General Z. B. Tower.	Brigadier-General Thomas C. H. Smith.*	Colonel E. G. Marshall.	Capt
Major-General R. C. Schenck.*	Brevet Brigadier-General R. R. Dawes.	Major G. B. Fox.*	Capt
Brevet Major-General H. G. Sickles.	Brevet Brigadier-General J. M. Deems.		

Official reports of Generals S. P. Heintzelman, J. F. Reynolds,* J. C. Robinson, C. Grover, Philip Kearney, Franz Sigel, R. H. Milroy, J. Stahel, N. C. McLe
rick and Dilger.
Confederate official reports of Generals R. E. Lee, James Longstreet, T. J. Jackson, J. B. Hood, A. P. Hill, J. E. B. Stuart, and subordinate reports.

*These witnesses more particularly as to position of Reynold

pproximate relative elevations. They may be in error from five to twenty feet. The datum plane is ue, and the Confederate forces in red.

for Government, who attempted to locate positions with a pointer on the large official map.—*Vide* argument.]

JOHN POPE, UNITED STATES VOLUNTEERS.

- division: D, Duryée's brigade, 1st. / Tower's brigade, 2d. / H, Hartsuff's brigade, 3d. / C[1], Carroll's brigade, 4th. — Leppein's Maine Battery. / Hall's Maine Battery (en route from Bristoe to Manassas). / Mathew's Pennsylvania Battery F, 1st Penn. Light Artillery. / Thompson' Independent Pennsylvania Battery C.
- ision (Hatch ling): H[1], Hatch's brigade.
- vision (Hatch ling), at 12 m.: D[1], Doubleday's brigade. / G[1], Gibbon's brigade. / P[2], Patrick's brigade. — Gerrish's battery of howitzers.
- ivision: S[1], Seymour's brigade. / J, Jackson's brigade. / M[2], Mead's brigade. — R[1], Ransom's Battery C, 5th United States Artillery. / A, Battery A, 1st Pennsylvania Light Artillery (Simpson's). / B[1], Battery G, 1st Pennsylvania Light Artillery (Kearn's). / C, Battery B, 1st Pennsylvania Light Artillery (*Cooper's*).
- lry: 4th N. Y. cavalry. / 9th N. Y. cavalry. / 6th Ohio cavalry. / 1st Conn. cavalry. / 1st R. I. cavalry, of Bayard's cavalry.

belong to Banks's corps, temched to Schurz's division.

- Heintzelman's corps: K[2], Kearney's division: P[3], Poe's brigade. / B[2], Birney's brigade. / R[1], Robinson's brigade.
- Heintzelman's corps: H, Hooker's division: G[2], Grover's brigade. M[4], 1st Mass. Volunteer Infantry. / C[1], Carr's brigade. / T[1], Taylor's brigade.
- Burnside's corps, R[2], Reno's division: S[1], Stevens's brigade. / F[1], Ferrero's brigade. / N[1], Nichol's brigade. — B[4], Battery E, 2d U. S. Artillery, Lt. S. N. Benjamin commanding, with Weidrick's Battery of Sigel's corps and part of Stevens's brigade.

everal divisions are not noted and only those which are considered necessary to describe the map.

BY GENERAL R. E. LEE.

- rce:
  - H, A. P. Hill's division: Gregg's brigade. / Branch's brigade. / Pender's brigade. / Archer's brigade. / Thomas's brigade. / Field's brigade.
  - E, Ewell's division, under Lawton: Early's brigade. / Lawton's brigade. / Hay's brigade. / Trimball's brigade.
  - J[1], Jackson's division, under Starke: Jackson's brigade. / Starke's brigade.
  - Stuart's division: R[1], Rosser's cavalry, videttes. / R, Robertson's cavalry, videttes. / L[3], Fitz Hugh Lee's cavalry. / P[1], Patrick's squadron of cavalry. [to Stuart.] / B[1], Bachman's battery of artillery (of Hood's division ordered to report / P, Pelham's battery of artillery.
  - S[1], Five batteries in reserve under Major Shumaker.
  - B, Batteries of Braxton, Pegram, and Crenshaw.

ive on the field until after the battle of the 29th of August, 1862.

. August 30.
t 30.
ternoon of the 30th.
30th.

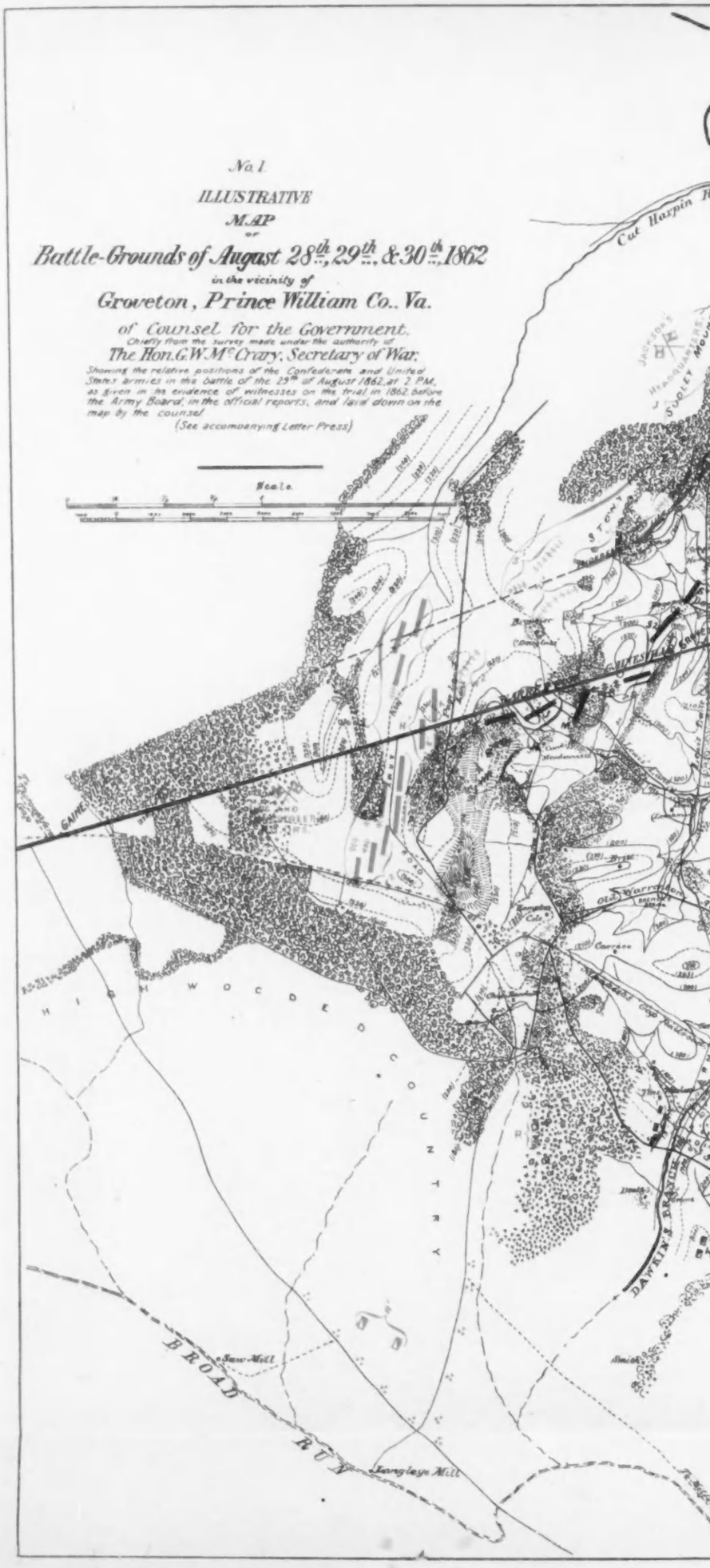
ed very doubtful if they had advanced from a point just east of Gainesville, *in force*, to the indicated position, so as to form *complete* line res attached to McDowell's corps, and Schenck's division of Sigel's corps, the confederate force under Longstreet had, in order to relieve "defensive" position, it is believed, was taken because the enemy did not then know but that Sumner's and Franklin's corps, of the Army xandria, and thus strike in the rear of so much of Lee's army as was on the field, and in conjunction with the national forces on the ground to watch the Manasses and Gainesville road, and were subsequently moved further down to watch the road from Bristoe, from whence re-enforcements then on the march via Thoroughfare Gap. (Vide argument, board's record, page 1439.)

O IN PREPARATION OF THE TWO ILLUSTRATIVE MAPS OF GOVERNMENT COUNSEL.

		Confederate officers.
Major S. N. Benjamin.	Lieutenant J. S. Hollingshead.*	Major-General C. M. Wilcox.
Major W. H. Hope.*	Lieutenant B. T. Bowers.	Brigadier-General T. L. Rosser.
Major George Hyland, jr.	Private William Ready, 1st Pa. Cavalry.	Major B. S. White.
Captain J. J. Coppinger.	Private Charles Duffee, 1st Ohio Cavalry.	Major Henry Kyd Douglas.
Captain Henry Geck.	Private Archelaus Dyer, 1st Ohio Cavalry.	Captain R. McEldowney.
Captain E. P. Brooks.	Private William Bayard, 1st Pa. Cavalry.	Captain James Mitchell.
Captain R. J. McNitt.	Private John Hoffman, 1st Pa. Cavalry.	Rev. John Landstreet.
Captain Douglas Pope.	Private William H. Ramsey, 1st Pa. Cavalry.	Citizen W. B. Monroe.
		Citizen L. B. Carrico.
		Citizen W. B. Wheeler.

N. C. McLean, Carl Schurz, R. C. Schenck (by Colonel William H. Cheeseborough*), Colonels J. B. Carr, W. Kryzanowski, Captains Wied-ta.

of Reynolds's and Schenck's divisions.


No. 1
ILLUSTRATIVE
MAP
OF
Battle-Grounds of August 28th., 29th., & 30th., 1862
in the vicinity of
Groveton, Prince William Co., Va.
of Counsel for the Government.
Chiefly from the survey made under the authority of
The Hon. G.W. McCrary, Secretary of War.
Showing the relative positions of the Confederate and United States armies in the battle of the 29th of August 1862, at 2 P.M. as given in the evidence of witnesses on the trial in 1862 before the Army Board, in the official reports, and laid down on the map by the counsel
(See accompanying Letter Press)
Scale.
Cut Harpin R
Jackson's Headquarters
J. Dolley House
Stony
Battery
Gainesville
Old Warrenton
Carraco
Dawkins Branch
HIGHWOODED COUNTRY
Saw Mill
BROAD RUN
Youngleys Mill

Sudley Ford
Sudley Church
RULL RUN
CENTREVILLE
Matthews
Lewis Ford
Stone Bridge
Robinson's
Henry
Walkers Branch
Bull's Ford
Blackburns Ford
MARKET
Flat Run
Used as Army road in 1862
MANASSAS STATION
Orange & Alexandria Railroad

But he did even more than that. On this rehearing he produced three dispatches from Porter to him, telling his situation and asking for information, the last being a summary of all, in these words:

GENERAL MCDOWELL: Failed in getting Morell over to you. After wandering about the woods for a time I withdrew him, and while doing so artillery opened on us. My scouts could not get through; each one found the enemy between us, and I believe some have been captured; infantry also are in front. I am trying to get a battery, but have not succeeded as yet. From the masses of dust and from the reports of scouts, think the enemy are moving largely in that way. Please communicate the way this messenger came. I have no cavalry or messengers now. Please let me know your designs; whether you retire or not. I can not get water, and am out of provisions. Have lost a few men from infantry firing.

F. J. PORTER, *Major-General, Volunteers.*

AUGUST 29—6 p. m.

Which had lain for sixteen years in his archives.

Porter was convicted of disobedience of an order which he denied the receipt of until dark. He was convicted of retreating before the enemy. He was convicted of inaction and lethargy amounting to crime. His claim that he received no orders from McDowell was found against him. His assertion that McDowell left him to come in on the other side of the wood and make connection was denied and found against him. He held out his hands to his brother officer and besought him to speak. He begged for the production of his communications. He received no response; and now, sir, comes this mute witness to prove all that he said.

"Failed in getting Morell over to you." What does it mean? It means that he thought McDowell had done as he said, and he had been struggling to join hands with him. It shows that there was no forward movement in contemplation, but a lateral one to make a union of lines, and that when he failed he notified McDowell and asked for information. It shows he did not retreat, because it asks McDowell for his designs; and lastly, it shows Douglas Pope and his orderly testified falsely when they fixed the time of delivery of the 4.30 order earlier than 6 o'clock, for it bears date at 6 p. m., and its contents are conclusive to prove the 4.30 order had not yet been delivered.

What excuse for this? I did not know I had it, and for that reason did not search for it, is the substance of the answer of the witness. Didn't know he had it! He did not forget to remember the dispatch that was thought damaging to Porter by showing a retreat. Oh, no. I wish every man in this broad land would read Mr. Choate's examination of this witness before the West Point board, and see him writhe and wriggle as if he were roasting upon a spit, until he cried out in anguish, "This campaign has been a nightmare to me!"

Conscience hath administered but gentle punishment if that be all the pangs it hath imposed. Let the opponents of this measure affect to believe McDowell if they will. To my mind his evidence is broken, discredited, and worthless, and his conduct "unbecoming an officer and a gentleman."

THE FOUR-THIRTY P. M. ORDER.

HEADQUARTERS IN THE FIELD,
August 29, 1862—4.30 p. m.

MAJOR-GENERAL PORTER: Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and if possible on his rear, keeping your right in communication with General Reynolds. The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are compelled to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE, *Major-General Commanding.*

The language and direction of this order show fully General Pope's view of the military situation. He places Porter on the enemy's flank, meaning Jackson, not Longstreet. He directs an attack upon Jackson, not Longstreet, and in making it he directs Porter to preserve his right in communication with Reynolds. He directs heavy reserves, to use batteries, and if compelled to fall back to keep in close communication with the right wing. There is not one single movement therein described which Porter could execute, and it shows a complete ignorance of the situation of the Fifth Corps.

I have said that order relates exclusively to an attack upon Jackson, and not upon Longstreet; and to refute the idea that because it calls for an attack upon the flank of the enemy it was an execution of it in the sense which it was issued to attack any enemy that might be in reach and trust in Providence for the result, I will show the military situation as General Pope understood it, and construe the order by the light of his understanding, and show if his facts were correct the order would have had the effect that was claimed for it had it been obeyed. The court-martial found that the military situation was as General Pope assumed it to be, and convicted Porter. How did General Pope understand the military situation at 4.30 p. m., August 29, when he dictated that order; and what did he mean Porter to do? Let him answer for himself (court-martial record, page 35):

The accused was expected to attack, if possible, and as I understood to be practicable, the right flank of Jackson's forces, and if possible, the rear of his forces, to prevent, if it were practicable, the junction of Longstreet's forces with Jackson, and to crush Jackson's flank before Longstreet could effect a junction with him. I did not then believe, nor do I now believe, that at that time any considerable portion of Longstreet's command had reached the vicinity of the field. * * * It is altogether likely that some of Jackson's troops were in presence of General Porter's advance, though of my own knowledge I do not know that.

General Pope, in his report to the Committee on the Conduct of the War (first session Thirty-ninth Congress, supplement, volume 2, page 154), says:

I do not hesitate to say that if he (Porter) had discharged his duty as became a soldier under the circumstances, and had made a vigorous attack on the enemy, as he was expected and directed to do, at any time up to 8 o'clock that night, we should have utterly crushed or captured the larger portion of Jackson's forces before he could have been by any possibility sufficiently re-enforced to have made effective resistance.

Page after page from General Pope can be found to the same effect. This suffices to establish my position. He swears in language too plain to admit of a doubt "the order contemplated an attack upon General Jackson's right flank." The order contemplated no intervening considerable force, and was intended for execution before "Longstreet arrived."

That you may thoroughly understand examine board map No. 3, official, which I attach as part of my remarks, and bear in mind that Reynolds was opposite Jackson's right, with his divisions lying obliqued from the Warrenton pike on Sigel's left. The order, you will see by its terms, meant communication with Reynolds and an envelopment of the right of Jackson by Porter, having heavy reserves and using his batteries. With that construction upon the order, coupled with an ability to execute, which you will see by Porter's supposed location [marked] he could execute had he been situated as the court-martial supposed he was, we can anticipate success. And that is just the hypothetical case put to each of the Government witnesses for an opinion, and that opinion is conclusive in the mind of Judge-Advocate Holt, and he presses it with vigor upon the President, and charges the salvation of the confederates to the failure of Porter to execute the movement described in the hypothetical case. It is readily conceded that the name of the officer commanding the confederate troops had no further effect than to designate the location and body of troops to be attacked, and if that body of troops indicated had been in the position indicated it was Porter's duty, had he received the order in time, to have attacked if Longstreet had been transferred to the command and Jackson personally had gone away. But when it appears that Porter had no communication with Reynolds, that between him and Jackson's right flank an army corps not known to be upon the field by the general who had issued the order had intervened, the movement which we have just seen would result in victory becomes changed to a movement not intended, and an attempt at its execution would result in great disaster without any probability of benefit, expected or hoped for.

This latter condition is now known to have existed by every reader of military history. Porter declared then that it so existed from the data before him. The court-martial disbelieved him, but history has proved the truth of his assertion.

But, sir, the bitterness of Porter's enemies and their readiness to maintain themselves by "fair means or foul" is now here more manifest than in the change of front on the question of Longstreet's presence on the field August 29. They lack the manhood to acknowledge their error and rejoice over a brother officer relieved from unjust stigma. But with their ship sunk and every boat stove in, and themselves "*rari nantes in gurgite vasto*," they seize upon pieces of the wreck to build a raft upon which they may still pursue the object of their unrelenting hate.

Longstreet is now admitted to be upon the field. Who ever denied it? say they. And there is prepared for Judge-Advocate Gardiner a map, which was published in the CONGRESSIONAL RECORD of the Forty-sixth Congress, March 26, 1880, and in a milder form appears in the CONGRESSIONAL RECORD of January 6, 1883, which is given to the country as official and truthful. But instead of that it is not an official map, but a map of positions and lines of troops made to fit the argument necessary to be made by the judge-advocate to avoid the crushing weight of the facts. I here produce the map, and the descriptive sheet belonging to it (illustrative map No. 1), and ask you to look at it as I explain it, and then conclude how much reliance is to be placed upon it.

Longstreet's troops are thrown behind Pageland lane. Immediately in front of the center of his line, at a distance, as you will see if you apply a rule upon the scale, of eighty rods, lies a division of Federal troops, with the Warrenton pike leading past their immediate front. Longstreet's line of battle is at right angles with the Union line. At the rear of the left flank of the Union line you have a battery marked A. It is south of the troops a distance of eighty rods, and is thrown a little forward of a line dropped from the left flank of the troops, and it has no support. In the rear of this battery you see a line of cavalry pickets of the enemy, marked by red dots, extending along Meadowville Lane. You will particularly note that the Union flank has not even a picket or skirmish line to cover it.

The first brigade lying in that position is under the command of General George Meade, the successful commander of the Army of the Potomac, and the division was commanded by General John F. Reynolds; and that battery was Simpson's Fifteenth Pennsylvania Light Artillery. This purports to give their positions for 2 o'clock p. m. One would suppose that at this day a major in the United States Army, even if belonging to a non-combatant corps, would pay sufficient respect to the memory

of two soldiers such as Meade and Reynolds were not to deliberately place them in a position where the enemy could roll them up like a string upon a spool, and leave them thus exposed without even an outpost. That might do for a battle of McDowell's, but will not answer for Meade and Reynolds. Their reputation as soldiers is too well known and appreciated.

But suppose these troops were permitted to lie thus exposed, within rifle shot, what has Longstreet ever done to deserve such a fling? Here he was, Lee with him. The judge-advocate has placed Reynolds's division where he (Longstreet) can roll it up and turn the whole line, and given him a broad turnpike to operate from, and he lies still and fires not a shot. He was never so considerate of the welfare of "Yankee troops" before nor since!

It will not do to say that Longstreet overlooked them, for he says he made a reconnaissance in person, with the view to making an attack, and found the position too strong to attack in front. (New record, page 120.)

But this is not the only ridiculous thing apparent at a glance upon this map. Reynolds's position flanks Jackson, and Porter could hardly pass Reynolds's flank, between him and Longstreet, a space of eighty rods, and come down on Jackson's flank. This is not accidental, but is the result of a well-planned scheme to keep off popular censure. The genius that planned this map (I do not attribute it to Major Gardiner) conceived the idea of throwing back Longstreet's line nearly two miles, so that the Manassas Gap Railroad may furnish a resting place for the right of the line, to conform to the evidence in that particular, and throwing the whole line back so that Longstreet's right flank would be three miles from Porter, but in a direct line, and then Reynolds is brought forward from behind Lewis lane, where he belongs. Now we have the troops manipulated upon paper—with Longstreet's flank all arranged for Porter to attack, and that places Reynolds on the right of the Fifth Army Corps, and by holding well to the right the conditions of General Pope's order are complied with and Longstreet's flank is the one to be attacked. The judge-advocate at West Point endeavored to support this theory by an examination of General Longstreet, who promptly replied to his question: "No, sir! My line was drawn back away beyond the railroad. They would have had to make a considerable détour to strike my flank." (New record, page 124.) Now, if you will cast your eye upon Longstreet's map, you will see the détour carries Porter away from Reynolds, and leaves nearly four miles of uncovered front between them.

But while on this subject let us locate Longstreet's troops on his line of battle. On his extreme right is D. R. Jones, 6,300 men, extending beyond the railroad; Kemper, with three brigades, 6,100 men, was thrown out in that direction so as to be in easy supporting distance in case of need by Jones, all arranged in double line, two brigades in front, one in rear. Hood was deployed across the turnpike, with Evans in rear, Wilcox, with three brigades, 6,300 men, covering his left. This was the first formation. (New record, page 117.)

Wilcox with his three brigades went to the support of the right under Jones as soon as Porter's approach was reported by General Stuart. (New record, page 120.)

Charles Marshall on General Lee's staff testifies that General Lee personally examined Longstreet's right and ordered Wilcox to its support (New record, page 211) about 2 o'clock. This gives us in Porter's front alone 18,700 infantry, with General Robertson on the extreme right flank with 2,500 cavalry (new record, page 215) in advance of Jones and some distance to his right, south by west of "Vessels." (New record, page 217.) Longstreet's whole available force on the 29th was 25,000, and all on the field.

That there may be no loophole left in connection with this force, to show that Porter was advised of the true condition, in addition to what has been said on that subject, I beg to trespass on your patience by referring to the evidence of Colonel E. G. Marshall, a graduate of the Military Academy, who had charge of Porter's skirmish line and personally inspected the front, who testifies, on pages 129 to 137, inclusive, in new record, that he crawled out on to the skirmish line and saw large bodies of troops in line of battle, and that a force extended beyond his left and his line was under cross-fire; that he reported his condition and the constant arrival of new troops on his front to Generals Morell and Porter, and was carefully examined by Porter personally to learn the situation on his front; that he (Colonel Marshall) protested against attack and characterized it as an act of insanity to put troops in that position. And the witness corrects an impression derived from his testimony before the court-martial as to the time he heard infantry firing, and fixes the time at sundown.

Lieutenant James Stevenson testified (court-martial record, 194) that on the 29th of August, 1862, he went from the left flank of General Pope's army to his regiment, Colonel Marshall's regiment. "I could see the enemy." "I judged him to be between 12,000 and 15,000 strong, of all arms." "I should judge the length of his lines was about a mile."

Colonel Holt in his review of the evidence disposed of Stevenson's evidence by saying, "He was a young man of limited experience, and when he stated the enemy's line of battle was but a mile long (which he did not state), it is evident that a large abatement must be made from his estimate."

Colonel Marshall, on page 134 of new record tells us who "this young man of limited experience" was. He says:

> Private Stevenson had been on duty before the war. I had known of his being with General Warren. * * * I placed great confidence in him. * * * His general duties were to bring me any information he could. He was a quiet man; more like a man who has served against Indians in the far West. He would never overstate; he would rather understate anything he had to say, and you would have to draw him out.

Major Hylands's testimony was rejected, as well as Colonel Marshall's, because they judged from indications, without actually seeing large bodies; and then Colonel Holt states the evidence on the other side:

> We learn from General Buford that the enemy's forces passing through Gainesville that day from Thoroughfare Gap, as counted by himself, did not exceed 14,000 men.

I have read General Buford's dispatch and evidence to you, and he made no such statement. General Buford states that number to have passed before 9 o'clock a. m., and at 9.30, the date of his dispatch, he moved toward Bristoe. The judge-advocate divides 14 by 2, and concludes that there were not to exceed 7,000 confederates in front of Porter, and so tells Mr. Lincoln the proof establishes, with a strong probability it was not so great a number. Is it to be questioned that Mr. Lincoln was not deceived as to the evidence by the judge-advocate? The evidence after the fact shows that Porter's information was true.

Now, I submit in all candor to laymen whether the facts are not sufficiently plain for you to see that if Porter had received the 4.30 order in time to have made an attack, that an attack upon Longstreet, a new factor intervening without General Pope's knowledge, would have been a sacrifice of life not expected nor desired by General Pope. And that it would have been no military offense to have neglected to make the attack, I refer you to the military savans, Wellington, Napoleon, Archduke Charles, General Grant, and the West Point board.

PORTER DID NOT RECEIVE THE 4.30 ORDER

until too late to attack; and here, sir, I must digress to notice a statement of the evidence on this point which has just been given to the country in the CONGRESSIONAL RECORD of January 6, 1883, and has been put in book form for circulation. The evidence upon this point is thus summarized (CONGRESSIONAL RECORD, January 6, page 26):

> The order was sent by Captain Douglas Pope, the brother of General Pope. He passed down this open country from Pope's headquarters, rode rapidly, and he swears that he brought that order to General Pope and delivered it to him by 5 o'clock p. m. General Sykes was there with him and quite a number of his officers. He delivered the order to Porter. Porter read the order and put it in his pocket. Two other witnessses, Charles Duffie and Archelaus Dyer, support Pope in this statement and state that Porter was sitting under a tree.

This statement of the evidence of these witnesses, so far as it goes, is probably true. But the mass of evidence that proves the statements of those witnesses as absolutely false is omitted. General Sykes swears "this order was received as near sunset as I can remember." Colonel Locke swears "this order was delivered between sundown and dark." Captain Monteith swears "the order was delivered about sundown." Lieutenant Weld swears "the order was delivered after sundown." Lieutenant Ingham swears "the order was delivered after sunset."

Captain Moale, of the regular Army, testified in substance that in 1867 upon the frontier he had heard Captain Douglas Pope speak of his ride with this order. Of this conversation he said (page 560, new record):

> It is only a matter of recollection. I am very sure I heard him say "it took him one or two hours to go through; that he had got lost on the road, and when he reached General Porter it was very near dark."

Lieutenant Jones, of the regular Army, in speaking of what Captain Douglas Pope said of this order, says:

> My recollection is that he said he was directed to carry an order from General Pope to General Porter, and that in going from one headquarters to the other he got on to a road and traveled it for some distance until some women and children told him if he wanted to go in a certain direction he was on the wrong road; and also to the best of my recollection he said, in my presence, in carrying that order he came out through the woods on a hill or eminence and saw rebel troops—saw a large body of rebel troops—and therefore turned back in that direction and went in some other direction.

It is omitted to be stated that Duffie and Dyer showed on their cross-examination that they had been coached as to the roads to enable them to swear, and that Duffie stated he had always thought he had gone a different route until he was coached; and that Dyer identified the road by a house, which it was proved was not built until a year after the time, and recognized the place where he found Porter by a church with a steeple, when at that time there was no steeple upon the church at all; and this man Dyer found Porter in a tent, but Duffie and Pope found him in bivouac, showing clearly, and the board so find, that they had been tampered with, and rejected their evidence. But, sir, there is an omission of two pieces of written evidence produced by the Government which are conclusive against Captain Pope, Duffie, and Dyer, if their evidence was not otherwise fully broken down. There was produced before the board this dispatch (new record 329):

> GENERAL MORELL: Send down some energetic men to General Pope at Centreville; get hold of Colonel Beckwith and get some rations; bring beef up to kill, we have nothing else, and get enough to last two or three days.
>
> F. J. PORTER, *Major-General.*
>
> Ricketts has gone up—also King.

This dispatch was before the original court-martial, but no notice of it was taken in the record.

General Zealous B. Tower, who commanded the rear brigade of Ricketts, passed Porter at about dusk on the 29th. (New record, page 452.) This dispatch, not prepared for this case, but written in the ordinary course of business, shows that Ricketts's command had passed at the date of writing. They passed at about dusk, says the officer in command; hence the dispatch is proof that at about dusk the 4.30 order had not been delivered, because he sends to General Pope at Centreville, showing clearly that he had not been advised of his change of headquarters, which would have been the case had he been in receipt of the 4.30 order; and the other dispatch, newly produced by General McDowell, which I have already read, commencing:

GENERAL MCDOWELL: Failed in getting Morell over to you. * * *
F. J. PORTER, *Major-General, Volunteers.*

AUGUST 29, 6 p. m.

which will be found in the new record, page 776. And this, sir, shows how wholly unreliable are the statements assumed to be the facts of the Porter case, which are prepared and distributed for political effect.

The evidence, when massed upon this point, is incontrovertible, and proves beyond a shadow of doubt that

PORTER DID NOT RECEIVE THIS ORDER TILL DUSK.

With this fact so clearly established, the allegations occurring in the specifications under the second charge, that General Porter, after receiving this order, did shamefully retreat and fall back from the advance of the enemy, of necessity falls, for there is not one syllable of evidence nor shadow of pretense, even in argument, that Porter fell back after 6 o'clock p. m., August 29. But justice to Porter compels me to go further and show by the evidence that he not only did not fall back after the receipt of the 4.30 order, but he did not fall back or retreat at all after General McDowell left him; and here again we have a glaring illustration of the effect of the prejudice and passion of the time, in biasing judgment and forcing illogical conclusions from given facts. The following dispatch is the principal evidence:

GENERALS MCDOWELL AND KING: I found it impossible to communicate by crossing the woods to Groveton. The enemy are in great force on this road, and as they appear to have driven our forces back, the fire of the enemy having advanced and ours retired, I have determined to withdraw to Manassas. I have attempted to communicate with McDowell and Sigel, but my messages have run into the enemy. They have gathered artillery and cavalry and infantry, and the advancing masses of dust show the enemy coming in force. I am now going to the head of the column to see what is passing, and how affairs are going, and I will communicate with you. Had you not better send your train back?
F. J. PORTER, *Major-General.*

What does this often-paraded dispatch mean? To give its proper and legitimate meaning, we must remember the joint order contemplated a connected line from east to west to be made by Porter and McDowell with Heintzelman and the forces moving up the Warrenton pike; that the forces under Heintzelman and Reno and Sigel were operating under an order of General Pope, which I here read:

If you find yourselves heavily pressed by superior numbers of the enemy you will not push matters further. Fitz-John Porter and King's division of McDowell's corps are moving on Gainesville * * * and will come in on your left. * * * The command must return to this place to-night, or by morning, on account of subsistence and forage.

This order was before McDowell and Porter's command were consolidated under the joint order to execute the same purpose. We have seen McDowell leave and move a portion of the troops to go around and come in on the left of Reynolds. Now we are prepared to understand this dispatch, "Porter says he has failed to reach over and find McDowell's left," so as to make the contemplated junction. The artillery booming now and then on the right of the proposed line indicates a "retiring of the right" of the line he was endeavoring to connect with. "I have therefore determined to withdraw to Manassas," which was a corresponding movement of the left with what he supposed was being done on the right, drawing the lines back to Bull Run, as directed in the joint order. But mark ye, this is no evidence that he has retired or did retire; it is the expression of an unexecuted determination formed from what he supposed the military situation required to fulfill General Pope's order.

One thing must be held in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning.

The dispatch to McDowell and King reached General McDowell at 5.45 p. m., as appears from General Heintzelman's diary. (New record, 605.) General Porter did not even know there had been engagement enough to have brought the general commanding on the field, for we have seen by the order to send to Centreville for beef and rations sent later than this hour, General Porter thought General Pope at Centreville. The face of the dispatch to McDowell and King distinctly repudiates the idea of any construction contrary to the one I am giving it, for it contains this significant sentence: "I am now going to the head of the column." What for? Not to retreat, "but to see what is passing and how affairs are going." What then? Beat a retreat? No. "And I will communicate with you." "Had you not better send your train back?

That dispatch was held as proof conclusive of a retreat in fact, and it was furnished Mr. Lincoln with a statement that Porter in fact fell back while the storm of battle was raging before his eyes and the shrieks of his dying and wounded comrades were ringing in his ears, and it was this piece of evidence Mr. Robert Lincoln speaks of as being referred to by his father when he expressed his condemnation of Porter. Now, sir, to complete this chain-proof and show Porter's actions all in harmony and in accord with a soldier's duty I must read a dispatch from Porter to the general commanding his advance:

GENERAL MORELL: I have all within reach of you. I wish you to give the enemy a good shelling without wasting ammunition, and push at the same time a party over to see what is going on. We can not retire while McDowell holds his own.
F. J. P.

WE CAN NOT RETIRE WHILE M'DOWELL HOLDS HIS OWN.

Faithful and fearless, isolated as his command was upon the extreme flank, with the right seemingly retiring and leaving him exposed to be entirely enveloped by the combined force of Lee, he says in this dispatch "We must stay while McDowell holds his own."

"How did he know that McDowell held his own?" I heard asked the other day in sonorous tone and with flashing eye. I will answer that question, although from this Hall my voice may not reach the one asking it. Porter received a message from General Hatch, who commanded King's division, that they were driving the enemy down the pike. This message came an hour and a half before King's division were engaged in the night attack at dark. McDowell thought the enemy were running away while his troops were marching down the Sudley Springs road. I have been told by what I believe to be best of authority that on passing the Sixth Regiment of Wisconsin Volunteers that afternoon, marching down that road to the Henry house with Hatch's division, General McDowell said to the men on the march, "The enemy is falling back," "He is sick at the stomach," "He has got his belly full," "Move on steady," and more nonsense of that sort. In further proof that this was McDowell's idea, see the testimony of Captain Judson, page 156 of the new record. This officer was General Hatch's adjutant-general.

A short time before dusk an aid-de-camp rode up to General Hatch and said in effect that General McDowell directed him to say to General Hatch that the enemy were in retreat on the Centreville pike, and that he was to pursue him and give him battle. General Hatch immediately moved his division out on to the road and began a rapid march along the Manassas and Sudley road until we reached the junction of that road with the Warrenton pike, when we turned on to the pike and moved down in the neighborhood of where we saw McDowell. When we reached him he said in tones that everybody could hear, "that the enemy were in retreat down the pike and Hatch was to pursue him with his division and attack him."

At about the time this first order reached Hatch, Weld, of Porter's staff, was there looking for McDowell, and he sent an orderly to Porter, informing him "we have driven the enemy into the woods." (Court-martial record, page 126.) This shows how and when Porter received information of McDowell's forces and explains this dispatch to Morell:

GENERAL MORELL: I wish you to push up two regiments, supported by two others, preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the party with the section of artillery opposed to you. The battle looks well on our right, and the enemy are said to be retiring up the pike. Give the enemy a good shelling when our troops advance.
F. J. PORTER.

Which answers the question and disposes of the idea that Porter had then received the 4.30 order and that this direction to Morell was in consequence of the attack by McDowell, said to be as late as 6.20 p. m., which is so much dilated upon in the CONGRESSIONAL RECORD, referred to on pages 28 and 29. It not only meets the theory there advanced but absolutely refutes it.

In connection with this order from Porter to Morell to make a movement on the enemy, "said to be retiring up the pike," Colonel Marshall, who had command of the skirmish line, says, "General Morell gave him the order to advance and attack, commencing with four regiments" (new record, 133), and he remonstrated; and he says (court-martial record, 184), "General Morell said that the news was that the enemy was retreating, but we know to the reverse, they are not."

And to show further McDowell's idea that the enemy were in retreat, as Porter was informed when he issued the order to Morell which he countermanded, Judson testifies "that General Hatch became satisfied the enemy were strongly posted and not in retreat, as he had advised Porter, and he sent back that information to McDowell, to which McDowell's only response was, 'What! Does General Hatch hesitate? Tell him the enemy are in full retreat and to pursue him.'" (New record, page 158.)

This brought on the engagement with Hood at dark; a blunder resulting from men in the rear assuming to know more the condition of the front than the men in command of the front. The disaster which befell Hatch's and King's divisions would have befallen Porter if he had not been guided by the knowledge received from his trusty officers on the front line, who took note of and informed him of the situation

So much for the written evidence that is made to play such an important part in the case against Porter.

But I may be told, as the President was told by the judge-advocate,

that General Griffin and a Colonel B. F. Smith testified before the court-martial that a retreat in fact took place. Let us see upon how slight a foundation this claim rests.

General Griffin in his examination before the court-martial did say (court-martial record, page 158):

We had started back toward Manassas Junction when the order (referring to the order to Morell to attack) came down the road. The order was carried by an orderly, and was stopped by Colonel Warren, who read it. We faced our command about and immediately started back. We were probably a mile and a half or two miles from the position occupied by the battery. I rode ahead to General Morell and asked him if he was going to attack, and he said: "No; it is too late, and this order has been given under a wrong impression." The substance of the order was: "The enemy are retiring or retreating; attack and pursue him vigorously." General Morell said to me: "Colonel Marshall, who commands the pickets in front, states the enemy are receiving re-enforcements."

Question by the court (court-martial record, 162):

Did you understand your corps to be retreating at all that night?

Answer. No. I do not know that I did. I supposed we were going to change position somehow; that we had failed to get through on the right during the day, and that we were going to shift to some other position, where I did not know. We did not connect with anything on our right or on our left.

General Griffin had no idea of a retreat, he says, but the court and the judge-advocate knew better about it than he. They say Porter "shamefully retreated," and cite Griffin to prove it.

It is strange, to one knowing the facts, that General Griffin should have fallen into such an error as to the distance of his retrograde movement; and shows how immaterial this statement was deemed to be at the time that its error was not fully corrected. Let us see: A mile and a half or two miles would have carried the brigade past Sykes's division and by Porter's headquarters, leaving General Morell in command of a division at Dawkins Branch, and the brigade composing the head of his column moving to the rear away from the division, and leaving another division between this brigade and its own division occupying the front. This suggestion of itself ought to be sufficient to show how badly he was mistaken. But, in addition to this, Generals Morell, Sykes, Butterfield, and every brigade commander testify there was no retreat, or any movement partaking in any manner of the nature of a retreat. General Morell swears (new record, page 435):

I had no orders for him (Griffin) to retreat or retire, and I gave him none. * * * There was no order to leave the front, except to get under cover of these bushes.

There now appears written evidence from General Warren, whom Griffin says was with him, which closes the door to all doubt. General Warren commanded the head of Sykes's column, and that column was lying between Bethlehem Church and Dawkins Branch, Morell's division filling the distance between it and the branch. General Warren, it seems, had been ordered to support Morell, which gives us information that Porter in his proposed attack intended to use Morell's division supported by Warren, holding two brigades of Sykes's in reserve with Piatt's two regiments. I need hardly suggest to any one who knew the Fifth Army Corps that this disposition meant "music by the full band," if I may be pardoned the expression, in reply to the statement in the record on page 29, which charges the order to Morell to attack as a shallow pretense. Morell says (new record, page 436):

I immediately gave orders to my whole division to the front to support the four regiments.

AUGUST 29, 1862—5.45 p. m.

GENERAL SYKES: I received an order from Mr. Cutting to advance and support Morell. I faced about and did so. I soon met Griffin's brigade withdrawing, by order of General Morell, who was not pushed out but returning. I faced about and marched back two hundred yards or so. I met then an orderly from General Porter to General Morell, saying he must push on and press the enemy. Griffin then faced about, and I am following him to support Morell, as ordered. None of the batteries are closed upon me.

G. K. WARREN.

There is the retreat, with its history written at the time in an official dispatch. It proves Griffin's error as to distance and corroborates him that there was no retreat. But Porter was convicted of "shamefully retreating!"

I mean to be frank and attempt to conceal nothing, and I therefore give you another piece of evidence which covers every scintilla of proof given to the court-martial tending in the most remote degree to sustain the allegation.

Captain B. F. Smith testified that he belonged to Chapman's brigade of Sykes's division, and in describing the operations of the brigade to which he belonged on the 29th day of August, 1862, at Dawkins Branch, says (court-martial record, page 110):

While we were halted a battery of the rebels opened upon us. * * * Our brigade then marched into a field and the regiments were placed in order of battle. * * * Morell's division was in our advance on lower ground. * * * Probably half an hour afterward we received orders to retrace our steps and march back in the direction we had come. We then marched back to near Manassas Junction and camped in the woods alongside this branch railroad, and that night I was placed on duty as the field-officer of the pickets of Sykes's division.

Here is another case of mistaken distance patent on the face of the evidence. On his cross-examination this witness discloses his mistake in this wise:

His camp was near the junction of the Gainesville and the Sudley Springs road. He thought it was a mile or two from the Junction (Manassas) (page 111, court-martial record).

This evidence, condensed, then proves that his camp was near the Sudley Springs road, a mile or two from Manassas Junction. If you will look at your map you will see that was Porter's headquarters, and there General Sykes had his headquarters and the field officer of divisions, pickets covering the rear and flank of Sykes's division, marched back far enough to reach the exact position that his duty as field officer of pickets required of him; but the court thought that was evidence of a retreat. But I should call your attention to the rank by which this witness is styled—colonel—as it may perhaps be said he marched his regiment back. His colonelcy was volunteer rank, to which he was appointed after Bull Run and before he was sworn as a witness. On the 29th of August, 1862, he was a captain in the Sixth Infantry, and says "he had permission from the officer commanding his regiment to go forward" (page 110, court-martial record).

This witness unquestionably intended to speak truthfully, but had only a confused impression of distances. But he puts the question of retreat at rest, for he says (page 111):

I did not receive any impression that we were retreating from the enemy.

But the judge-advocate told Mr. Lincoln this officer testified that Porter retreated. As I have before said, it seems to have been the idea of the prosecutor before the West Point board that he could justify the finding of the court-martial without evidence if he could now produce evidence to show that the court-martial could have found Porter guilty upon proper evidence if they had known where to find it.

General Sturgis is called before the West Point board for said purpose and testifies that he halted his troops (Piatt's brigade) in rear of Porter's column and rode on to the front and reconnoitered the situation—

Watching the skirmishers, and among other things I took a glass and looked in the direction of the woods, about a mile beyond, which seemed to be the object of attention. There I saw a glint of light on a gun and I remarked to Porter that I thought they were putting a battery in position at that place, for I thought I had seen a gun. He thought I was mistaken, but I was not, for it opened in a few moments and fired four shots, as I recollect. * * * Then when they had fired, as near as I can recollect, about four shots from this piece General Porter beckoned to me. I rode up to him and he directed me to take my command to Manassas Junction and take up a defensive position, inasmuch as the fire seemed receding on our right. By firing I mean the cannonading that had been going on for some time on our right, probably in the direction of Groveton (new record, page 689). My impression is that this was about 1 o'clock. I have no way of fixing the time of day. The order was obeyed. He afterward ordered my brigade to be brought forward and I brought it to Bethlehem Church, and arrived about dusk.

It is not for me to question the correctness of this statement, for I believe it a probable one. General McDowell had checked Porter's advance and directed him to remain until he went around and came in on Reynolds's left. Manassas Junction was the key to his position. If the enemy extended his right and struck Manassas Junction while our right was receding on the pike, he could have swooped down upon Porter's rear as well as front. This position, to be held to avoid this contingency, was not more than two and one-half miles from where Sturgis's command, eight hundred and twenty-three strong, as General Piatt's official report shows, was lying. Porter threw back this force to hold the junction to guard against disaster; but when he received information that the enemy were retreating it relieved him of the necessity of covering his rear, and he immediately ordered the command back.

It is well perhaps here to remark that the cannonading, now moving forward and then receding, indicated not battle, but a feeling the way, shelling woods, and endeavoring to draw fire, to find the location and strength of lines preparatory to taking position. As General Morell says, he could see shells in the air off to his right, but it was slow firing, and I supposed at the time, what men called firing at long range. It was not at all like the artillery fire of a battle. (New record, page 438.)

But, sir, I can not leave this question of retreat without quoting a statement from the denunciation of Porter in the RECORD of the 6th of January, 1883, page 26, which shows either gross ignorance of the facts or a willful perversion of them. I read:

When General Griffin was directed to move forward at one time he received an order sent to him by an orderly from General Porter to move to the rear, and that officer moved clear back to Centreville and staid there, not only all night of the 29th, but during the whole day of the 30th while the battle was going on.

General Griffin did not leave the field on the 29th. General Griffin remained at Dawkins Branch as rear guard for Porter, when Porter moved in compliance with this order of 8.50, which was delivered to Porter early on the 30th and immediately obeyed. Griffin's brigade supported Hazlett's battery at Dawkins Branch on the 29th (court-martial record, page 142). This statement, therefore, is not only untrue, but it is as absurd as General Pope's allegation in his brief statement, put in circulation and vouched for by McDowell (new record, page 728:)

But Lee, according to the testimony of the chief engineer on his staff, took breakfast that morning (the 29th) on the opposite side of Thoroughfare Gap, full thirty miles distant.

It is true, however, that Griffin, moving on the morning of the 30th, was so far in rear, covering the column, that he missed the road taken by the troops and went direct to Centreville, and the court-martial acquitted Porter of the charge.

But sir, we are asked why should General Pope have sent such a peremptory order as the following one:

HEADQUARTERS ARMY OF VIRGINIA,
IN THE FIELD NEAR BULL RUN,
August 29, 1862, 8.50 p. m.

GENERAL: Immediately upon receiving this order, the precise hour of receiving which you will acknowledge, you will march your command to the field of battle of to-day and report to me in person for orders. You are to understand that you are expected to comply with this order and to be present on the field within three hours after its reception or after daybreak to-morrow morning.

JOHN POPE,
Major-General Commanding.

F. J. PORTER, *Major-General.*
Received 3.30 a. m., August 30.

This is an order on its face imperious in language and distrustful in import. It came from Pope's headquarters on the field or near where the 4.30 order was issued; but the latter it was claimed was delivered in an hour or less, and one of the strongest arguments in support of its delivery at that time, made by the judge-advocate, was on the short distance it had to be carried, and the opinions of Pope, Roberts, and others, that one hour was ample time in which to carry it, while this order, carried from the same place to the same place, and more imperative than the former order, was by the official receipt shown not to have been delivered until six hours and forty minutes had elapsed. Again, Captain Pope, the bearer of this 4.30 order, did not know Porter's position, while the latter 8.50 order was sent after the place of Porter's headquarters were known to General Pope. Is not this a strong circumstance to show that the 4.30 order was not delivered so early as it was claimed?

If General Pope would produce the receipt for the 4.30 which Porter gave, all would be settled; but General Pope says of this and of all other communications received from Porter, which would tend to show the truth of Porter's statement, that he does not know as he ever had them, or they are lost. The only communication which could be tortured into evidence against Porter is preserved. Comment is unnecessary. The suppression speaks for itself!

But to return, why should General Pope send an order of such tenor as the last one to Porter? I have said and the record shows General Pope to be an impulsive man. He was misinformed as to Porter's position during the day. He was surrounded by his satellites, who catered to his weaknesses and advanced themselves by feeding his prejudices. They had all expressed the opinion that "Porter would fail him." His suspicions and jealousy were inflamed. Smith had seen treason in Porter's eye, and reported it to General Pope, and McDowell, as insidious as Iago, was at his elbow to make insinuations; and this order was the result of the passion inflamed.

Porter came to the field. General Jackson describes his assault in his official report as follows (Report of Confederate Military Operations, volume 6, page 231):

> In a few moments our entire line was engaged in a fierce and sanguinary struggle with the enemy. As one line was repulsed another took its place and pressed forward as if determined by force of numbers and fury of assault to drive us from our position. So impetuous and well maintained were these onsets as to induce me to send to the commanding general for re-enforcements; but the timely and gallant advance of General Longstreet on the right relieved my troops from the pressure and gave to those men the chances of a more equal conflict.

The alleged traitor of August 29 was the Achilles of August 30!

On that field the Fifth Army Corps, having neither Piatt nor Griffin with it, entered the fight 6,000 strong, under Porter, and sustained a loss of 2,147, of which 112 were officers! And still, sir, so bitter was the feeling of General Pope, and so unwilling to do justice was he, that in the charges against Porter he is accused of proceeding with "unnecessary slowness, and by delays, giving the enemy opportunity to watch and know his movements and prepare to meet his attack; did finally so feebly fall upon the enemy's lines as to make little or no impression on the same, and did fall back and draw away his forces unnecessarily;" and in his official report puts this base libel upon record:

> The attack of Porter was neither vigorous nor persistent and his troops soon retired in considerable confusion.

No slander more foul upon brave men living and dead ever polluted a lip; no libel more base and malignant ever suilied the face of paper!

Breasting a storm of artillery and musketry in front, torn with an enfilade fire of artillery, the soldiers of the Maltese cross, but 6,000 strong, unmindful of danger and death, threw themselves again and again like a thunderbolt upon the enemy. The heroes of Hanover Court-House, Gaines's Farm, and Malvern Hill were there; and their trusted leader, Fitz-John Porter, cool and collected, guided that thunderbolt in the storm of battle, breaking and staggering the "Stonewall" line, until its leader cried out, "Save me, Lee, or I perish!" When Longstreet heard the cry and swept his legions across the field from Jackson's right, then, but not till then, was the Fifth Corps forced back, leaving more than one-third its number dead, dying, and bleeding upon the field in testimony of the bravery and devotion of its men and commander to the cause for which they fell.

Now, sir, the inquiry becomes pertinent, why was it that Longstreet, with his line of battle formed and complete, as the map now used by the enemies of Porter concede (see map of Major Gardner, marked illustrative map No. 1), at 2 p. m., August 29, 1862, did not sweep down upon Pope while Porter's corps was detached and at Dawkins Branch, and McDowell was wasting the afternoon in a march down the Sudley Springs road? It would certainly have been a much easier task to have turned Pope's flank and driven him from the field on the 29th, in the absence of Porter and McDowell, than on the 30th, when McDowell and Porter were present on the field.

I answer, without fear of contradiction from any man who ever saw a battle and who understands the position of the troops on the 29th, that had Longstreet attempted to have enveloped Pope's left on the 29th as he did on the 30th he would have exposed himself to an attack on flank and rear from Porter, which he was too much of a soldier to risk, but waited until Pope relieved him from Porter threatening his right, and left him unembarrassed to advance his troops on the 30th over the country crossed by the old Warrenton, Alexandria, and Washington road from his right, and throw them upon Pope's flank, resulting in the rout of Pope's army. And here, sir, I am called again to correct statements lately given to the country as facts touching this case. I may not say who made them without trenching upon the rules of the House, but I may say they will be found on page 20, CONGRESSIONAL RECORD, January 6, 1883, in these words:

> In General Longstreet's testimony is where he makes a mistake. He says he does not remember distinctly, but makes a statement that Wilcox was thrown over by Jones's command at 4 o'clock in the afternoon to support him against Porter, when the fact is that late in the afternoon General Wilcox, with several brigades besides his own, were thrown over in the direction of Groveton and went into the battle at Groveton, and staid there until 11 o'clock at night and moved back at 11 o'clock to his position upon the Warrenton turnpike, not in front of Porter, but he came in to the rear of Hood near the Warrenton pike.

And to prove how utterly reckless of fact the author of the statement quoted is, I read from the sworn testimony of General Cadmas Wilcox himself, touching the subject-matter of the statement. In speaking of the operation of his three brigades on the afternoon of the 29th of August, 1862, he says (new record, pages 264, 265):

> In the afternoon about half past 4 or 5 I was moved over to the right of the pike. One brigade stopped not over three hundred yards from the pike. * * * There was probably a half a mile between that brigade and the other two. Those other two extended to the Manassas Gap Railroad. * * * I was in rear of the other troops. I did not see the troops. I knew they were in front. I saw General Jones at a distance. I suppose they were eight hundred or nine hundred yards in front of us on the field. * * * I was ordered over there to meet an emergency and to support those in front in anticipation of trouble—a fight.

This witness has thus described his transfer to the support of D. R. Jones, whose division, supported by Kemper, as we have seen by Longstreet's evidence, was in the afternoon re-enforced by Wilcox so as to check Porter in his advance from Dawkins Branch.

Witness says (new record, page 266):

> I came from the second position almost in a right line until we got across the pike. Then I think my line would have been probably in about that direction (south) down the railroad (rear of Hampton Coles's). I formed it in line of battle, the right resting on the Manassas Gap Railroad. * * * I remained there, I think, until near sundown. Meantime there had been some musketry heard on the pike in the direction of Groveton and some little artillery. I went down to that. I got there about dark. The flash of musketry looked red. My three brigades did not fire a shot. I heard no infantry firing until that fight late in the evening with Generals Hood and Evans.

The battle at dark that so much is said about was an accidental collision between the Texas brigade and Law's brigade of Hood's division with Patrick's, Sullivan's, and Doubleday's brigades of King's division. Longstreet ordered an advance of his line at dusk, not to give battle, but to obtain position for battle. Hatch, with his three brigades, was ordered to pursue and overtake a fleeing enemy. The forces collided in the dark, and after a few minutes' conflict of the intermingled masses Hatch withdrew and Hood had the best of the *mêlée;* for it was nothing but a *mêlée*, and not a battle in any military sense.

Of a verity, the RECORD of January 6, 1883, should be bound with General Pope's official report and General Roberts's pamphlet cited *supra*, and be entitled, "Fictions by Great Commanders."

A single illustration (court-martial record, page 17) more of General Pope's habit of reckless statement and I have done with him as a witness. It relates to the 4.30 order:

> Question. Did or did not General Porter obey the second order to which you refer, issued at 4.30? * * *
> Answer. He did not, so far as my knowledge of the fact goes.
> Q. You have stated that General McDowell obeyed that order so far as to appear upon the battlefield with his command?
> A. Yes, sir; he arrived on the battlefield I think about 5 o'clock.

This is a deliberate assertion that McDowell came from the left to the right on the 29th in obedience to the 4.30 order, when there is not the least pretense but that McDowell left Porter and went down the Sudley Springs road at 12 o'clock m., four hours and a half before the order was written. What motive had General Pope for making such a willful misstatement of fact? I will show you his purpose by his answers to succeeding questions (court-martial record, page 17):

> Question. To reach the battlefield had or had not General McDowell as great a distance to march as General Porter?
> Answer. Yes, sir, fully as great.
> * * * * * * *
> Q. In point of fact, did or did not General McDowell in obeying that order pass General Porter and his command on the way?
> A. I so understood; General McDowell can tell that better than I can myself.

The purpose is patent. The witness tells the court that McDowell received the 4.30 order and obeyed it, and in doing so he marched by Porter's troops. It is so gross a falsehood upon a most material question that I may best answer it by saying, "If the place held by the father of all lies shall ever be filled by selection on the score of ability there can be no doubt to whom the place will be awarded."

I will now pass to General B. S. Roberts, whom I have often referred to, and whose reputation for veracity may be determined by reference to the statements from his book which I have repeated, my purpose now being to show how utterly ignorant he was of the field, and hence how incompetent to testify as to the effect of any movement. On pages 52 and 53 of his testimony (court-martial record) he fixes the arrival of the troops reported by Buford "at about dark, 6 or 7 o'clock," and puts their number "between 4,000 and 5,000 men." On the same page he gives the grounds of his opinion that Porter could have struck Jackson's flank. They are these: That Porter received the 4.30 order at 5 o'clock p. m., and that at that time Porter was within an hour's march of Jackson's flank, which would have brought him on to Jackson at 6 p. m., which was not too late to attack.

This witness was recalled by the Government to strengthen his evidence, and he then gives an additional reason for knowing there were no troops in front of Porter. He says (court-martial record, page 206):

> I sent cavalry there (to the right) twice and found only a force of mounted men, with some light artillery, who were watching all our movements on our right flank, and I inferred that it was a similar force to that which was upon our left watching our movements there, which were in front of General Porter.

How logical this deduction may have been I leave you to consider. There was no heavy force guarding Jackson's left flank; hence there was none on Longstreet's right! I have but one witness who appeared before the court-martial whom I have not specifically considered, Colonel T. C. H. Smith, who saw a sneer on Porter's lip and a gleam of treason in his eye. All of his sayings and thoughts are of too little consequence to be dignified by a review.

It appears from an examination of the proceedings before the West Point board that he was the Atlas, in his own esteem, on whose brawny shoulder General Pope's defense rests. He commenced his statement by an argument from the witness-box to show that he should be permitted to vindicate General Pope in reference to the address to the Army of Virginia, by explaining that anonymous articles were written and published in the newspapers, to show that nothing offensive was intended by it. Poor soul, he seems to have honest instincts, but lacks mental force to save himself from being a dupe. He testifies in his honesty to one fact that should be carried to the home of every man who formed his judgment upon the Porter case upon the evidence published and circulated at the time. Read it and ponder upon it, for the tactics then adopted to deceive the public have been continued on the same line from thence till now. What is it? The pamphlet is entitled "Proceedings of General Court-Martial at the Trial of General Fitz-John Porter, United States Army." It was prepared and printed at General Pope's headquarters, and omitted all the evidence of the accused. It was sent to every Senator and Representative and sent broadcast over the land to form public opinion, and the reading men in civil life who think they have read the record now should know that they have been deceived into forming an opinion upon the evidence of the prosecution instead of the evidence in the case. This man's honesty was shocked at the fraud and he tried to correct it, but was overruled. (See pages 366–67, new record.)

Pope's conduct at and immediately after the battle disproves the charges. Porter continuously disobeyed General Pope's orders through the 27th, 28th, and 29th of August, 1862, which was the result of cowardly instincts or the base and treacherous purpose of bringing defeat to our arms. Such is the charge upon which Porter was convicted.

I say that Pope's conduct at and immediately after the battle disproves his belief in the charges which he supported by his evidence.

According to all rules established by the experience, not of one man but of all men, we feel safe in saying that if General Pope had believed General Porter betrayed him and lost the battle of the 29th from evil purpose and cowardly holding back, he would not in the attempt to retrieve the disaster on the following day have retained Porter in command of the corps that was specially charged to break the enemy's center. Such a course is not consistent with our knowledge of the springs of action which control the human mind, but is consistent with the idea of confidence and trust in Porter. Pope's act, then, contradicts his subsequent declarations.

But this is not all. After the battle was over and the troops had fallen back to Centreville and Pope was suffering all the bitterness following disappointed ambition, Porter was taken to his counsels and given the post of honor—to cover the retreat of the shattered army, pressed on every side with the enemy exultant in victory. (See the testimony of Colonel O. D. Greene, assistant adjutant-general of the Sixth Corps, on pages 1022 to 1026, inclusive, new record.)

Again, at Fairfax Court-House on the 2d of September, 1862, Colonel Ruggles, Pope's chief of staff, says (pages 149–150, court-martial record):

> I was present at Fairfax Court-House, in a room in a private house there. * * * The several commanders had been sent for, General Porter among the rest. I was engaged at the time writing orders for the position of the troops. * * * While I was writing these orders General Porter and General Pope had a conversation lasting about twenty minutes. * * * While studiously avoiding overhearing the conversation, I heard scraps enough of it to know that they were talking about the incidents of the few days previous. At the conclusion of the interview General Pope and General Porter got up, and I heard General Pope say to General Portar that his explanations were satisfactory, with the exception of the one brigade. I think he said entirely satisfactory, though as to the word "entirely" I can not swear positively. I knew the matter of the one brigade meant Griffin's brigade. I think Porter replied, "That can be easily explained."

The one brigade, you will understand if you have followed the case, was Griffin's, who by mistake went to Centreville in violation of Porter's orders on the 30th. The court-martial acquitted Porter from blame on that charge. Here, then, we have both action and declaration of General Pope showing confidence and trust in Porter and satisfaction with the manner of his execution of the trusts reposed in him.

Colonel Ruggles states further that when solicited by General Pope to become the principal witness in the case, on the 5th or 6th of September, 1862, he reminded General Pope of this conversation. Frankness compels me to state that General Pope substantially denies this evidence in an equivocal sort of way, on page 20, court-martial record, and alleges "that there were no explanations," "no time for explanation," "that five minutes at the outside would cover all the time he saw Porter, and persons were coming and going all the time, and all was in confusion;" and he does not remember of Ruggles speaking to him about it.

But immediately in this same connection, in reference to a conversation concerning the McClellan dispatch, General Pope says (page 21, court-martial record):

> I told General Porter that I had not reported him to the Department in Washington, and that as matters stood I thought I should not take any action in reference to his case, though I felt bound to do so in the case of Griffin.

Now, it would seem to follow, when he avowed his satisfaction with Porter on the 2d and his determination to prosecute Griffin, that some strong cause must have intervened between the 2d and the 3d day of September, when he drops Griffin and turns his wrath upon Porter and charges him with Griffin's sin.

That metamorphosis was wrought in the interview with General Halleck and the Secretary of War referred to in General Pope's official report, when it was determined "to execute justice."

The agencies used manifestly were disappointed ambition and personal vanity. It was for that purpose Porter's dispatch was brought into requisition. General Pope was shown a pen photograph of his campaign, taken while it was in progress, and its results faithfully sketched days before its end. His vanity was wounded, his passion was aroused, and he became a tool to work out the purposes of others.

And in this connection, sir, I will speak briefly of those telegrams and letters. They were truthful and foreshadowed results that were the inevitable consequence of a campaign conducted as that one was being conducted. They betray no indication of a purpose to shirk duty. They are no evidence of duty neglected. They are the free criticisms of an officer upon the methods of the campaign. Had these telegrams and letters been circulated among the troops of the Army of Virginia they would have been censurable as tending to destroy the morale of the army. But, sir, in Porter's connection with his subordinates not one word of criticism ever fell from his lips. His military mind saw disaster, but his military duty sealed his lips. These letters and dispatches were to an old and trusted friend, under whose command Porter had been, and who did not belong to the Army of Virginia; and they were furnished by him to the President of the United States, who sought information and could obtain none from General Pope.

They are in no sense a breach of discipline or duty. Their sin is found only in their truth. I am no believer in the doctrine that incapacity in high places can be hedged about by rules that make it a crime for one to see it and bring the attention of the supreme power to it, to the end that a remedy may be applied to prevent great evil resulting to the public therefrom.

That the Government did not believe in Porter's cowardice or unfaithfulness is apparent from the act of placing him in command of the defenses of Washington on September 5, 1862, with a full knowledge of his alleged sins of omission and commission. Would any but a most trusted soldier have been assigned to this command in the dark days succeeding Bull Run? No; the act of Porter's assignment to that high trust is proof conclusive that, no matter what they may say, they did not believe nor think Porter a coward or unfaithful.

General Pope's conduct from the date of Porter's trial to his exoneration by the West Point board is a confession of Porter's innocence.

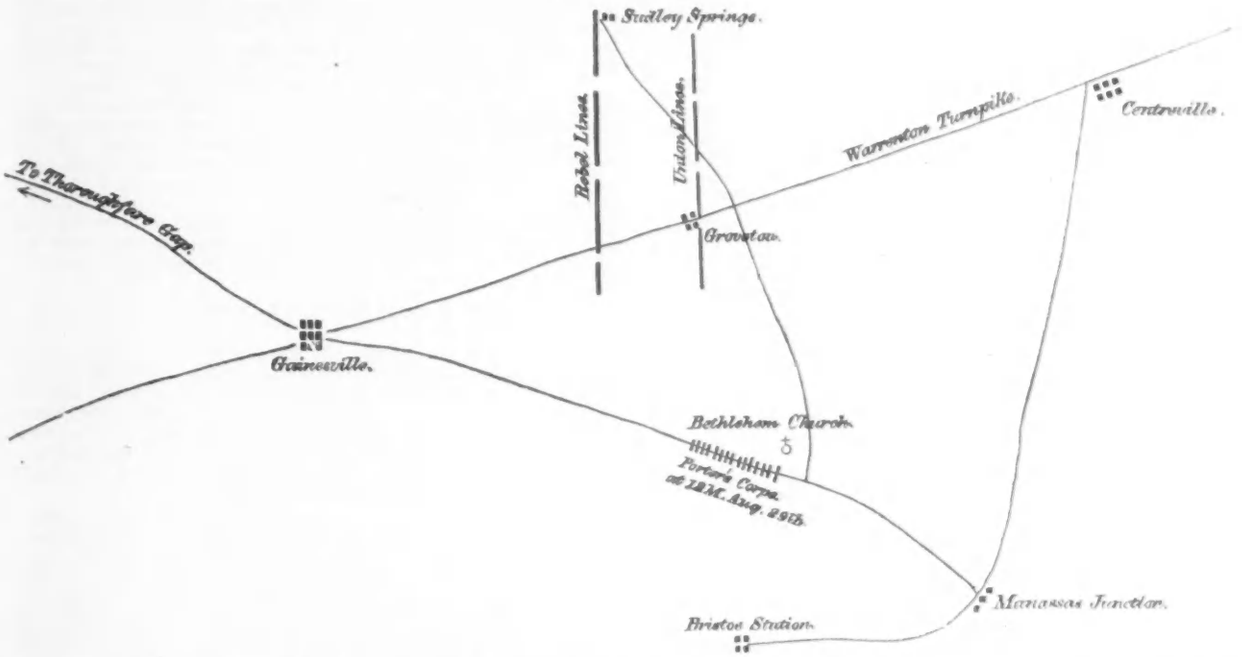
There is implanted in the breast of man a monitor called conscience. Its prickings may be deadened and its voice stifled for the time, but its presence and power will ever and anon proclaim itself.

> The secret which the murderer possesses soon comes to possess him, and like the evil spirit of which we read it overcomes him and leads him whithersoever it will. He feels it beating at his heart, rising to his throat, demanding disclosure. He thinks the whole world sees it in his face, reads it in his eyes, and almost hears its workings in the very silence of his thoughts. It has become his master. It betrays his discretion, it breaks down his courage, it conquers his prudence. When suspicions from without begin to embarrass him and the net

of circumstances to entangle him the fatal secret struggles with greater violence to burst forth. It must be confessed, it will be confessed; there is no refuge from confession but suicide, and suicide is confession.

Thus spoke the immortal Webster while painting the powers of conscience! Trace its workings in this case: The publication of a fictitious record of the court-martial soon after the close of the trial and its circulation from General Pope's headquarters; the protest of General Pope to General Grant, September 16, 1867, against allowing General Porter a rehearing (new record, page 1126); the brief statement of the case of Fitz-John Porter prepared and published in 1868 by General Pope, with a map, hereto attached, marked Map A, still insisting there was no junction with Longstreet, and filled with the grossest misstatements and falsely quoting from confederate reports (new record, page 728); General Pope's letter to the Secretary of War, December, 1869

MAP A.



(new record, page 1129); General Pope's letters to M. le Comte de Paris, May 29 and December 21, 1876 (new record, page 1143 to 1149), reviewing the history of the "Civil war in America" and attempting to bully this author into support of Pope's statements in reference to Porter at Bull Run; the document filed in the War Office in June, 1878, marked "memoranda concerning second Bull Run battle" (new record, page 1133), which contains the modest statements that Porter had for two hours nearly 26,000 men to have attacked Longstreet, and that at that time, 12 m., the battle was the hottest, and if McDowell had not been behind Porter there is no doubt but McDowell would have attacked; forgetting for the purposes of that statement that McDowell was not behind, but was in command, under his (Pope's) orders, of the whole column.

All these manifestations show conscience at work. Every plunge to free himself but adds to his entanglement. The knowledge of his crime committed "betrays his discretion, conquers his prudence," and he bravely challenges (new record, page 734):

The very fullest examination of the case is earnestly desired and invited, as it is beyond doubt. The more the question is looked into the worse it will prove for Porter.

The opportunity is given by President Hayes for him to make good his bold defiance. A board of distinguished officers is appointed, and when they meet at West Point the representative of the Government refuses to summon General Pope. The petitioner, conscious of the justness of his case, asks that his accuser be demanded to testify. The president of the board, on the 17th of October, 1878, notifies General Pope that General Porter desires his presence as a witness; no response. On the 18th of October the following dispatch was sent:

WEST POINT, N. Y., *October* 18, 1878.

General JOHN POPE,
Fort Leavenworth, Kansas:

The board has adjourned to meet on Tuesday next, the 24th, when we expect to hear your testimony in the Porter case. * * *

J. M. SCHOFIELD, *Major-General.*

On the same day General Pope replies, "Your dispatches of 17th and 18th received;" but gives no other answer. Conscience was at work and his courage was oozing out. But, like Bob Acres, this conscience-stricken coward wants time and a pretext. Three days' reflection and he sends the following:

FORT LEAVENWORTH, KANS., *October* 21, 1878.

General J. M. SCHOFIELD, *United States Army:*

I transmit a telegram in answer to yours of the 17th. I presume it will occasion no delay, as I could not leave here for two or three days on account of important public business relating to Indian affairs, so that I could not reach New York before Saturday night in any case.

JNO. POPE,
Brevet Major-General, United States Army.

And this is the telegram:

FORT LEAVENWORTH, KANS., *October* 21, 1878.

To General J. M. SCHOFIELD,
West Point, New York:

I have received your dispatch of the 17th, in which you state that "in view of the fact that the counsel for the petitioner have stated that they believe that justice to their client requires your presence here the board request that you appear as a witness before them at Governor's Island next Thursday, 24th instant." In reply I have to state, if the petitioner considers my presence necessary he should apply to have me subpœnaed as a witness for him. Only as a witness for him or for the Government can I be expected with any semblance of legality to appear as a witness in the case. To do so on a mere request of the board would be to place myself in a position not only false, but in every other respect extraordinary and unknown to the laws of or to the practice of the civil and military tribunals of the country.

While I stand ready to appear before your board in any position known to law or practice, I can not appear as a volunteer witness in the case on mere request and without knowledge whether I am called for the Government or petitioner. As you state that I am requested to appear as a witness because of the statements or suggestion of the petitioner, it is to be inferred I am called as a witness for him. But this fact is not definitely stated nor does your telegram convey a subpœna; only a request. To a subpœna regularly issued for either side I will cheerfully and promptly respond. I am entirely willing to appear as a witness in the case, and desire simply to be placed in the same relation to the board and the parties in controversy as that occupied by all the other witnesses.

JNO. POPE,
Brigadier-General, United States Army.

On the same day the board, in reply to this dispatch, sent the following subpœna by telegram:

WEST POINT, N. Y., *October* 21, 1878.

General JOHN POPE,
United States Army, Fort Leavenworth, Kansas:

You are hereby required, on behalf of the United States, to appear before the board of officers appointed by the President to examine the evidence in the case of Fitz-John Porter, late major-general of volunteers, at Governor's Island, New York Harbor, on Thursday the 24th of October instant, or as soon thereafter as practicable, to give evidence in said case.

J. M. SCHOFIELD,
Major-General, United States Army, President of the Board.

After waiting two days without reply, General Schofield sent another dispatch asking when the witness would come. On the 24th General Pope replied that he had received instructions to remain at Leavenworth

until further orders. On the 27th October, 1878, General Pope procured from the War Department the following:

After full consideration the President declines to order you either to appear or not to appear as a witness before the advisory board in the case of Fitz-John Porter, and says you will determine for yourself what action to take, and advise General Schofield promptly by telegraph of your decision.

GEO. W. McCRARY,
Secretary of War.

On the 29th General Pope announces his determination:

I am informed by Secretary of War in telegram of this date that the President declines to order me to appear or not to appear before your board as a witness, but leaves the matter to my discretion. In view of this fact and of the telegraphic instructions of the Secretary of War for the guidance of the board, copy of which Secretary has sent, I must adhere to my position taken in my telegram of 21st instant to General Schofield. Nevertheless, although the counsel for the Government has refused to subpœna me as a witness for the Government and the petitioner declines to subpœna me as a witness for him, and therefore I am subpœnaed by neither party, if the board require any information in my power to give on any point brought out in this investigation I will cheerfully give it by sworn replies to written interrogatories, or, if the board deem it necessary, by appearing before it for this purpose, on due notification to that effect.

JNO. POPE,
Brevet Major-General, United States Army.

He dare not come. He would not come. He sought the protection of the President against the subpœna, and the President refused to shield him by an order not to go. Left to his own discretion this man forgot that he claimed to be heard before General Grant in 1867 "because he was one of the principal parties in interest in the case." He forgot that he courted the fullest investigation in 1869. He forgot that he filed a brief in the case in 1878. He forgot how bravely he brandished his sword when no combatant was present. Entangled in his embarrassments, conscience made a coward of him. He dare not be examined in his own case! He fled examination, and flight is confession!

But, sir, I am reminded by the opponents of this measure that General McClellan sent the following dispatch:

WAR DEPARTMENT, *September* 1, 1862—5.30 p. m.

Major-General PORTER:

I ask you for my sake, that of the country, and of the old Army of the Potomac that you and all friends will lend the fullest and most cordial co-operation to General Pope in all the operations now going on. The distresses of our country, the honor of our arms, are at stake, and all depends upon the cheerful co-operation of all in the field. This week is the crisis of our fate. Say the same thing to all my friends in the Army of the Potomac, and that the last request I have to make of them is that for their country's sake they will extend to General Pope the same support they ever have to me.

* * * * * * *

GEO. B. McCLELLAN,
Major-General.

Ah, say they, even McClellan thought Porter was derelict. General McClellan replies, "He never distrusted Porter, nor any of his old officers," but Pope's reflections and insinuations had alarmed Mr. Lincoln, who urged him to send the dispatch, and he sent it to allay arising fear in Mr. Lincoln's mind. Listen to Porter's patriotic reply, which not one in ten of you who have talked about McClellan's dispatch ever saw:

General GEORGE B. McCLELLAN:

You may rest assured that all your friends, as well as every lover of his country, will ever give as they have given to General Pope their cordial co-operation and constant support in the execution of all orders and plans. Our killed, wounded, and enfeebled troops attest our devoted duty.

F. J. PORTER,
Major-General, Commanding.

Has this dispatch any ring of treason, cowardice, or lack of fidelity in it? You may jeer at the expressions of the dispatch from Porter to Burnside, "hoping Mc. is at work;" but here you have "Mc." to Porter and Porter to "Mc." Judge them both by their utterances.

I have not referred to much rubbish put in this case at West Point which to me is only indicative of weakness. The dragging of brush as a ruse has wholly lost its effect when the Government puts in a map to support the argument of its counsel, showing Longstreet's full corps in line of battle at 2 p. m. And if it were not so rendered the positive evidence of General Longstreet, General Lee, and all the officers of their commands that they were in position not later than 12 o'clock, and were in supporting distance as early as 10 o'clock, would render it immaterial. But the evidence of General Rosser puts the *locus in quo* of this exploit on Meadowville lane, which was to the right and east of Porter's front and more nearly in front of Reynolds and Sigel.

Bowers, the spy, was so effectually broken down that I pass him, and the doctor, Faxon, I believe, as I would have passed the chaplain, who wrote his letter in one of the Massachusetts papers stating that "Porter and Lee had a conference on the night of the 28th." Such evidence results from a disordered intellect or from a total want of moral sensibility. In either case the antidote comes with the poison, and the evidence soils the hand that attempts its use.

But, sir, there were two witnesses sworn at West Point for the first time that I shall allude to in all kindness, Messrs. Lord and Ormsby.

I do it, not to treat their sayings as evidence of any facts, further than to show to what extent the fears, the passions, and the excitement of the times seized hold of all minds and colored all mental visions. A statement of the facts are sufficient. Porter was on trial for his life, charged with being unfaithful to Pope. In the midst of the trial, he, protesting the charge was untrue, came, it is said, to his room and in an excited manner broke out, in the presence of these men and without addressing them, "I was not loyal to Pope. I was loyal to McClellan." That these men—one of whom was a reporter for a newspaper and unknown to Porter—should have imagined for a moment that a man situated as Porter was, on trial for his life, should confess his crime to them, is strange enough, but that a grave Senator of the United States (Senator Chandler) should have caught it up as proof strong as "Holy Writ" is beyond the measure of my comprehension. It does not seem to occur to any of them that a high-minded soldier, cut to the quick by the imputation of disloyalty to one commander and loyalty to the other, should in his indignation, brooding over the insult to his honor, repeat to himself as he paced the floor, with the sting still rankling in his heart, the words of the charge! Ah, no! No inference, no construction, was admissible that did not tend to prove the guilt of the accused. Each vied with the other to have their garments sprinkled with his blood. It is a pleasant reflection that such distortion of meaning and misconstruction of action only survive to mark the extent of prejudice and passion in the dark hours of 1862.

And now, Mr. Speaker, I have done with the evidence in this case, and can not summarize that part of it touching Porter's actions on August 29, 1862, better than by adopting the conclusions of the West Point board:

Not one among all the gallant soldiers on that bloody field was less deserving of condemnation than he.

It is the unanimous verdict of a board of officers of acknowledged learning in military law, of distinguished service, and of high character, one of whom at least entered upon his duties protesting that his convictions of Porter's guilt were so strongly settled that he questioned the propriety of his going upon the board by reason of such bias, and only accepted the position upon the express request of the accused, having full knowledge of his bias. By permission I read a letter from him, after the finding of the board was promulgated:

SAINT PAUL, MINN., *August* 26, 1879.

DEAR GENERAL: Soon after the publication of the report of the Schofield board you wrote to me thanking me as one of the board for our action in your case. * * * I write now to say it is not thanks but pardon I should ask from you. For years I did you wrong in thought and sometimes in speech. It is true that this was through ignorance, but I had not the right to be so ignorant; I might have learned something at least of the truth had I diligently sought it.

If you find anything in my action as a member of the board which you can accept as an atonement for the wrong which I did you I shall be more than gratified.

With great respect and admiration, I am, yours, most sincerely,

ALFRED H. TERRY.

Major-General FITZ-JOHN PORTER, *New York.*

There speaks the hero of Fort Fisher. General Grant, the great captain of the rebellion, frankly acknowledges his error of judgment, and like a true soldier vindicates his brother in arms. Lawyers, statesmen, publicists, all who have studied the case by other than partisan light, pronounce Porter innocent. The finding of the West Point board relieves Porter from all moral stigma, and is accepted as conclusive in Europe and America by all save the few who resist to shield themselves from dishonor, and the politicians who hope to fatten upon war prejudices revived.

The honor and good name of the Republic are at stake. By its power an honored name was degraded, by its power a soldier with a brilliant career was stricken from one of the topmost rounds of the ladder of fame and for sixteen years lived a living death. But unfaltering in his belief of ultimate justice, he has been unceasing in his prayer for an opportunity to be heard. His step has not been heard in legislative halls, his prayers have not been poured into the legislative ear, but, soldier as he is, he sought his relief through military channels, to be obtained by military methods. His prayer was heard, a day in court was given him, and he vindicated his innocence. The President of the United States submitted that vindication to Congress for its action thereon. And the honor of the nation requires that we speedily make amends for the wrong done in its name.

The laws of the land require of the citizen compensation for injury done. Shall a more lax rule prevail where the nation itself hath done a wrong to a citizen greater in degree, more ignominious in its character, than was ever inflicted by any Christian government, affecting not life it is true, but blasting name and fame, destroying citizenship, and, greatest of all, branding a soldier who periled his life for its flag and covered its arms with honor, with the burning words of infamy—"cowardice, treachery, and dishonor?"

Let us not be unmindful of our duty as representatives of a magnanimous, justice-loving people. Let us make haste to make public reparation for the wrong now so clearly shown to have been done. The wealth of the Indies can not compensate for the sufferings undergone, but we may do partial justice by restoration of rank and position and by compensation for losses sustained and for moneys expended in Porter's years of struggle for justice.

In the name of justice and honor I ask it. For the good name of the Republic I urge it upon you. In the name of the living and the dead whom he led in battle I demand it! *Fiat justitia, ruat cœlum.*

Fitz-John Porter.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883,

On the bill (S. 1844) for the relief of Fitz-John Porter.

Mr. WHEELER said:

Mr. SPEAKER: As regards the conduct of man to man, the highest command given is that he do unto others even as he would that others should do unto him; and when wrong is done to any man it should be restored to him twofold.

If this mandate should be observed by men, how imperatively should it be the law to govern sovereignties of men! And if reparation must be made to all men, by what rules of measurement should a nation make restitution for the wrongs inflicted upon a public servant whose patriotic, faithful, and heroic service has given luster to her military renown?

General Porter does not ask that the Scriptural precept be meted to him—that to him should be restored twofold for the wrong that has been done him. The demand for justice does not come from him; it comes from the people. Let me express myself clearly. I do not rise, Mr. Speaker, to make an appeal for Fitz-John Porter. That he has been the victim of wrong, great wrong, has been incontrovertibly proven to the American people. He has suffered, and his family has shared his cup of bitterness. Yes, Mr. Speaker, for the fifth of a century the pangs of a living death have been their portion, but his grandeur of character, sustained by Christian virtue, has proved equal to the emergency.

What he now endures, what he has borne for twenty years, he can still support for the short term God may will that he remain with us; and then the grass, perchance rose-bedecked, may grow over a grave marked by a broken shaft on which will be engraved only the words

FITZ-JOHN PORTER.

Passion, prejudice, and falsehood may poison the first impressions of the most earnest seeker for truth, but the sober second thought of the American people will always crystallize around right and justice. The fabric of injustice which the enemies of this great soldier have reared by suppression of facts and distortion of truth will prove futile to withstand the evidence which, accumulating day by day, will, like the steady current of the Mississippi or the thundering torrents of Niagara, sweep every vestige of their work, and themselves with it, into the ocean of oblivion. My appeal, Mr. Speaker, is for the honor of our country; that so far as lies in our power we avert the stigma which must inevitably rest upon her escutcheon should we refuse or hesitate in the rectification of this great wrong.

THE PEOPLE HAVE VINDICATED GENERAL PORTER.

The honor of Fitz-John Porter is no longer in your hands. In their own high court the American people have reversed the decision of 1863. We now call upon you to register the popular decree.

Individual considerations are lost in the presence of the more stupendous question of principle which we feel should guide this great nation in its dealing with its servants.

PORTER DELIBERATELY SELECTED FOR IMMOLATION.

The subject we are called to discuss leads us to make this inquiry: Is the life, or, what is dearer than life, is the honor of an officer safe in times of great public excitement when his destruction will aid the purposes of partisans?

In a country where there is so much virtue and intelligence and love of justice we would readily conclude that generally Americans, whether officers or citizens, might depend upon being awarded justice in our courts, either civil or military, but the evidence presented by this case to the House and the investigation of other similar cases are startling reminders that we cannot always depend upon the truth or certainty of this proposition.

Fitz-John Porter—the brave soldier—the beau ideal of chivalry—the only member of his class who won on the plains of Mexico the brevet of a field officer—the man selected to instill honor and chivalry into the minds of the military students of our country—the Chevalier Bayard of the Army of the Potomac—the man who, already covered with glory on twenty fields of battle, was selected to command McClellan's rear-guard from June 26, 1862, the darkest hours seen by the 100,000 men that the gallant and skillful McClellan had pressed to the very inner gates of the confederate capital—Fitz-John Porter, the man who in those desponding hours rallied and aligned the dispirited troops, and owing to whose skill and courage the sun went down the night of July 1 upon the triumph of Malvern Hill, a victory so brilliant and so signally due to that officer as to call for the thanks of the nation, this is the man deliberately selected for immolation! The disaster to Pope's army, which occurred within sixty days from this victory at Malvern Hill, required a scapegoat and a sacrifice.

Fitz-John Porter had refused or had failed to assist in fomenting unjust accusations against General Patterson, and had thereby incurred the ill-will of that officer's enemies. He had spoken highly of McClellan and Buell, and it was charged that he had used expressions which could be interpreted as indicating that the officer who escorted President Lincoln while en route to Washington, and who was then commanding fifty thousand men in the defense of the national capital, was not endowed with all the attributes of a great commander.

These offenses, together with assertions (devoid of foundation) that in private conversation he had used utterances which indicated that he did not approve certain views that the Administration regarded favorably, added force to the incentive to charge General Fitz-John Porter with cowardice before the enemy; and a specification of tardiness was sufficient in that time of great excitement to cause the court, without a scintilla of credible evidence, to brand that awful word upon the name of a distinguished American general whose intrepidity and courage were winning from his soldiers the sobriquet of the Marshal Ney of the American continent.

When a man in the high places of military power needs a victim, one can be found. Pope needed a victim, and he found one. I do believe that if such a towering military genius as Alexander, or Hannibal, or Cæsar, or Marlborough, or Napoleon, or if any one who combined the high qualities of all these in one, had been the exciting cause of overshadowing the self-supposed glory and eminence of John Pope, that, as the situation then existed, he could have found his victim even in such an illustrious personage. Not only would he have found his victim, but he could have found a court subservient to his purposes, and witnesses quick and apt with the testimony necessary to convict him.

SOUTHRONS HAVE A RIGHT TO FEEL AND SPEAK ON THIS SUBJECT.

The taunts so often hurled at men from a certain section of the United States, who, in compliance with official obligations, presume to express the results of their investigations and reflections on this subject, will not drive us from our duty.

In reply to their question as to what *we* have to do with it, let me say that in legislation of a judicial nature we strive to act without passion or bias; and I desire to say that the honor of an American soldier is as dear to us as it is to the people of any portion of our land, whether he belong to one section of the Union or the other.

I shall endeavor to confine myself to a discussion of the subject in a military and historical view, as my friend from Wisconsin, the able jurist, General BRAGG, informs me he will give especial consideration to the legal aspects of the case.

SUCCESS THE END OF MILITARY OPERATIONS.

There is but one purpose in conducting military operations; and that is, to attain success.

Decided victory at one point of battle will often determine the result, and where the armies are about equal in strength, morale, and position, this is so generally true that it is received as a recognized axiom of war.

Victory at a point of battle is attained by accumulating a predominance of force at a given place.

This involves many elements; but supposing other things to be equal the problem resolves itself into the concentration of men at the point indicated, all of which is modified by the various elements which enter into warfare, such as strength of position, morale of combatants, resolution, ability, and vigor of attack; determination, skill, and stubbornness of defense.

Now, in order to fight with the necessary elements of advantage, we must know substantially and practically the strength and position of the army we propose to assail.

The commanding general cannot be everywhere, and cannot know the continually changing condition of the opposing army.

To act with intelligence his army is divided into corps, each of which is under the orders of a man who is and ought to be equal in many respects to the army commander.

He is a man whose reputation and renown is national.

While he is primarily responsible to his commander, he is also *responsible to the country* and to the *government* he has sworn to serve.

Such *chief of corps* has not performed his duty unless he has kept himself fully advised regarding the enemy, which information he should transmit frequently and rapidly to the general of the army.

All orders he receives should be obeyed with promptness and *intelligence*, and an

INTELLIGENT OBEDIENCE OF ORDERS

comprehends an obedience which will carry out the purposes of the commanding general.

A *literal compliance* with an order which it is evident would *defeat* the designs of the general, and which it is evident was written with *erroneous impression* regarding the situation, would be base and criminal *disobedience*.

To win battles you do not want subordinates who with the acumen of a lawyer will justify blunders and unskillful manœuvers by strained, critical construction of words or phrases.

Victories are attained by simpler principles than these.

Every corps commander knows the position of the enemy's troops. He knows the general plan of battle; he knows the point of attack proposed for the other corps; he knows the general principles which govern operations on the field, and the officer who keeps these views uppermost in his mind will generally construe orders as his commander intended he should.

If a chief of corps receives a written order which he knows to be based upon a status which has *changed*, and he knows that compliance with it will cause useless slaughter to his men and insure disaster, can any one justify the officer who blindly and like an automaton mechanically obeys the literal direction?

I say emphatically, no! and military history for two thousand years sustains me in my assertion.

So, too, if any order has been

DELAYED IN TRANSMISSION,

so that when received the *time has passed for subserving the intended purpose*, the same discretion should be used, and failure to use it would be base and criminal.

I not only admit but I must insist that any non-compliance with orders in battle is at the peril of the officer who assumes so grave a responsibility.

If by neglect of his duty he has failed to inform himself sufficiently of the situation, that subsequent events show his action was not in all respects *proper*, he is and ought to be held to the highest responsibility.

So, too, if his mental comprehension is so weak or obtuse that he can not instantly discern his duty, he is not the man designed by nature for a valuable tactician at the supreme moment of battle.

It may be said by some that this test is too severe, but the friends of Fitz-John Porter ask no relaxation of its stringency. As the reward of the successful chieftain is imperishable renown, they admit that the country has a right to correspondingly exacting requirements. But still that

MODERN GOD OF WAR, NAPOLEON,

made no such rules for his marshals and generals.

If literal compliance with the words of his orders had been invariably followed, history would now record disastrous defeats in place of many of the brilliant victories which have entwined imperishable renown with the name of that greatest of commanders.

Such a rule would have made the exercise of two of his most valued maxims of war impracticable, nugatory, and impossible.

FIRST.

There is a moment in battles when the smallest manœuver or the smallest number of troops decides and gives the superiority.

SECOND.

In war, as in politics, the lost moment never returns. Fortune is a woman, and it is necessary to profit boldly by every opportunity.

I read these two maxims of Napoleon from the very excellent work of Edward Yates, B. A., of King's College, London, page 38. The work is specially commended and indorsed by Professor Narrien, of the Royal Military College, and also by Lieutenant-General Sir Wm. Napier, K. C. B.

I will now read from Baron de Jomini, page 70, on this subject of

THE FUNDAMENTAL PRINCIPLES OF WAR:

It is proposed to show that there is one great principle underlying all the operations of war, a principle which must be followed in all good combinations. It is embraced in the following maxims:

I.

To throw by strategic movements the mass of an army, successively, upon the decisive points of a theater of war, and also upon the communications of the enemy, as much as possible, without compromising one's own.

II.

To manœuver to engage fractions of the hostile army with the bulk of one's forces.

III.

On the battlefield, to throw the mass of the forces upon the decisive point, or upon that portion of the hostile line which it is of the first importance to overthrew.

IV.

To so arrange that these masses shall not only be thrown upon the decisive point, but that they shall engage at the proper times and with energy.

From Military Maxims of Napoleon, as translated by Colonel D'Aguilar, adjutant-general to the troops serving in Ireland, the seventy-second maxim is:

A general-in-chief has no right to shelter his mistakes in war under cover of his sovereign or of a minister when these are both distant from the scene of operation, and must consequently be either ill-informed or wholly ignorant of the actual state of things.

Hence it follows that every general is culpable who undertakes the execution of a plan which he considers faulty. It is his duty to represent his reasons, to insist upon a change of plan, in short, to give in his resignation rather than allow himself to be made the instrument of his army's ruin. Every general-in-chief who fights a battle in consequence of superior orders with the *certainty of losing it* is equally blamable.

In this last-mentioned case *the general ought to refuse obedience*, because a *blind obedience* is due only to a military command given by a superior *present on the spot* at the moment of action. Being in possession of the real state of things, the superior has it then in his power to afford the necessary explanations to the person who executes his orders. But supposing a general-in-chief to receive a positive order from his sovereign, directing him to fight a battle, with the further injunction to yield to his adversary and allow himself to be defeated, ought he to obey it? No. If the general should be able to comprehend the meaning or utility of such an order, he should execute it, *otherwise he should refuse to obey it.**

In 1793 General Hoche, having received orders to move upon Treves with an army harassed by constant marches in a mountainous and difficult country, *refused to obey*. He observed, with reason, that, in order to obtain possession of an unimportant fortress, *they were exposing his army to inevitable ruin*. He caused, therefore, his troops to return into winter-quarters, and *preferred the preservation of his army*, upon which the success of the future campaign depended, to his own safety.

Another quotation from an American edition of this work reads:

A military order exacts passive obedience *only when it is given by a superior who is present on the spot at the moment when he gives it*. Having then knowledge of the state of things, he can listen to the objections and give the necessary explanations to him who should execute the order.

The maxim which enjoins us to

ATTACK THE WEAKEST POINT

of the enemy's position is much older than Napoleon. It is as old as the military art itself. At least, we can say it was known and practiced at the siege of Troy, as is proven by the following passages from the grand old Homer, to whom we are indebted for nearly all the military maxims of this and past ages. We perceive herein that not only did the Greeks attack the weak point, but also that the Trojans had an eye to its defense. The verses below are a part of the earnest and eloquent appeal made by Andromache to Hector, urging among others this reason why he should remain within the city:

Here is full work for thy majestic soul.
For hitherward the waves of battle roll;
Here, by the fig trees, *feeblest is the wall*;
Here plant thy standard, here thy heroes call.
Thrice here, the towering Greeks their strength have tried;
Here Ajax stormed with Diomede allied,
Assisted by the matchless king of Crete,
And Atreus' sons, in war-gear clad complete;
Hither directed, by *their skill to see*
Our salient points, or led by prophecy,
Perhaps some God points out the dangerous way:
Then here, dear Hector, dearer husband, stay;
So that th' Atridæ and their Grecian braves
In their next onset, *here* embrace their graves.

This maxim was known to Alexander, to Scipio, Hannibal, Cæsar, and Pompey.

It was known to Marlborough, Wellington, Washington, and Napoleon.

It was known to Andrew Jackson, and was known to Lee and Grant and Sherman and to Fitz-John Porter.

THE CHARGES UPON WHICH PORTER WAS TRIED EXAMINED.

The specifications to the charges upon which General Porter was tried, after divesting them of verbiage, were, in substance, these:

First. Disobedience to the order of August 27th, requiring him to march from Warrenton Junction at one o'clock on the morning of the 28th, and be at Bristoe Station by daylight.

Second. Disobedience on August 29th, while in front of the enemy, to the joint order to McDowell and Porter, directing them to march toward Gainesville and establish communication with the other corps.

Third. Disobedience on August 29th, while in front of the enemy, to what is known as the "4.30 p. m. order," requiring Porter to attack the enemy's flank and rear.

His prosecutors of the last few years have made the additional charge that he violated a maxim of war, and, as some term it, one of the great leading maxims in Napoleon's military experience. I will endeavor to discuss these matters in their order, and we will first examine

THE ORDER DIRECTING PORTER TO START AT 1 A. M.,

on August 28, for Bristoe Station.

Porter's corps had marched all day. A portion of the troops were just going into camp when the order which is referred to and which constitutes the gravamen of the first specification reached him. This was at 9.50 p. m. on the 27th. I will read the entire specification:

SPECIFICATION 1st.—In this: that the said Major-General Fitz-John Porter, of the volunteers of the United States, having received a lawful order, on or about the 27th August, 1862, while at or near Warrenton Junction, in Virginia, from Major-General John Pope, his superior and commanding officer, in the following figures and letters, to wit:

HEADQUARTERS ARMY OF VIRGINIA,
August 27, 1862—6.30 p. m., Bristoe Station.

GENERAL: The major-general commanding directs that you start at one o'clock to-night and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run

* In the campaign of 1697 Prince Eugene caused the courier to be intercepted who was bringing him orders from the Emperor forbidding him to hazard a battle, for which everything had been prepared and which he foresaw would prove decisive. He considered, therefore, that he did his duty in evading the orders of his sovereign; and the victory of Zanta, in which the Turks lost about thirty thousand men and four thousand prisoners, rewarded his audacity.

back the railroad train to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General Pope:

GEO. D. RUGGLES,
Colonel and Chief of Staff.

Major-General F. J. PORTER, *Warrenton Junction.*

P. S.—If Banks is not at Warrenton Junction leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the junction instruct Colonel Clary to run the trains back to this side of Cedar Run, and post a regiment and section of artillery with it.

By command of Major-General Pope:

GEO. D. RUGGLES,
Colonel and Chief of Staff.

Did then and there disobey the said order, being at the time in the face of the enemy. This at or near Warrenton, in the State of Virginia, on or about the 28th of August, 1862.

The distance was nine or ten miles, the night was dark, and the narrow road, badly cut up with ditches and gullies, was filled with the general supply train of the Army.

[I will have published in the RECORD a series of maps, illustrating the geography of the country and the several positions of the two armies.]

Most of Porter's corps had marched 18 miles a hot summer day, and all of them as much as 12 miles.

Porter had a right to suppose that if Pope knew these facts he would not have fixed 1 o'clock for his command to move. He, however, directed the order to be complied with, and his subordinate generals joined in an appeal that the tired men should be allowed a little much-needed sleep.

Porter immediately sent a dispatch to General Pope stating these facts, together with the information that the road was so blockaded with wagons that progress would be difficult, suggesting a delay until 3 a. m., also respectfully requesting that he would send *an officer of* his staff to *a d him* in moving the wagons out of the road *so that he could march.*

The fact that General Pope *sent officers* to aid in clearing the way shows that the commanding general *recognized* the difficulty of Porter's immediate and literal compliance with the order, by reason of the impediments suggested in Porter's request. The commanding general *makes haste to aid* in thus clearing the way. Porter's request for aid to clear the way was but a part of his request to Pope, the other part being for *two hours' delay* (from 1 to 3 o'clock). Now, the fact that Pope sent officers to aid in clearing the way, thus acknowledging its necessity, was quite sufficient to assure Porter that the general had recognized the difficulty of an immediate movement. This was sufficient to lead Porter to suppose that Pope in complying with the chief part of the request *signified* his assent to the other. And this suggestion becomes irresistibly forcible when coupled with the fact that upon the arrival of Porter the next day the commanding general expressed no displeasure, and that, in fact, if he felt any displeasure it was concealed from Porter for nearly three months, he hearing nothing of it until the charges were preferred against him.

I do not mean to assert that Porter's letter to General Pope contained a request, in so many words, for authority to delay the march until three o'clock. Porter explained the situation to General Pope, and stated that therefore (meaning, of course, that unless the commanding general otherwise directed) he would start at three o'clock.

A CORDIAL AND SOLDIERLY MEETING.

Not only was there no suggestion of displeasure on the part of General Pope at this meeting, but there was a remark made by him to Porter which conclusively shows that there *was no* feeling of displeasure. He said to Porter that *there had been no necessity for an earlier appearance of his corps.*

Now this meeting of Pope and Porter is extremely significant. Here we see the chief and the subordinate *face to face* on the morning of the 28th. The meeting is *cheerful, soldierly,* and *cordial;* just such a meeting and greeting as should be between brave men in the harness of war, fighting for their country. It must be remembered, too, that both these generals had in their minds at that moment the correspondence of the previous night; that is, the order to move by Pope, and the *request* of Porter for *aid* and *delay.* And with all these transactions fresh in the mind of each they *met on the square;* and there is not the slightest hint of disapprobation, but, on the contrary, the high courtesies of gentlemen with social and official cordiality. Three months afterwards Pope was a witness against Porter on the court-martial. In reply to a question from Porter he testifies (see p. 19, marginal p. 18, Ex. Doc. No. 71, Thirty-seventh Congress, third session, record of Fitz-John Porter's court-martial):

I saw him (Porter) at Bristoe Station. I think it was about 8 o'clock on the morning of the 28th.

And in further reply to most searching interrogatories, General Pope says (see p. 19):

I am therefore very sure that I did not complain to Porter.

I am not sure that he gave me any explanation. I have a general recollection that he spoke to me of his march and the difficulties that he had in getting wagons out of the road, * * * and the difficulty he had in getting through the wagon-trains.

On page 13 General Pope, in testifying about this order, in reply to a question from the judge-advocate, said:

Q. Did he at that time, or at any time before his arrival, explain to you the reason why he did not obey the orders?

A. He wrote me a note, which I received, I think, on the morning of the 28th very early in the morning, perhaps a little before daylight. I am not quite sure about the time. The note I have mislaid. I can give the substance of it. *I remember the reasons given by General Porter.*

WAS PORTER'S REQUEST FOR AID TO REMOVE THE IMPEDIMENTS IMPERTINENT?

I respectfully submit that there was nothing improper or unusual in this request for assistance from the commanding general in their removal.

On the contrary, it was precisely what any well-informed and judicious officer should have done.

Porter was without any cavalry, and his couriers were exhausted. The wagons encumbering the road belonged to the general supply trains.

No portion of the trains which filled the road belonged to Porter's corps.

For him to give orders to wagon-masters over whom he had no control, while proper in case of an exigency when it could not be avoided, was certainly more

CONSISTENT WITH MILITARY RULES

and discipline for him to prevent difficulty and conflict by asking Pope to send an officer who understood his wishes to superintend this work.

It is very probable that Porter considered it possible there were some trains, for instance the ammunition trains, which Pope desired especially to have hastened on and not turned out of the road.

If we establish a principle that it is right and proper for subordinate commanders to order the supply and ammunition trains of an army out of the road, and thus stop them while they are moving pursuant to orders from the commanding general, a most dangerous and unmilitary system would be inaugurated, and frequently such action on the part of subordinate officers would thwart the best-laid plans of an army commander; sometimes trains which the general was having moved to a place of safety would by orders of a subordinate officer be stopped and left liable to capture, and in other cases supply and ammunition trains which were imperatively needed at a certain point would by such unauthorized orders be delayed so as to materially embarrass the plans of the general commanding.

GENERAL PORTER WAS TOO GOOD A SOLDIER

not to appreciate such considerations, and therefore he asked General Pope to have an officer of his staff who understood his plans present, so that by no possibility could he interfere with any wishes or purposes of the general regarding the movements of the army trains; and yet there are men, formerly brave generals, now assailing General Porter, who sound such deep depths in search of matters of accusation that they lose their bearings, and in discussing this action of Porter regarding the wagons go so far as to say that Pope would have been justified in relieving him of his command at that moment.

This effort to show that in a military sense this request was a piece of impertinence amounting to insubordination is a huge absurdity. The fact that General Pope complied with it by sending officers to aid in clearing the way is conclusive to show that General Pope did not consider this request as at all impertinent. A commanding general will hardly make haste to comply with an insulting or impertinent request.

Every experienced officer knows how fatiguing is a march over a gullied road stopped up with wagons, and that to awaken wearied troops in time to start on the march at 1 o'clock will unfit them for the next day's work. General Porter knew that upon his arrival at Bristoe Station he was

EXPECTED TO PURSUE A FLYING ENEMY,

and that his commander's purposes could be better carried out by allowing his tired soldiers a two hours' rest, while, with his staff aided by orders from his commander, he prepared the road so that his troops could march with facility.

The suggestion that the troops could march on the railroad does not help the matter, for ten thousand men *after stumbling over crossties and trestles on a dark night for nine miles* would be of little value the next day.

Now, bear in mind that on the opening of Porter's trial, General Pope swore as follows (page 13, Ex. Doc. No. 71, Thirty-seventh Congress, third session, record of Fitz-John Porter court-martial):

By the JUDGE-ADVOCATE:

Question. What was the character of the night; was it starlight?

Answer. Yes, sir; as I remember, it was a clear night. * * * There was no difficulty in marching, so far as the night was concerned.

Major-General Heintzelman, a witness for the prosecution on Porter's trial, testified (see proceedings of court cited, Schofield board, page 80, 81):

It was very difficult to march on the railroad in the night. Some of the rails were torn up, ties piled on the track, culverts destroyed, and bridges burned. It was very dark. In the course of the night we had a drizzling rain.

General Reynolds (page 169 court-martial record) testified:

It was a very dark night.

* * * * * * *

I should not have considered it practicable to march that night. I should have considered it a very precarious undertaking.

These distinguished officers, Major-General Heintzelman and General Reynolds, are sustained in their testimony that the night was very dark by the following array of witnesses (I will cite the House

to the pages where their evidence can be found in the court-martial records; the pages referred to are the marginal pages in the Schofield board record): Col. Robert E. Cleary, page 121; Capt. B. F. Fifield, page 123; Capt. George Montieth, page 126; Col. Frederick T. Locke, page 134; General Charles Griffin, pages 160 and 161; Col. J. P. Brinton, page 205; General Robert C. Buchanan, page 214; General George D. Ruggles, page 279. All these witnesses testify that the night was very dark, and some of them swear that it was raining. And the substance of all their testimony shows that to have made the march either on the railroad or the dirt road or across the fields would have been almost impossible, and would have destroyed the efficiency of the army corps for any service the following day. This evidence also flatly contradicts the evidence of General Pope.

Now, as General Pope is flatly contradicted by this array of witnesses upon an important point, and as we have seen that he contradicted himself on another important point, and as this is but a sample of the want of accuracy in very many points in his evidence, can the American people allow the honor of Fitz-John Porter to be affected by any statement of such a man?

When Porter reached Bristoe Station the next morning, about 8 o'clock, he received no order to proceed farther.

To show that

NO ATTACK WAS EXPECTED,

I will read General Pope's orders to his other commanders:

HEADQUARTERS ARMY OF VIRGINIA,
Bristoe Station, August 27, 1862—9 o'clock p. m.

Major-General McDOWELL:

At daylight to-morrow morning march rapidly on Manassas Junction with your whole force, resting your right on the Manassas Gap Railroad, throwing your left well to the east. *Jackson, Ewell, and A. P. Hill are between Gainesville and Manassas Junction. We had a severe fight with them to-day, driving them back several miles along the railroad. If you will march promptly and rapidly at the earliest dawn of day upon Manassas Junction, we shall bag the whole crowd.* I have directed Reno to march from Gainesville at the same hour upon Manassas Junction, and Kearney, who is in his rear, to march on Bristoe at daybreak. Be expeditious and the day is our own.

JNO. POPE,
Major-General Commanding.

HEADQUARTERS, BRISTOE,
August 27, 1862—9 o'clock p. m.

Major-General KEARNEY:

At the very earliest blush of dawn push forward with your command with all speed to this place. You cannot be more than three or four miles distant. Jackson, A. P. Hill, and Ewell are in front of us. Hooker has had a severe fight with them to-day. McDowell marches upon Manassas Junction from Gainesville to-morrow at daybreak; Reno upon the same place at the same hour. *I want you here at day-dawn, if possible, and we shall bag the whole crowd.* Be prompt and expeditious, and never mind wagon trains or roads till this affair is over. Lieutenant Brooks will deliver you this communication. He has one for General Reno and one for General McDowell. Please have these dispatches sent forward instantly by a trusty staff officer, who will be sure to deliver them without fail; and make him bring back a receipt to you before daylight. Lieutenant Brooks will remain with you and bring you to this camp. Use the cavalry I send you to escort your staff officer to McDowell and Reno.

JNO. POPE,
Major-General Commanding.

BRISTOE STATION, *August* 27, 1862—9 p. m.

To Major-General RENO: March *at earliest dawn of day, with your whole command,* on Manassas Junction. *Jackson, Ewell, and A. P. Hill are between Gainesville and that place, and if you are prompt and expeditious we shall bag the whole crowd.* McDowell advances upon Manassas Junction from Gainesville at the same hour; Kearney on Bristoe. As you value success, be *off at the earliest blush of day.* Acknowledge the receipt of this, and do not stop to look for roads, and, if necessary, leave guards with your trains. Push across the country wherever artillery can be hauled. I rely on your speed.

JOHN POPE,
Major-General Commanding.

It will be observed that the other troops of Pope's army were ordered to march at daylight, and all were notified that the movement proposed was an aggressive one.

I would here call attention to what I regard as an

IMPORTANT FACT.

The order to Kearney said:

At the very earliest blush of dawn push forward with your command with all speed to this place. You cannot be more than three or four miles distant.

It also contained these words:

I want you here at day-dawn, if possible, and we shall bag the whole crowd.

Although Kearney had but three or four miles to travel, while Porter had to travel nine or ten miles, Porter reached Bristoe Station at 8 a. m., at the same time that Kearney arrived. Kearney, up to the day of his death, was so commended as to cause him to be considered a proper officer to be put in command of the army.

The next day Pope, over his own signature, informed Kearney that—

McDowell had intercepted the retreat of the enemy.

And in the same communication he said:

I desire you to move forward at 1 o'clock to-night, even if you can carry with you no more than 2,000 men. * * * The enemy is not more than three and a half miles from you. Seize any of the people of the town to guide you. Advance cautiously and drive in the enemy's pickets to-night and at early dawn attack him vigorously. Be sure to march not later than 1 with all the men you can take.

The evidence of Major-General Heintzelman, witness for the prosecution (marginal page 610, Schofield board report) is:

Direct-examination:

Question. Will you read to the board those events which you noted at the time, August 29, 1862?

Answer. Centreville, Friday, August 29, 1862: Kearney did not get off until after day-light. * * * In the night an order came for Kearney to advance at 1 a. m. and attack the enemy. Hooker, at 3 a. m., was to support him. The report was that General McDowell had intercepted the enemy, and the next morning I started at daylight as I was directed. When I got to where Kearney was his division had not started.

Now, bear in mind that while General Kearney was delaying six or seven hours, in complying with a most positive and peremptory order to move at 1 o'clock and attack the enemy at daylight, Porter, as we shall soon see, was obeying Pope's order to march at 3 a. m., with most implicit accuracy and promptness. As not even an explanation was required of Kearney, it must be presumed that Pope recognized that he made the delay for good reasons.

I am not permitted, under the rules of Congress, to allude to the able speeches of Senators, but I am authorized to refer to their published letters, one of which, under date of November 23, 1882, I find in the Chicago Tribune.

General LOGAN, in this letter, under the heading

POPE'S ORDER TO PORTER,

says:

Anticipating an attack from the confederate forces on the morning of the 28th.

General Logan commits an error here, because Pope's order to Porter directed him (Porter) to start so as to be at Bristoe Station the morning of the 28th; not for the purpose of resisting an attack, but quite the contrary, for the purpose of inaugurating an aggressive movement. I will give the exact language of General Pope in his order to Porter:

The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is.

In this connection, I will state that all the proof shows that at the hour Porter left Warrenton Junction there was not a confederate at Manassas, nor between that place and Gainesville.

General LOGAN, in his letter, also uses these words:

Hooker's command being about out of ammunition.

If it was true that Hooker was about out of ammunition, General Pope did not know it when he made the 6.30 order of the 27th, and therefore it could not have entered into his reasons for sending the order.

The proof shows that the report regarding the scarcity of ammunition did not reach Pope until after dark, and it appears that Hooker did not get through with his fight until dark, which was some time after Pope wrote the order, and so far from its being proven that he was out of ammunition, distinguished officers of Hooker's corps say that there was no scarcity; and if Hooker had needed ammunition is it not probable that General Pope would have ordered supplies from General Kearney, who was but four miles distant, and whom Pope ordered to start at daylight to Bristoe Station? In addition, it must be remembered that General Pope's general supply train was then in the road which led to that place.

The first allusion I find to this matter is in General Pope's official report.

General LOGAN also gives another reason why General Pope made the 6.30 order of the 27th. General LOGAN'S words are:

Inasmuch as he desired to send a portion of his forces in the direction of Gainesville and on to Thoroughfare Gap, so as to impede the advance of Longstreet, who was then marching rapidly to join Jackson.

This could not have been General Pope's purpose, because his correspondence shows that he had no idea at that time that Longstreet was anywhere near Thoroughfare Gap, marching to join Jackson.

It was two days after, that is, on the 29th, that General Pope says he learned of Longstreet's advance.

The words General Pope used on the 29th were:

The indications are that the force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day.

But, in passing, let me make this comment. If General LOGAN is correct in his assumption that the purpose of Pope's order of the 27th was for Porter to impede the advance of Longstreet, and if it was true that Longstreet was then marching rapidly to join Jackson, how can General LOGAN or General Pope, or any one else, deny that on the 29th Longstreet was in front of Porter?

But as a conclusive answer to the prosecutors and persecutors of General Porter, who still say that he should have literally complied with the order, and started to march at 1 o'clock in the night, I will read the opinion expressed by General Grant upon this subject, and will not weaken his forcible way of treating the matter by any further remarks of my own:

His troops had been marching all day, were very much fatigued, some of them only having just arrived in camp and had their supper, when the order to march at 1 o'clock was received. The night, as shown in the testimony before the court which tried Porter, and as confirmed by the evidence given in what was known as the Schofield board, was extremely dark; the road very narrow, with numerous cuts and streams passing through it; bounded by woods on both sides in many places, with no place where the open country could be taken for the march of troops; and blocked up with about 2,000 army wagons, many of them mired in the narrow road, so that the officer who conveyed this order to General Porter was over three hours on horseback, in making the distance of ten miles. Porter was expected, with fatigued troops, worn with long marches, on scanty rations, to make a march on a very dark night, through a blockaded road, more rapidly than a single aid-de-camp, unincumbered, had been able to get through on horseback.

When he received the order he showed it to his leading generals, and, apparently with one accord, they decided that the movement at that hour was impossible; further, that no time could possibly be gained by so early a start, and that if they should start at that hour and get through to Bristoe Station at the time designated, the troops would not be fit for either fighting or marching on their arrival at that point. Porter replied, however, "Here is the order, and it must be obeyed;" but, after further consultation, he decided, as did his generals, that a postponement of two hours in starting the march would enable them to get through as quick as if the men were kept on foot and under arms while the road was being cleared, and that the men would be in much better condition for service on their arrival at their destination. He was entirely justified in exercising his own judgment in this matter, because the order shows that he was not to take part in any battle when he arrived there, but was wanted to pursue a fleeing enemy. He did not leave the commanding general in ignorance of his proposed delay, nor of the reasons for it, but at once sent a request that the general commanding should send back cavalry (he had none himself) and clear the road near him of incumbrances, so that the march might be unobstructed.

It is shown that a literal obedience of the order of the 27th of August was a physical impossibility It is further shown that General Porter was desirous of obeying it literally, so far as was practicable, but was prevailed upon by his leading generals—against whom a suspicion of disloyalty to their commander or to the cause has never been entertained—to do what his own judgment approved as the best thing to do, to make a later start with a view of arriving at his destination as early as it was possible for him to arrive there, and to give to his jaded and worn troops two hours more of needed rest. If the night had been clear and the road an open one there would not have been as much justification for the exercise of his discretion in the matter; but there is no doubt but that he would have arrived at Bristoe Station just as early, and with his troops in much better condition, if he had started at early dawn instead of at the hour he did, and the intervening time had been used in clearing the road for his troops when they did march. Where there were open spaces along the line of the road they were either marshy, filled with stumps of trees, and impossible to march over, or were crowded with army wagons, so that the track of his army was limited to the incumbered narrow road between the two points designated in the order, which could be cleared only by the wagons being moved ahead, as requested of Pope.

Much of the testimony before the court and before the army board might be quoted to confirm what is here stated; but as this is all accessible to the reader I will not lengthen this statement by quoting it.

SECOND SPECIFICATION.

We now come, Mr. Speaker, to the second specification, which refers to what is called the joint order. General Porter received it about noon, 12 o'clock, on August 29. The entire specification reads:

SPECIFICATION 2D.—In this: That the said Major-General Fitz-John Porter, being in front of the enemy, at Manassas, Virginia, on or about the morning of August 29, 1862, did receive from Major-General John Pope, his superior commanding officer, a lawful order, in the following letters and figures, to wit:

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

Generals McDOWELL and PORTER:

You will please move forward with your joint commands towards Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike, and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own the whole command shall halt. It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall on the enemy's flank and rear. I do not even know Ricketts' position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts and instruct him to join the other divisions of his corps as soon as practicable. If any considerable advantages are to be gained by departing from this order it will not be strictly carried out. One thing must be held in view: That the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or the next day. My own headquarters will, for the present, be with Heintzelman's corps or at this place

JOHN POPE,
Major-General, Commanding.

Which order the said Major-General Porter did then and there disobey. This at or near Manassas, in the State of Virginia, on or about the 29th of August, 1862.

The charge that Porter delayed in obeying this order directing that McDowell and himself march towards Gainesville is certainly without foundation.

He did not receive the order until 12 o'clock, and all the proof shows he had anticipated the order and had fully executed it. He had "moved forward with his command toward Gainesville" as far as he could go, and he had fully complied with the part of the order which said—

I desire that as soon as communication is established between this force (that on his right), and your force, the whole command shall halt.

He had established communication with the force on his right, and he had formed line to engage Longstreet, whose forces were drawn up in his immediate front.

Even General *McDowell testifies that Porter had complied* with the directions of the order before it reached him, and all the facts show that General Porter gave an intelligent and prompt compliance with this and the two preceding orders which he received that day; and the proof also shows that General McDowell, who was senior to Porter, was present when Porter received the order; that he assumed command and became responsible for the movements of General Porter's corps.

To use the

LANGUAGE OF THE SCHOFIELD BOARD:

McDowell arrived on the field, * * assumed the command, and arrested Porter's advance.

General McDowell's exact language while testifying upon this point against Porter was (see record, page 83):

At that time I conceived General Porter to be under me. When the joint order reached us we were doing what that joint order directed us to do. That joint order found the troops in the position in which it directed them to be.

I cannot do better than to read an extract from the report of the Schofield board, which explains these views very fully:

These charges and specifications certainly bear no discernible resemblance to the facts of the case as now established. Yet it has been our duty to carefully compare with these facts the views entertained by the court-martial, as shown in the findings and in the review of the case which was prepared for the information of the President by the judge-advocate-general, who had conducted the prosecution, and thus to clearly perceive every error into which the court-martial was led. We trust it is not necessary for us to submit in detail the results of this comparison, and that it will be sufficient for us *to point out the fundamental errors, and to say that all the essential facts in every instance stand out in the clear and absolute contrast to those supposed facts upon which General Porter was adjudged guilty.*

The fundamental errors upon which the conviction of General Porter depended may be summed up in few words. It was maintained, and apparently established to the satisfaction of the court-martial, that only about one-half of the confederate army was on the field of Manassas on the 29th of August, while General Lee, with the other half, was still beyond the Bull Run Mountains; that General Pope's army, exclusive of Porter's corps, was engaged in a severe and nearly equal contest with the enemy, and only needed the aid of a flank attack which Porter was expected to make to insure the defeat and destruction or capture of the confederate force in their front under General Jackson; that McDowell and Porter, with their joint forces, Porter's leading, had advanced towards Gainesville until the head of their column had reached a point near the Warrenton turnpike, where they found a division of confederate troops, "seventeen regiments," which Buford had counted as they passed through Gainesville, marching along the road across Porter's front, and going toward the field of battle at Groveton; that McDowell ordered Porter to at once attack that column thus moving to join Jackson, or the flank and rear of the line if they had formed in line, while he would take his own troops by the Sudley Springs road and throw them upon the enemy's center near Groveton; that Porter, McDowell having then separated from him, disobeyed that order to attack, allowed that division of the enemy's troops to pass him unmolested, and then fell back and retreated toward Manassas Junction; that Porter then remained in the rear all the afternoon, listening to the sounds of battle and coolly contemplating a presumed defeat of his comrades on the center and right of the field; that this division of the enemy having passed Porter's column and formed on the right of Jackson's line near Groveton, an order was sent to Porter to attack the right flank or rear of the enemy's line, upon which his own line of march must bring him, but that he had willfully disobeyed, and made no attempt to execute that order; that in this way was lost the opportunity to destroy Jackson's detached force before the other wing of General Lee's army could join it, and that this junction having been effected during the night of the 29th, the defeat of General Pope's army on the 30th thus resulted from General Porter's neglect and disobedience.

Now, in contrast to these fundamental errors the following all-important facts are fully established:

As Porter was advancing toward Gainesville, and while yet nearly four miles from that place and more than two miles from the nearest point of the Warrenton turnpike, he met the right wing of the confederate army, 25,000 strong, which had arrived on the field that morning and was already in line of battle. Not being at that moment quite fully informed of the enemy's movements, and being then under orders from Pope to push rapidly toward Gainesville, Porter was pressing forward to attack the enemy in his front, when McDowell arrived on the field with later information of the enemy, and later and very different orders from Pope, assumed the command, and arrested Porter's advance. This latter information left no room for doubt that the main body of Lee's army was already on the field and far in advance of Pope's army in preparation for battle. General McDowell promptly decided not to attempt to go farther to the front, but to deploy his column so as to form line in connection with General Pope's right wing, which was then engaged with Jackson. To do this General McDowell separated his corps entirely from General Porter's, and thus relinquished the command and all right to the command of Porter's corps. McDowell did not give Porter any order to attack, nor did he give him any order whatever to govern his action after their separation.

It does not appear from the testimony that he conveyed to General Porter in any way the erroneous view of the military situation which was afterward maintained before court-martial, nor that he suggested to General Porter any expectation that he would make an attack. On the contrary, the testimony of all the witnesses as to what was actually said and done, the information which McDowell and Porter then had respecting the enemy, and the movement which McDowell decided to make, and did make, with his own troops, prove conclusively that there was left no room for doubt in Porter's mind that his duty was to stand on the defensive and hold his position until McDowell's movement could be completed. It would have indicated a great error of military judgment to have done or ordered the contrary, in the situation as then fully known to both McDowell and Porter.

General Pope appears from his orders and from his testimony to have been at that time wholly ignorant of the true situation. He had disapproved of the sending of Ricketts to Thoroughfare Gap to meet Longstreet on the 28th, believing that the main body of Lee's army could not reach the field of Manassas before the night of the 30th Hence he sent the order to Porter dated 4.30 p. m. to attack Jackson's right flank or rear. Fortunately that order did not reach Porter until about sunset, too late for any attack to be made. Any attack which Porter could have made at any time that afternoon must necessarily have been fruitless of any good result.

Porter's faithful, subordinate, and intelligent conduct that afternoon saved the Union army from the defeat which would otherwise have resulted that day from the enemy's more speedy concentration. The only seriously critical period of that campaign, namely, between 11 a. m. and sunset of August 29, was thus safely passed. Porter had understood and appreciated the military situation, and, so far as he had acted upon his own judgment, his action had been wise and judicious. For the disaster of the succeeding day he was in no degree responsible. *Whosoever else may have been responsible, it did not flow from any action or inaction of his.*

The judgment of the court-martial upon General Porter's conduct was evidently based upon greatly erroneous impressions, not only respecting what that conduct really was and the orders under which he was acting, but also respecting all the circumstances under which he acted. Especially was this true in respect to the character of the battle of the 29th of August. That battle consisted of a number of sharp and gallant combats between small portions of the opposing forces. These combats were of short duration, and were separated by long intervals of simple skirmishing and artillery duels. Until after 6 o'clock only a small part of the troops on either side were engaged at any time during the afternoon. Then, about sunset, one additional division on each side was engaged near Groveton. The musketry of that last contest and the yells of the confederate troops about dark were distinctly heard by the officers of Porter's corps; but at no other time during all that afternoon was the volume of musketry such that it could be heard at the position of Porter's troops. No sound but that of artillery was heard by them during all those hours when Porter was understood by the court-martial to have been listening to the sounds of a furious battle raging immediately to his

right. And those sounds of artillery were by no means such as to indicate a general battle.

The reports of the 29th and those of the 30th of August have somehow been strangely confounded with each other. Even the confederate reports have since the formination of the war been similarly misconstrued. Those of the 30th have been misquoted as referring to the 29th, thus to prove that a furious battle was going on while Porter was comparatively inactive on the 29th. The fierce and gallant struggle of his own troops on the 30th has thus been used to sustain the original error under which he was condemned. General Porter was in effect condemned for not having taken any part in his own battle. Such was the error upon which General Porter was pronounced guilty of the most shameful crime known among soldiers. *We believe not one among all the gallant soldiers on that bloody field was less deserving of such condemnation than he.*

This board, whose material was of the very best, composed of men of character, learning, and integrity, not only acquits Porter, but passes upon him and his gallant conduct the highest eulogy. They show a generous eagerness to publish these exculpatory facts, recognizing that it is their great privilege to help to lift away the obloquy which has so long rested upon the name and character of a great and noble man. Their deliberations were attended with fairness, caution, energy, and openness, such as to exclude the idea of prejudice on one side or partiality on the other. And the conclusion reached by this board has been indorsed by the American people.

This board, in addition to what is set out in the foregoing extract, as the conclusion of its labors, after the most patient and solemn deliberation, under the guidance of the truths of history and the testimony before them, elaborately examined and compared with the testimony upon which the convicting court-martial had acted, proceed to recommend in these words:

Having thus given the reasons for our conclusions, we have the honor to report, in accordance with the President's order, that, in our opinion, *justice* requires at his hands such action as may be necessary to annul and set aside the findings and sentence of the court-martial in the case of Major-General Fitz-John Porter, and to restore him to the positions of which that sentence deprived him—such restoration to take effect from the date of his dismissal from service.

MORE OF GENERAL LOGAN'S MISTAKES.

General LOGAN, in the newspaper article, in discussing the operations of August 29, says:

Pope issued an order at 3 o'clock a. m. for Porter to move at daylight to Centreville. This order being a verbal order, Porter did not obey it.

General LOGAN is again mistaken. This order was not verbal; it was written, and appears in records of the court of the Schofield board, and in all the proceedings. I read from the proceedings of the Schofield board, page 18, and I also find it in the CONGRESSIONAL RECORD of January, 1883:

HEADQUARTERS ARMY OF VIRGINIA,
Near Bull Run, August 29, 1862—3 a. m.

GENERAL: McDowell has intercepted the retreat of Jackson. Sigel is immediately on the right of McDowell. Kearney and Hooker march to attack the enemy's rear at early dawn. Major-General Pope directs you to move upon Centreville at the first dawn of day with your whole command, leaving your trains to follow. It is very important that you should be here at a very early hour in the morning. A severe engagement is likely to take place, and your presence is necessary.

I am, general, very respectfully, your obedient servant,

GEORGE D. RUGGLES,
Colonel and Chief of Staff.

Major-General PORTER.

General Porter obeyed the order promptly, and marched at least six miles to a point beyond Manassas Junction.

It is not surprising that an experienced soldier like General LOGAN should get an impression that the order was not obeyed. No doubt his study of the campaign convinced him that Porter might have doubted its authenticity and hesitated a moment to inquire into its integrity before rousing his tired troops for a march, pursuant to an order which showed inconsistency upon its face.

This order informed Porter that a severe engagement was likely to take place near Centreville, and therefore he is told that "his presence is necessary."

Now, General LOGAN'S study of the case no doubt convinced him that so eminent a soldier as General Porter could see in a moment that the order was devoid of purpose; that it carried him away from the field of action, and not towards a point where "a severe engagement was likely to take place."

General LOGAN'S study of the case showed him that Porter knew Jackson's corps was not at or near Centreville, but that the bulk of his troops were between Groveton and Sudley's Springs.

General LOGAN'S study of the case also showed him that Porter knew of the contradictory orders which General Pope sent to General McDowell the day previous, viz:

First. To march with his whole force to Manassas.

Second. To march upon Centreville.

Third. To march upon Gum Spring.

It is possible General LOGAN felt that if he had been in Porter's place he would have asked explanations before obeying the order.

But, as I have asserted, General Porter obeyed the order without hesitation, and continued to march as directed, until General Pope, convinced that the order was wrong, hastened to countermand it, and to direct Porter to march upon Gainesville.

General LOGAN, continuing the narrative, says:

General Pope in the mean time, finding that Longstreet was moving to the support of Jackson and that Porter was still not moving, changed his order and put it in writing to Porter to avoid any excuse on Porter's part. The order was in the following language:

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

To Major-General FITZ-JOHN PORTER:

Push forward with your corps and King's division, which you will take with you, upon Gainesville. I am following the enemy down the Warrenton turnpike Be expeditious or we will lose much.

JOHN POPE,
Major-General, Commanding.

The order was handed to General Porter about 9 o'clock. His troops were then ready to move.

This last expression would indicate that Porter had not yet left his camp, near Bristoe Station, when in point of fact he was six miles away, two miles beyond Manassas Junction.

General LOGAN then says that Porter did not move in compliance with that order until 10 o'clock, and that—

He moved slowly and leisurely and arrived at Dawkins Branch at 12 o'clock, a distance of five miles.

I admit that this was not rapid marching, but without any orders to hasten, it was fair speed for a hot August day, and it must be remembered that these troops were up before day and had already marched six miles before commencing the five-mile march referred to.

General LOGAN further says:

At Dawkins Branch General McDowell came up to the head of Porter's column, having what is known as the joint order, or an order to McDowell and Porter both to proceed to Gainesville.

* * * * * *

At this point McDowell showed Porter the joint order to proceed to Gainesville, at the same time giving him the information sent to Pope by Buford of the passage of the fifteen regiments of infantry and five hundred cavalry through Gainesville that morning. This was the only information that Porter had on the subject of Longstreet's forces, as he stated himself.

General LOGAN is certainly mistaken in this last statement, for the proof shows that Porter obtained his information from various other sources, among which was the fact that he had taken prisoners belonging to Longstreet's corps.

General LOGAN also says:

McDowell finding that it was impossible to pass Porter's forces in the road with his command went back and took his command on a road off to the right, reaching out to the rear of Pope's forces that were then engaged in battle. He marched and arrived in time to put his forces in action and fought them until 9 o'clock that evening.

The proof shows that he is mistaken on this point. General McDowell says that the fight commenced about sundown and lasted nearly an hour. What was called General Pope's fight of the 29th was on Pope's right, fully three miles off. The fight on the Warrenton pike was part of King's division, under Hatch, engaged with Hood's two brigades.

THIRD SPECIFICATION.

We now come, Mr. Speaker, to *the third and last specification*, which embodies what has been termed the 4.30 order, and charged that General Porter received and failed to comply with the directions it contained. I will read:

SPECIFICATION 3D.—In this: That the said Major-General Fitz-John Porter, having been in front of the enemy during the battle of Manassas, on Friday, the 29th of August, 1862, did on that day receive from Major-General John Pope, his superior and commanding officer, a lawful order, in the following letters and figures, to wit:

HEADQUARTERS IN THE FIELD, *August* 29, 1862—4.30 p. m.

Major-General PORTER:

Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds. The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves, and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so in your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,
Major-General, Commanding.

Which said order the said Major-General Porter did then and there disobey, and did fail to push forward his forces into action either on the enemy's flank or rear, and in all other respects did fail to obey said order. This at or near Manassas, in the State of Virginia, on or about the 29th of August, 1862.

General LOGAN insists that Longstreet was not in Porter's front, and that he could easily have complied with the order and attacked the enemy's flank and rear. He says:

General Grant says: "And now it is known by others, as it was known by Porter at the time, that Longstreet, with some 25,000 men, was in position confronting Porter by 12 o'clock on the 29th of August, four and a half hours before the 4.30 order was written."

Upon what this statement of General Grant is based it is impossible for me to understand. In the first place Porter did not know that Longstreet was there with 25,000 men, nor did he know, unless he made a false statement, anything about the force, except what General McDowell told him was his information received from General Buford. Nor was Longstreet confronting Porter. He was two and a half miles away from Porter; was not on the same road that Porter was, but was forming west of the old Manassas Railroad, on Pageland Lane, to the right rear of Jackson's forces, fronting the forces under Pope, on Pope's left flank, that were then attacking Jackson. His front was entirely in a different direction from Porter.

The evidence is so clear that General LOGAN is mistaken regarding this matter that I might be excused if I did not sustain the assertion by reading evidence upon the subject.

General Robert E. Lee says:

Longstreet's command arrived within supporting distance of Jackson the 29th of August, 1862, between 9 and 10 a. m., and his lines were formed by noon.

General Longstreet says:

My command arrived 9 a. m., the 29th August, near Groveton. * * * My command was deployed in double lines for attack between 10 a. m. and 12 m. on the 29th, extending from Jackson's right across the turnpike and Manassas Gap Railroad. * * * My command was ready to receive any attack after 11 a. m., and we were particularly anxious to bring on the battle after 12 m., General Lee more so than the rest.

What I have just read is from letters written by these officers since the war closed.

To show that their memory was correct, I will now read extracts from official reports which were indited while these events were transpiring.

I will first read extracts from a letter written by General Lee to President Davis:

HEADQUARTERS ARMY OF NORTHWESTERN VIRGINIA,
Chantilly, Va., September 3, 1862.

MR. PRESIDENT: My letter of the 30th ultimo will have informed your excellency of the progress of this army to that date. General Longstreet's division, having arrived the day previous, was formed in order of battle on the right of General Jackson, who had been engaged with the enemy since morning, resisting an attack commenced on the 28th. The enemy on the latter day was vigorously repulsed, leaving his numerous dead and wounded on the field. His attack on the morning of the 29th was feeble, but became warmer in the afternoon, when he was again repulsed by both wings of the army, his loss on this day, as stated in his published report, herewith inclosed, amounting to 8,000 killed and wounded.

* * * * * * *

I have the honor to be, very respectfully, your obedient servant,

R. E. LEE, *General.*

To His Excellency JEFFERSON DAVIS,
President Confederate States of America.

I will now read an extract from the

REPORT OF LIEUTENANT HAZLETT

who commanded the battery in Pope's army:

MINOR'S HILL, VA., *September 3, 1862.*

Captain MARTIN, *Chief of Division Artillery:*

* * * * * * *

We took up a position on an eminence* opposite to where the enemy were ascertained to be, and in a short time they opened on a column of our infantry with one gun, a 6-pounder. We replied, but with what effect could not be ascertained, as the enemy were concealed in the woods. The enemy kept up their firing for a very short time, none of their shots reaching us, and then ceased, but shortly after opened upon *us again with two rifled guns, one of them being a 10-pounder Parrott.* None of their shots took effect in the battery, though some of the *infantry some distance in the rear were injured by ricochet shots. At this same time clouds of dust were seen rising in woods near the* enemy's batteries. *I directed part of the guns of the battery on this* dust and part on the enemy's batteries. *The effect of none of these* shots could be seen for the woods, *but shortly after a large column of infantry† appeared in an opening in the woods,* on which the guns, *which could see into this place,* were immediately turned with very good effect, as the *shells could be seen bursting directly in the column,* which *broke* and ran into the woods for shelter, but soon again formed, only *to be again dispersed.*

* * * * * * *

Very respectfully, your obedient servant,

CHAS. E. HAZLETT,
First Lieutenant, Fifth Artillery.

The report of General M. D. Corse, in whose brigade these shot fell, corroborates the statement of Lieutenant Hazlett.

Lieutenant Hazlett also made a report to Captain Perkins, assistant adjutant-general, an extract from which I will read:

The effect of our firing on their artillery could not be ascertained, *but several times their infantry made their appearance,* when the effect of our fire on them was plainly visible, causing them to break and seek shelter out of sight.

From an array of *evidence which cannot be refuted,* the advisory board found and asserted (see page 1710):

The fact is that Longstreet with *four* divisions of full 25,000 men was there on the field before Porter arrived with his two divisions of 9,000 men; that the confederate general-in-chief was there in person at least two or three hours before the commander of the Army of Virginia himself arrived on the field, and that *Porter with his two divisions saved the Army of Virginia that day from the disaster naturally due to the enemy's early preparation for battle.*

This and much other conclusive evidence to the same effect is now available to every one, and it shows beyond question that Porter could not, at 6 o'clock, when he received the order, have attacked Jackson's flank or rear. It shows he could not have done so at 4.30 when the order was written, nor for five hours prior to 4.30.

Therefore, yielding every other point for the present, Porter was excused from any effort at executing the 4.30 order, because it was absolutely impossible for him to have done so. He was two miles and a half from Jackson's flank; the country was rugged and ditches and other obstacles intervened, and in addition the presence of Longstreet with 25,000 men was a conclusive obstacle.

The distinguished writer of the Tribune article, apparently finding that he could not maintain the position that Porter could have attacked Jackson's flank, changes his line of argument and attempts to show that even under such a state of facts Porter was wrong.

He says:

Thus General Grant puts Porter squarely in front of Longstreet with his 25,000 men, and says that he could not have obeyed the order without first whipping Longstreet's 25,000 with 10,000 men.

General LOGAN, then, arguing from General Grant's standpoint, says:

He was only required to attack the right flank of the enemy, and the right flank of the enemy was the right flank of Longstreet's command. He was part of the enemy, his flank being in the direction of Porter.

General Grant says: "He was three miles away from Jackson's flank."

If so, then why not attack Longstreet, whose flank was sticking out in air where Porter could have attacked it, as it was the only flank that presented itself where he could attack? How, then, was he to construe the order? Was he to order his men to attack Jackson when the order did not say so? Was he to say, "Longstreet's flank is sticking out there; I can see it; but I am not to attack that; he is not the enemy; the order says to attack the enemy?" Will he say that does not mean to attack Longstreet?

This is the logic of General Grant's position.

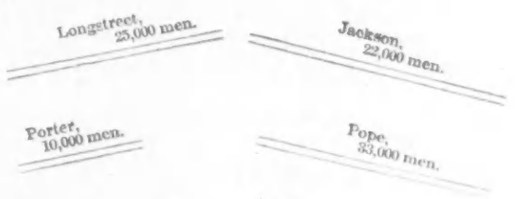
General Grant also assumes that to have attacked under that order would have taken Porter until 9 o'clock, inasmuch as he would have to make disposition of some of his troops, issue orders, &c.

Now, admitting, for the sake of argument, that it was received as claimed, I will explain why General Porter could not have complied with the 4.30 order by an attack on General Longstreet's flank and rear as urged by General LOGAN.

The very order we are considering directed something besides an attack on the enemy's flank and rear. It directed Porter to keep his "right in communication with General Reynolds;" also to keep "well closed to the right all the time."

And, again, the same order closed with an admonition that, if compelled to fall back, to keep "in close communication with the right wing."

Now I submit this diagram which proves that an effort to attack Longstreet's right would have cut Porter loose from Pope, and he could not have complied with the three last imperative injunctions of the 4.30 order.



These points having been disposed of,

THE ASSAILANTS OF GENERAL PORTER MAKE A NEW ATTACK.

One justification for Porter not attacking pursuant to the 4.30 order is this:

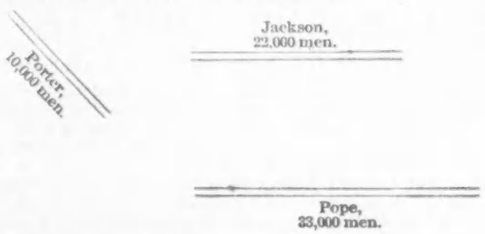
That General Pope issued the order under a wrong impression of the status, that is to say, Pope ordered Porter to attack Jackson's right flank, under the impression that Longstreet did not intervene.

Porter's assailants say we have no right to any such assumption. They say, admitting it to be established that Longstreet was in front of Porter at 11 a. m., we must assume that Pope knew it, and therefore we must assume that when he issued the order for Porter to attack the enemy's flank, he intended him (Porter) to attack the flank of General Longstreet.

To show the error of this position it is only necessary to again allude to what I have just shown. If General Pope had intended Porter to attack Longstreet he would not have added the requirement for him to keep "well closed to the right all the time."

But there is other incontrovertible evidence that General Pope did not know that Longstreet was on Jackson's right and in Porter's front.

The evidence of the prosecuting witness who testified on the trial of General Porter in 1862 was such that the majority of the court saw fit to find that at 4.30 o'clock on the 29th the position of the two armies was substantially as shown by this diagram:



and it also appears that they saw fit to find that Longstreet was at least twenty-four hours' march distant.

That General Pope regarded the status at 4.30 as is shown by the diagram is further proven by his joint order to McDowell and Porter, received by Porter about noon on the 29th.

In this order General Pope said:

The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day.

We thus see that on the 29th Pope thought Longstreet was marching at a pace which would bring him on the field on the night of the 30th or on the following day (the 31st).

General Pope also said in the order:

The enemy is massed in the woods in front of us.

Bear in mind that he says "the enemy."

*Dawkins Branch. †Longstreet's.

As there was no pretense that Longstreet was massed in front of Pope, and as he alludes to no other force of the enemy being near, he must have supposed such to have been the fact. In addition to all this General Pope testified, December 4, 1862:

Had General Porter fallen upon the flank of the enemy, as it was hoped, at any time up to 8 o'clock that night, it is my firm conviction that we should have destroyed the army of Jackson.

Again he testified, December 6, 1863:

General Porter was expected to attack if possible—and as I understood it to be practicable—the right flank of Jackson's forces, and if possible the rear of his forces, to prevent, if it were practicable, the junction of Longstreet's forces with Jackson's, and to crush Jackson's flank before Longstreet could effect a junction with him. I did not then believe, nor do I now believe, that at that time (4.30 p. m.) any considerable portion of Longstreet's corps had reached the vicinity of the field. I do not know that General Porter, between 5.30 p. m. and 7 o'clock, had the enemy immediately in his front, though I would think it altogether likely that *Jackson* would have pushed out some force to observe the road between Gainesville and Manassas Junction. It is altogether likely, therefore, that some of *Jackson's* troops were in presence of General Porter's advance, though of my own knowledge I do not know that.

It is hard to conceive how the most prejudiced mind could want anything further on this subject, but I will add one word from no less a distinguished soldier than General and Ex-President Grant, who said:

But, even if the position of Lee's army had been thirty-six to forty-eight hours distant, as asserted in the joint order to McDowell and Porter, it would have been impossible for Porter to have obeyed the 4.30 order, because it did not contemplate a night attack, and was not received by Porter until about dark. To have obeyed it would have required some little preparation, movement of troops, and distribution of orders, so that it would have been some time after dark before he could have moved from the position he was then occupying, and at least as late as 9 o'clock at night before he could have reached Jackson's flank to engage it. His efforts to execute the order, notwithstanding its apparent inappropriateness, demonstrate this assertion.

I feel, with all this proof, that no one will any longer contend that General Porter was in any way censurable for anything connected with the 4.30 order, of which so much has been said.

Yet in the face of all this General LOGAN says:

At 5 o'clock (one hour later) General Porter received the "4.30 order" to attack the enemy's right and rear at once. At this very moment when he was ordered to attack, the larger portion of Longstreet's forces were engaged against Pope's forces in front of Jackson, leaving but a small force back under Longstreet for the protection of the flank of the army.

It is clear that there is error in the statement that Porter received this order at *five o'clock*. It was written at 4.30, and copies taken of it, and it was carried five and a half miles.

It was *positively proven before the Schofield* board that this order was not received by Porter until after 6 p. m.

In fact, General McDowell there produced a dispatch from Porter, dated 6 p. m., which shows that Porter had not received the order at that hour. Porter claimed and proved in his defense to the same effect on the trial in 1862, but the court disregarded this testimony.

I here call attention to the difficulty experienced by Porter's assailants in fixing the locality of Longstreet's corps at this hour. One witness puts him thirty-six hours' march from Jackson's right flank, another puts him near Gainesville, another to the right and rear of Jackson, another directly on Jackson's right, and here we have the remarkable assertion that at this hour "Longstreet's forces were engaged against Pope's forces in front of Jackson."

Does he mean to say that Longstreet was in front of and between Jackson's and Pope's forces?

All accounts say both Jackson's and Pope's troops were firing.

If it was true that Longstreet was between the two, receiving fire from both front and rear, some report of the many officers engaged would have alluded to it, and our first information upon this subject would not have been found in a letter to a Chicago paper twenty years after these events transpired.

GENERAL LOGAN'S REMARKS ON NAPOLEON'S LEADING MAXIM EXAMINED.

Having in the beginning of these remarks read some uncontroverted maxims, I will, now, Mr. Speaker, allude to that maxim of war enunciated by the author of the article in the Chicago Tribune, and I beg to state that I make no criticism upon the very creditable military career of this distinguished soldier.

The history of General LOGAN evidences that he never failed to conform to the military maxims I have cited, and I am justified in giving this as one of the reasons for his remarkable and successful career; and while facts show that General LOGAN at the head of an army in battle was right in the theories he put in practice, I must at the same time insist that the same eminent American, while in the heat of debate, allows his enthusiasm to carry him away, and thus cause him to announce principles that are clearly wrong.

In the published argument, he does not allude to the maxims I have quoted, but gives this as

NAPOLEON'S LEADING MAXIM:

One of the great leading maxims in Napoleon's military experience—you will find it in all his campaigns and it was a standing order to all his corps commanders—was that when the general of the army was not present to give orders, each corps commander should march to the sound of the enemy's guns. That was a general order in all his campaigns.

In reply, I beg to state that I have searched in vain to find any such principle laid down as a maxim of Napoleon.

Maxim, as defined by Webster:

A MAXIM is a guiding principle, ever to be received and admitted in the practical concerns of life.

Also, continues Mr. Webster:

The greatest sentiment, sentence, proposition, or axiom, *i. e.*, of the greatest weight or authority. An established principle or proposition; a condensed proposition of important practical truth; an *axiom* of practical wisdom.

Axiom, as defined by Webster, is:

An established principle in some art or science.

As defined by Worcester:

A self-evident truth or proposition; an established principle not requiring proof.

This idea of marching to the sound of guns very probably arose in this way: When a boy, I, in company with our many patriotic citizens, on every Fourth of July morning, hastened to *the point where we heard the sound of guns*, and after the exhaustion of all available ammunition, as well as the strength of the cannoneers, we listened to what is called

FOURTH OF JULY ELOQUENCE,

in which, of course, much was said of Washington, Napoleon, and other distinguished gentlemen.

No doubt General LOGAN's experience was very like mine in this respect, which may account for the apparent confusion of war speeches with war principles. I admit that when I read what is alleged to be a Napoleonic maxim, it sounded so familiar and patriotic that I was obliged to reflect for a moment before I could see the objections to adopting it as a military maxim.

The very definition of the word *maxim* shows that for a proposition to become such it must be one that will hold good under all circumstances, and not a proposition which could, with propriety, only sometimes be adoped. In illustration, I recall this incident: A young physician determined to practice from personal experience. His first patient recovered rapidly from pneumonia, and learning that he had eaten freely of pork and beans, he writes in his note-book:

"*For pneumonia—pork and beans*," and adopting this as a medical maxim, he prescribed the same diet for his next pneumonia patient. The very prompt death of the sufferer embarrassed the young doctor, and below the former entry he wrote: "*For pneumonia: Pork and beans sometimes.*" We all admit that to "march to the sound of the enemy's guns" would sometimes be a very good movement. It was the proper thing for Grouchy at 11 a. m., June 18, 1815, but it would not do to make this an invariable rule.

We are all familiar with the fact that the sound of guns is loudest where there is the most artillery, and that strong redoubts are frequently built where batteries are congregated.

We are also familiar with the fact that prudent commanders keep heavy reserves to defend concentrated artillery; therefore to "march to the sound of the enemy's guns" would sometimes involve an attack upon the very strongest and possibly impregnable positions, and it must be remembered that

NAPOLEON MODESTLY SUGGESTED

the propriety of seeking to pierce lines at the weakest, not the strongest point.

Again, if we admit this to be a maxim, let us see to what it might lead.

If you, Mr. Speaker, were commanding an army and knew your adversary would follow this alleged maxim, would you not be induced to cause the *sound* of *guns* at a point where an attack would be least detrimental to your army?

Now, if in future, our military gentlemen in following the "march-to-the-sound-of-the-enemy's-guns" maxim, should strike an impregnable position, much as mankind is dazzled by the display of heroic courage, would not we all, even General LOGAN, while witnessing the terrible shock and inevitable recoil of broken, shattered, and decimated columns, involuntarily exclaim: It is magnificent, but it is not war? Or if a cunning foe by the sound of guns should lure us from the point we should attack, would we not finally be compelled to modify this proposition so that it would read "march to the sound of the enemy's guns" *sometimes*, and having done this, the proposition would no longer be a maxim, and much less a Napoleonic maxim?

I beg here to be permitted to suggest that "to always, in the absence of orders, march to the sound of the enemy's guns" is not a maxim, for the reason that it conflicts with several *undisputed maxims which were enunciated and adhered to by Napoleon.*

1.

It would conflict with the maxim which directs corps commanders—

To profit boldly by every opportunity.

2.

And which admonishes them that—

The last moment never returns.

3.

And which commands them to seize—

A moment in battle when the smallest manœuver decides superiority.

4.

And which commands them—

To manœuver to engage fractions of the hostile armies.

5.

And which commands them –

To throw the mass of their forces upon the decisive point.

These purposes and many others essential to success might or might not be attained by "marching to the sound of the enemy's guns."

There is another, the sixteenth, maxim of Napoleon:

It is an approved maxim of war never to do what the enemy wishes you to do, for this reason alone: that he desires it.

To march to the sound of his guns might be just what the enemy wished. I will also read Napoleon's tenth maxim:

When an army is inferior in numbers, inferior in cavalry, and in artillery, it is essential to avoid an action.

For commanders of divisions and corps of such an army to "march to the sound of the enemy's guns" might seriously conflict with this maxim.

I might continue this investigation through very many of the remaining seventy-eight maxims of Napoleon, but I will conclude by remarking that as this supposed maxim, "march to the sound of the enemy's guns" was made the basis and foundation and starting point of all the voluminous arguments against General Porter, and as we have clearly demonstrated that it is not, never was, and never can be either a maxim or an axiom of war, much less a Napoleonic maxim, and still much less (as claimed by the prosecution) Napoleon's leading maxim, let me ask, Mr. Speaker, is there any foundation upon which the fabric of the opposing argument can stand?

It is evident, as before stated, that the commanding general cannot be at the head of every corps "to profit boldly by every opportunity." If he cannot do it, and corps commanders are simply to literally obey orders, how then are they to take advantage of those "moments in battles which never return to be profited by?"

I think, Mr. Speaker, that what I have said explains that "to profit boldly by every opportunity" corps and division commanders must often strike when, in their discretion and judgment, circumstances make it advisable. This must be done with orders or without orders.

If a corps commander is right in attacking without orders, so he must in his discretion

DISSENT FROM ATTACKING,

even though ordered by his commander to do so.

If the army commander is fully possessed of all the facts—if he is fully apprised of the military status, and with that knowledge issues an order, it would be hard to justify a subordinate officer who hesitates to obey. A case of that character comes to my mind.

General Reille commanded Napoleon's largest corps. He was with the Emperor early on the morning of June 16, from whom he received *orders to march with Ney to Quatre Bras.* Reille was fully apprised of Blucher's position, and thought it strange that the attack upon the Prussians was delayed. He knew fully the plans of battle for both Ligny and Quatre Bras. His duty was to fight under Ney and attack the force Wellington had thrown forward from Brussels. Written orders show that early on the 16th Soult ordered Reille to report to Ney.

At 9 a. m. Ney is ordered to combine the corps of D'Erlon, Reille, and Kellermann and move on the enemy in front of Quatre Bras.

At the same time Napoleon wrote amplifying the instructions, both of which letters Ney received at 11 a. m., and immediately sent orders directing the rapid march of these troops. At 10 a. m. Napoleon's orders were repeated and received by Ney at 11.30, but he had previously received dispatches from Reille, dated Gosselies, 10.15 a. m., stating that in consequence of Prussian forces at Fleurus, he would not move until further orders from Ney. This helped to delay Ney's attack until after 2 o'clock.

Had he made the attack two hours earlier, he would have easily driven every opposing force beyond the heights of Mount St. Jean, and the battle of the 18th would have been fought nearer Brussels and on less favorable ground for the allies.

General Reille has never been blamed for this very brief delay.

I say he did wrong, because he knew Napoleon was to attack Blucher near Fleurus. He was marching to Genappe under orders received from Napoleon and reiterated by Ney, and information received from General Gèrard, of facts which Reille knew, and which Napoleon certainly knew when he gave Reile his orders, was no justification for a moment's delay. *If General Reille was not censured for delay in that case, then how entirely justifiable was Fitz-John Porter.*

The proof shows that during all this campaign there was but one order that Porter hesitated a moment in obeying. It also shows that immediate compliance with the order was impossible, and that he did immediately comply, by taking measures to prepare the road so that he could march on it.

I therefore say that he gave immediate intelligent compliance with the order, and that this so-called delay was based on the best of judgment, and resulted favorably, while Reille's delay was unwarranted by the facts, and, if I am correct, in its effect on Ney it was the beginning of the events which changed Waterloo from victory to defeat; and since I have touched upon this matter, I will give the most noted instance I can recall of literal, instead of intelligent, obedience to the orders of a commanding general.

NAPOLEON AND GROUCHY.

I select this because the superior genius of Napoleon so overshadows all others that if any such case could arise this certainly would be the one where a blind literal obedience of orders could be justified. At the risk of being tedious, I will recite sufficient of the events which preceded June 18, 1815, to illustrate what I believe all will admit was the duty of Marshal Grouchy upon that eventful day.

Napoleon landed in France March 1, 1815. He marched in triumph to Paris and asumed the government on March 13; he proceeded to establish his power at home; to create armies and war material; to restore the broken finances; to re-establish so far as possible the diplomatic relations.

FORCES AT WATERLOO.

On June 1, the allied armies menacing France were:

Anglo-allied army, under Wellington	104,710
Prussian army, under Blucher	116,897
German corps d'armée, under Kleist	26,200
Army of the Upper Rhine, under Schwartzenberg	254,492
Russian army, under Barclay de Tolly	167,950
Army of Italy, under Frimont	60,000
Total allied armies in the field, June, 1815	730,249

Wellington was the recognized leader of the combined forces.

Napoleon had not more than 200,000 men in all the armies of France.

His forces were:

Grand army, under the Emperor	116,801
Army of the Rhine, under Rapp	35,000
Army of the Alps, under Suchet	15,000
Army of the Jura, under Lecourbe	4,500
Army of the Var, under Brune	5,300
Army of the Eastern Pyrenees, under Decaen	3,000
Army of the Western Pyrenees, under Clauzel	3,000
Army of La Vendée, under Lamarque	16,000
	198,601

April 1, Napoleon's circular letter to the sovereigns of Europe appealing for peace, commencing "Sire, my brother!" had been received, only to be ignored.

There was no way to defend but by attack, and the Emperor determined to fall upon the nearest advance of the menacing armies, which were upon the Belgian frontier.

He caused the election of deputies to the Chamber of Representatives. This body convened, and it was soon evident that there was not only a lukewarm support, but that there was an evident determination to throw obstacles in the way of the Emperor's ambition.

On June 11, Napoleon issued a moderate but earnest farewell address to the deputies, appointed his brother Joseph president of a provisional government, before daylight on the 12th left Paris, and on the 14th reached the theater of war in Belgium, making his first halt at Beaumont, about fifty-three miles from Brussels, the headquarters of Wellington, and about forty-two miles from Namur, where Blucher was located. Zieten's large corps was at Charleroi, but eighteen miles from Beaumont.

When Napoleon arrived he found about 60,000 of his men in front of Beaumont about 14,000 to the right or southeast, and about 40,000 on the Sambre to the left of Beaumont.

Though physically indisposed, Napoleon directed in person the preparation for the movement of the several corps. By daylight on the 15th, Prince Jerome struck the enemy's outpost at Thurin, and General Pajol, commanding the first corps of cavalry, fought for two miles, from Marchiennes to Charleroi.

This point was thirty-five miles from Brussels, and twenty-four miles from Namur. Namur is thirty-five miles from Liege, where Bulow was located, and twenty miles from Ciney, the headquarters of Thielmann.

I will here give in detail the organization and strength of the two opposing armies:

ALLIED ARMY UNDER THE DUKE OF WELLINGTON.

FIRST CORPS.—The PRINCE OF ORANGE.

FIRST DIVISION, Major-General COOKE.

	Men.	
First British Brigade, Major-General Maitland	1,997	
Second British Brigade, Major-General Sir John Byng	2,064	
		4,061
Artillery, Lieutenant-Colonel Adye.		
THIRD DIVISION.—Lieutenant-General COUNT ALTEN.		
Fifth British Brigade, Major-General Sir Colin Halkett	2,254	
Second Brigade, King's German Legion, Colonel von Ompteda	1,527	
First Hanoverian Brigade, Major-General Count Kielmansegge	3,189	
		6,970
Artillery, Lieutenant-Colonel Williamson.		
SECOND DUTCH-BELGIAN DIVISION.—Lieutenant-General BARON DE PERPONCHER.		
First Brigade, Major-General Count de Bylandt	3,233	
Second Brigade, H. S. H. Prince Bernhard, of Saxe-Weimar	4,300	
		7,533
Artillery, Major von Opstal.		
THIRD DUTCH-BELGIAN DIVISION.—Lieutenant-General BARON CHASSE.		
First Brigade, Major-General Ditmers	3,088	
Second Brigade, Major-General d'Aubreme	3,581	
		6,669
Artillery, Major Van der Smissen.		
Total First Corps, guns 48; men		25,233

This corps was stationed as follows:
Quatre Bras, Nivelles.
Roeulx to Binche.
Soignies to Roeulx, Braine Enghien.

SECOND CORPS.—Lieutenant-General LORD HILL.

SECOND DIVISION.—Lieutenant-General Sir H. CLINTON.

Third British Brigade, Major-General Adams		2,625
First Brigade King's German Legion, Colonel du Plat		1,758
Third Hanoverian Brigade, Colonel Hew Halkett		2,454
		6,837

Artillery, Lieutenant-Colonel Gold.

FOURTH DIVISION.—Lieutenant-General CHARLES COLVILLE.

Fourth British Brigade, Colonel Mitchell	1,767	
Sixth British Brigade, Major-General Johnston	2,396	
Sixth Hanoverian Brigade, Major-General Sir James Lyon	3,049	
		7,212

Artillery, Lieutenant-Colonel Hawker.

FIRST DUTCH-BELGIAN DIVISION.—Lieutenant-General STEDMAN.

First Brigade, Major-General Hauw Second Brigade, Major-General Berens		6,389
Artillery.		
Dutch-Belgian Indian Brigade, Lieutenant-General Anthing		3,583
Detachments, &c		16
Total Second Corps, guns 40; men		24,037

This corps was stationed as follows: Ath, Oudenarde, road of Grammont to Ghent, thence to Alost.

RESERVE.

FIFTH DIVISION.—Lieutenant-General Sir THOMAS PICTON.

Eighth British Brigade, Maj. Gen. Sir James Kempt		2,471
Ninth British Brigade, Maj. Gen. Sir Dennis Pack		2,173
Fifth Hanoverian Brigade, Colonel Von Vincke		2,514
		7,158

Artillery, Major Heisse.

SIXTH DIVISION.—Lieutenant-General Hon. Sir L. COLE.

Tenth British Brigade, Maj. Gen. Sir John Lambert	2,567	
Fourth Hanoverian Brigade, Colonel Best	2,582	
		5,149

Artillery, Lieutenant-Colonel Bruckmann.
British Reserve Artillery, Major Drummond.

SEVENTH DIVISION.

Seventh British Brigade	1,216	
British garrison troops	2,017	
		3,233

BRUNSWICK CORPS.—H. S. H. the DUKE OF BRUNSWICK.

Advanced guard, Major von Rauschenplat	672	
Light Brigade, Lieutenant-Colonel von Buttler	2,688	
Line, Lieutenant-Colonel von Specht	2,016	
		5,376

Artillery, Major Mahn.

HANOVERIAN RESERVE CORPS.—Lieutenant-Colonel von der DECKEN.

First Brigade, Lieutenant-Colonel von Bennigsen Second Brigade, Lieutenant-Colonel von Beaulieu Third Brigade, Lt. Col. von Bodekin Fourth Brigade, Lieutenant-Colonel von Wissel		9,000
Nassau Contingent, General von Kruse		2,880
Total reserve, guns 64; men		32,706

This corps, together with the Brunswick Cavalry, was stationed around Brussels.

CAVALRY.—Lieutenant-General the EARL OF UXBRIDGE, British and King's German Legion.

First (household) Brigade, Maj. Gen. Lord E. Somerset		1,286
Second (Union) Brigade, Maj. Gen. Sir W. Ponsonby		1,181
Third Brigade, Maj. Gen. Sir W. Dornburg		1,268
Fourth Brigade, Maj. Gen. Sir J. Vandeleur		1,171
Fifth Brigade, Maj. Gen. Sir C. Grant		1,336
Sixth Brigade, Maj. Gen. Sir H. Vivian		1,279
Seventh Brigade, Col. Sir F. von Arentschildt		1,012
		8,473

Six British horse batteries attached to the cavalry.

HANOVERIAN.

First Brigade, Colonel Von Estorff	1,682	
Brunswick cavalry	922	
		2,604

DUTCH-BELGIAN.

First Brigade, Major-General Trip	1,237	
Second Brigade, Major-General De Chigney	1,086	
Third Brigade, Major-General Van Merlen	1,082	
		3,405
Artillery.		
Total cavalry, guns 44, men		14,482

The main body of the cavalry was at Grammont and Ninhove.

Two brigades were thrown forward from Roeulx to Mons and one brigade was still further thrown forward opposite to Maubeuge and Beaumont.

ARTILLERY.

British, 10 foot batteries; guns, 54; men		3,630
British, 8 horse batteries; guns, 48; men		1,400
		5,030
King's German Legion, 1 foot battery; guns, 6; men King's German Legion, 2 horse batteries; guns, 12; men		526
Hanoverian, 2 foot batteries; guns, 12; men		465
Brunswick, 1 foot battery; guns, 8; men Brunswick, 1 horse battery; guns, 8; men		510
Dutch-Belgian, 4 foot battery; guns, 32; men	968	
Dutch-Belgian, 2 foot battery; guns, 16; men	667	
		1,635
Total artillery guns, 196; men		8,166

PRUSSIAN ARMY.—FIELD MARSHAL PRINCE BLUCHER VON WAHLSTADT.

FIRST CORPS—Lieutenant-General von ZIETEN, headquarters Charleroi.

First Brigade, General von Steinmetz		8,647
Second Brigade, General von Pirch II		7,669
Third Brigade, General von Jagow		6,853
Fourth Brigade, General von Henkel		4,721
		27,887

RESERVE CAVALRY—Lieutenant-General von RODER.

Brigade of General von Treskow Brigade of Lieutenant-Colonel Lutzow		1,925

RESERVE ARTILLERY.—Colonel von LEHMANN.

Eight foot batteries One howitzer Three horse		1,019
Total First Corps		30,831

SECOND CORPS.—General von PIRCH, headquarters Namur.

Fifth Brigade, General von Tippelskirchen		6,851
Sixth Brigade, General von Krafft		6,469
Seventh Brigade, General von Brause		6,224
Eighth Brigade, Colonel von Langen		6,292
		25,836

RESERVE CAVALRY.—General von JURGRASS.

Brigade of Colonel von Thumen Brigade of Colonel Count Schulenburg Brigade of Colonel von Sohr		4,468

RESERVE ARTILLERY—Colonel von ROHL.

Seven foot batteries Three horse batteries		1,454
Total Second Corps, guns, 80; men		31,758

THIRD CORPS.—Lieutenant General von THIELMANN, Headquarters, Ciney.

Ninth Brigade, General von Borcke		6,752
Tenth Brigade, Colonel von Kumpfen		4,045
Eleventh Brigade, Colonel von Luck		3,634
Twelfth Brigade, Colonel von Stulpnagel		6,180
		20,611

RESERVE CAVALRY.—General von HOBE.

Brigade of Colonel von der Marwitz Brigade of Colonel Count Lottom		2,405

RESERVE ARTILLERY.—Colonel von MOHNHAUPT.

Three foot batteries Three horse batteries		964
Total Third Corps, guns 48, men		23,980

FOURTH CORPS.—General Count BULOW von DENNEWITZ, Headquarters, Liege.

Thirteenth Brigade, Lieutenant-General von Hacke		6,385
Fourteenth Brigade, General von Ryssee		6,953
Fifteenth Brigade, General von Losthin		5,881
Sixteenth Brigade, Colonel von Hiller		6,162
		25,381

RESERVE CAVALRY.—General Prince WILLIAM of Prussia.

Brigade of General von Sydow Brigade of Colonel Count Schwerin Brigade of Lieutenant-Colonel von Watzdorf		3,081

RESERVE ARTILLERY.—Lieutenant-Colonel von BARDELEBEN.

Eight foot batteries Three horse batteries		1,866
Total Fourth Corps, guns 88; men		30,328

Grand total of allied army.

	Infantry.	Cavalry.	Artillery.	Guns.
British	23,543	5,913	5,030	102
King's German Legion	3,301	2,560	526	18
Hanoverian	22,788	1,682	465	12
Brunswick	5,376	922	510	16
Nassau	2,880			
Dutch-Belgian	24,174	3,405	1,635	48
First Prussian Corps	27,817	1,925	1,019	96
Second Prussian Corps	25,836	4,468	1,454	80
Third Prussian Corps	20,611	2,405	964	48
Fourth Prussian Corps	25,381	3,081	1,866	88
Total	181,777	26,361	13,469	598

SUMMARY.

Infantry	181,777
Cavalry	26,361
Artillery	13,469
	221,607

NAPOLEON'S ARMY COMMANDED BY THE EMPEROR IN PERSON.

Second in command, Marshal NEY, Prince of Moskowa.

FIRST CORPS.—Lieutenant General Count D'ERLON.

First Division, General Alix Second Division, General Donzelot Third Division, General Marcognet Fourth Division, General Durutte		17,609
First Cavalry Division, Lieutenant-General Jaquinot		1,400
Artillery		1,564
Total First Corps, guns, 46; men		20,564

SECOND CORPS.—Lieutenant-General Count REILLE.

Fifth Division, General Bachelu		
Sixth Division, Prince Jerome Napoleon		19,433
Seventh Division, General Girard		
Ninth Division, General Foy		
Second Cavalry Division, Lieutenant-General Piré		1,868
		1,861
Total Second Corps, guns, 46; men		23,161

THIRD CORPS.—Lieutenant-General Count Vandamme.

Tenth Division, General Hubert		
Eleventh Division, General Barthezene		13,200
Eighth Division, General Lefol		
Third Cavalry Division, Lieutenant-General Domont		1,400
Artillery		1,292
Total Third Corps, guns, 38; men		15,892

FOURTH CORPS.—Lieutenant-General Count GERARD.

Twelfth Division, Lieutenant-General Pecheux		
Thirteenth Division, Lieutenant-General Vichery		12,100
Fourteenth Division, General Hulot		
Sixth Cavalry Division, Lieutenant-General Morin		1,400
Artillery		1,292
Total Fourth Corps, guns, 38; men		14,792

SIXTH CORPS.—Lieutenant-General Count LOBAU.

Nineteenth Division, Lieutenant-General Simmer		
Twentieth Division, Lieutenant-General Jeannin		9,900
Twenty-first Division, Lieutenant-General Teste		
Artillery		1,292
Total Sixth Corps, guns, 38; men		11,192

IMPERIAL GUARD.—Commanded by Marshal MORTIER.*

Old Guard, Lieutenant-General Friant	4,000
Middle Guard, Lieutenant-General Morand	4,000
Young Guard, Lieutenant-General Duhesme	4,000
First Cavalry Division, General Guyot	2,000
Second Cavalry Division, General Lefebvre-Desnouettes	2,000
Artillery, General Devaux	2,400
Total Guard, guns, 96; men	18,400

RESERVE CAVALRY UNDER COMMAND OF MARSHAL COUNT DE GROUCHY.

FIRST CORPS.—Lieutenant-General PAJOL.

Fourth Cavalry Division, Lieutenant-General Soult		
Fifth Cavalry Division, Lieutenant-General Subervie		2,300
Artillery		300

SECOND CORPS.—Lieutenant-General EXCELMANS.

Ninth Cavalry Division, Lieutenant-General Strolz		
Tenth Cavalry Division, Lieutenant-General Chastel		2,500
Artillery		300

THIRD CORPS.—Lieutenant-General KELLERMANN.

Eleventh Cavalry Division, Lieutenant-General L'Heritier		
Twelfth Cavalry Division, Lieutenant-General Roussel		3,300
Artillery		300

FOURTH CORPS.—Lieutenant-General MILHAUD.

Thirteenth Cavalry Division, Lieutenant-General Wathier		
Fourteenth Cavalry Division, Lieutenant-General Delort		3,300
Artillery		300
Total Reserve Cavalry, guns 48; men		12,800

Grand Total.

	Infantry.	Cavalry.	Artillery.	Guns.
First Corps d'Armée	17,600	1,400	1,344	46
Second Corps d Armée	19,435	1,865	1,861	46
Third Corps d'Armée	13,200	1,400	1,292	38
Fourth Corps d'Armée	12,100	1,400	1,292	38
Sixth Corps d'Armée	9,900		1,292	38
Imperial Guard	12,000	4,000	2,400	96
Reserve Cavalry		11,600	1,200	48
Total	84,235	21,665	10,901	350

SUMMARY.

Infantry	84,235
Cavalry	21,655
Artillery	10,901
	116,801

Napoleon also had a corps of engineers with wagon-trains numbering about 5,000 men, which I do not include, nor have I included the engineers or wagon-trains of the allied army.

I give the figures of Napoleon's force as stated by those who argue against him and in favor of Marshal Grouchy, and who, as part of their argument, put Napoleon's forces as high as possible.

I have given the names of his corps and division commanders to show that but a small number of the greatest of his generals were with him. Very few of those leaders who had during his eighteen years of triumphs shared his world-wide renown, as participants in the victories he had won, were with him, and what was worse, nearly all his generals a year previous had left him with his fallen fortunes, and given unqualified adhesion to the Bourbon dynasty, and but three months gone had turned from their Bourbon masters to bow again at the shrine of the Imperial eagle, and undaunted genius of Napoleon.

The organization of the several brigades and divisions was changed, the old regiments were reformed, old numbers replaced, and eagles, which recalled past glories, were restored. While these changes tended to enthuse the troops, their advantage was in a measure neutralized by their placing troops under new commanders, and to a considerable extent separating soldiers who had learned by experience to rely upon each other.

These facts show that Wellington and Blucher had ample information regarding Napoleon's efforts. Surrounded by the embarrassments to which I have alluded, this great leader, on the 16th at the head of 69,000 men, consisting of the Guards and five corps, hurled himself against the corps of Zieten, Pirch, and Thielmann, in all, 86,560 men, under Field Marshal Prince Blucher, and after a terrific engagement, which lasted from noon until dark, the Emperor gained a complete victory, driving him from the field of Ligny, and inflicting upon him a loss which Blucher reported at 3,507 killed and 8,571 wounded, besides a great number of prisoners. At 2 o'clock the same day Marshal Ney, with 17,615 men, increased at 5 p. m. to 20,000, attacked the allied troops at Quatre Bras, on the road from Charleroi to Brussels, and by dark had won a victory, inflicting a loss on the enemy of 5,200 killed, wounded, and missing, and himself suffering a loss of 4,140 killed and wounded.

Now, suppose Napoleon's loss in killed and wounded to have been equal to that of Blucher, then his army after the engagement would be 100,583, while Wellington and Blucher had 203,829. But every one who has had experience in war knows that such conflict will reduce an army at least 10 per cent. in addition to casualties, caused by those who leave the field from fatigue, to care for the wounded, and from other less creditable reasons.

Therefore, the next day, the force may be said to have been, Wellington's 183,447, Napoleon's 90,425. No one knew better than Grouchy the critical position of the French army, and the necessity for most prompt and intelligent obedience to orders.

Even without orders he should have never ceased to press upon the retreating Prussians, at least he should have kept his advance within cannon range of their rear; but he attempts to justify this neglect by certain verbal orders which he says were given him by the Emperor, and which he contends were capable of being literally construed so as to justify his movements and marches with 34,000 men (more than one-third of Napoleon's force), and for half a century he has found those who sustain him.

GROUCHY LOSES FOR NAPOLEON AN EMPIRE BY LITERALLY OBEYING ORDERS.

Now admit for Grouchy all he desires and the verbal order he receives from Napoleon was:

1 P. M., JUNE 17.

Pursue the Prussians; complete their defeat by attacking them as soon as you come up with them, and never let them out of your sight. I am going to unite the remainder of this portion of the army with Marshal Ney's corps, to march against the English and to fight them if they should hold their ground between this and the forest of Soignies. You will communicate with me by the paved road which leads to Quatre Bras.

Also Grouchy's friends allege that Napoleon said to him:

The Prussians are put to rout, and are flying on the road to Namur and Liege.

Also that Grouchy appealed to the Emperor to allow him to march to Quatre Bras, and that Napoleon replied:

Marshal Grouchy: Proceed towards Namur, for according to all probability it is on the Meuse that the Prussians are retiring. It is then in this direction you will find them and that you ought to march.

Grouchy himself says:

The orders of Napoleon were, "Put yourself in pursuit of the Prussians, complete their defeat in attacking them as soon as you shall join them, and never lose sight of them. I am going to reunite to the corps of Marshal Ney the troops I carry with me, to march upon the English and to fight them if they will stand this side of the forest of Soignies. You will correspond with me by the paved road which leads to Quatre Bras." I attest upon my honor that these were his own expressions, that I received no other instructions. * * *

Far from modifying his first orders, the Emperor corroborated them, saying:

Marshal, make your way to Namur, for it is on the Meuse that, according to all probability, the Prussians are retiring; it is therefore in this direction that you will find them and in which you ought to march.

Now Grouchy also justifies himself because on June 17, Napoleon then en route to Quatre Bras, sent back a written order to Grouchy, which said:

March to Gembloux; you will explore in the direction of Namur and Maestricht, and you will pursue the enemy—

And find out if the *enemy* are "separating from the English, or are bent on uniting with them to save Brussels and try the fate of another battle."

The order, it is claimed, was sent from Marbais, a little town halfway between Ligny and Quatre Bras, and Grouchy's friends also insist that when Napoleon sent the order he had information that the Prussians had passed Tilly, in the direct road to Wavre.

These orders Marshal Grouchy claims are his justification for moving his army to Gembloux, and a portion of it through and on to Sart-les-Walhain and Perwez, these movements extending into the

*Mortier stated he was ill on the 14th at Beaumont and retired from command.

night of the 17th, so that the rear did not reach Gembloux until as late as 10 p. m.

The march was fortunately only about eight miles for the most of the infantry and about fifteen for the advanced cavalry, which camped on the night of the 17th at Perwez.

After revolving these matters for four years, Marshal Grouchy published a work entitled "Observations sur la Relation de la Campagne de 1815, publiée par le Général Gourgaud; et Réfutation de Quelques-unes des Assertions d'Autres écrits relatifs à la Bataille de Waterloo. Par le Comte de Grouchy. A Paris. 1819," in which he says [page 12]:

I told him [Napoleon], that the Prussians had commenced their retreat the evening before at 10 o'clock, and so forth. These observations were not well received. He repeated to me the order which he had given me, adding that it was for me to discover the route taken by Marshal Blucher; that he was going to fight the English; that I ought to complete the defeat of the Prussians in attacking them as soon as I should have joined them; and that I should correspond with him by the paved road, which leads from a point near where we were to Quatre Bras. Some moments of conversation which I had with the chief of staff [Soult] regarded only the detaching of certain of my troops which were to be sent to Quatre Bras. Such are, word for word, the only dispositions which were communicated to me, the only orders which I received.

Now take every assumption, just as Marshal Grouchy's *ex parte* statement would have us believe, and what is the attitude?

Six days before Napoleon was in Paris manipulating the wires of foreign and domestic diplomacy, creating and organizing armies, and in those six days he had traveled 150 miles, had conceived and partly executed a plan of campaign; he had fought and defeated Blucher, and then relying upon his generals to manage minor details, he had fallen exhausted, and was taking a little rest.

Grouchy was the commander of four army corps of cavalry, each one of which had a lieutenant-general.

No duty ever devolved on a general more imperative than now devolved upon Grouchy, and that duty was to press vigorously the rear-guard of each of Blucher's columns and dispatch Napoleon every hour of their location.

Grouchy should have known every movement of the enemy, and, in the very nature of military precedents, orders given to such a commander of cavalry would in all probability have been based upon information given by him to the Emperor.

If Napoleon gave any such orders as Grouchy alleges, it was Grouchy's fault and neglect that they were so given.

The orders, if given at all, were given upon incorrect information as to the enemy's movements; and Marshal Grouchy defends his march toward Namur and Liége solely upon the ground that *he complied literally with orders.*

We might have the miserable excuse for him that he did not know himself where the enemy was; but he deprives us of that by admitting that he knew at 2 o'clock on the 17th that the Prussian troops had gone through Tilly to Wavre, and he admits, too, that this was discovered by the Emperor and communicated to him. But, says the marshal of France, *I obeyed orders literally*, and, *although it cost an empire, I must be exonerated.*

Even upon Grouchy's own statement of the wording of the orders he received, it is very clear that he did not comply with them in the spirit intended by Napoleon.

This is conclusively shown by the correspondence between Marshal Grouchy and the Emperor, most of which was not published until years after the events transpired.

Before I read these letters, I want to call attention to the fact that Grouchy was in command of Napoleon's cavalry. It was his special duty to keep Napoleon informed regarding the position and movements of the enemy, and any orders given by Napoleon must have been based upon Grouchy's statements regarding Blucher's movements.

I will first read an order written before Napoleon left Ligny for Quatre Bras.

LIGNY, *June* 17, 1815.

March to Gembloux with Pajol's cavalry. * * * You will explore in the direction of Namur and Maestricht, and you will pursue the enemy; explore his march and instruct me as to his movements, so that I can find out what he is intending to do. I am carrying my headquarters to Quatre Bras, where the English still were this morning. Our communication will then be direct, by the paved road of Namur. If the enemy has evacuated Namur, write to the general commanding the second military division at Charlemont to cause Namur to be occupied by some battalions of the National Guard and some batteries of cannon which he will organize at Charlemont. He will give the command to some general officer. *It is important to find out what Blucher and Wellington are intending to do, and if they purpose to reunite their armies to cover Brussels and Liége in trying the fate of a battle.* In all cases, keep constantly your two corps of infantry united in a league of ground, having several avenues of retreat, and post detachments of cavalry intermediate between us, in order to communicate with headquarters.

Dictated by the Emperor in the absence of the chief of staff.

The Grand Marshal, BERTRAND.

Marshal Grouchy replied to this order at 10 o'clock; I will give exact language.

To do him no injustice, I will first give his letter in French, and then give what I think is a correct translation.

Gembloux, le 17 Juin, à dix heures du soir.

Sire: J'ai l'honneur de vous rendre compte que j'occupe Gembloux et que ma cavalerie est à Sauvenières. L'ennemi, fort d'environ trente mille hommes, continue son mouvement de retraite; on lui a saisi ici un parc de 60 bêtes à cornes, des magasins et des bagages.

Il paraît d'après tous les rapports, qu'arrivés à Sauvenières, les Prussiens se sont divisés en deux colonnes; l'une a dû prendre la route de Wavre en passant par Sart-à-Wallain, l'autre colonne paraît s'être dirigée sur Perwes.

On peut peutêtre en inférer qu'une portion va joindre Wellington, et que le centre, qui est l'armée de Blucher, se retire sur Liége; une autre colonne avec de l'artillerie ayant fait son mouvement de retraite par Namur, le Général Excelmans a ordre de pousser ce soir six escadrons sur Sart-à-Wallain et trois escadrons sur Perwes.

D'après leur rapport, si la masse des Prussiens se retire sur Wavre, je la suivrai dans cette direction afin qu'ils ne puissent pas gagner Bruxelles, et de les séparer de Wellington.

Si, au contraire, mes renseignemens prouvent que la principale force Prussienne a marché sur Perwes, je me dirigerai par cette ville à la poursuite de l'ennemi.

Les Généraux Thielman et Borstell faisaient partie de l'armée que Votre Majesté a battue hier; ils étaient encore ce matin à 10 heures ici, et ont annoncé que vingt mille hommes des leurs avaient été mis hors de combat.

Ils ont demandé en partant les distances de Wavre, Perwes, et Hannut.

Blucher a été blessé légèrement au bras, ce qui ne l'a pas empêché de continuer à commander après s'être fait panser.

Il n' a point passé par Gembloux.

Je suis avec respect, de Votre Majesté, sire, le fidèle sujet,

Le Maréchal Comte DE GROUCHY.

GEMBLOUX, *June* 17, 10 p. m.

SIRE: I have the honor to report to you that I occupy Gembloux and that my cavalry is at Sauvenières. The enemy, about thirty thousand strong, continues its retreat. We have seized 400 head of cattle, some magazines, and baggage.

It appears from all the reports that, arriving at Sauvenières, the Prussians divided into two columns, one taking the route to Wavre, and passing by Sart-les-Walhain, the other seems directed upon Perwez.

It may perhaps be inferred that one part is going to join Wellington, and that the center, which is Blucher's army, is retiring on Liége; another column, with artillery having retreated by Namur, General Excelmans is ordered to push to-night six squadrons of cavalry on Sart-les-Walhain and three squadrons on Perwez. According to their report, if the mass of the Prussians retire on Wavre, I will follow in that direction to prevent their reaching Brussels, and separate them from Wellington. If, on the contrary, information shows that the principal Prussian force has marched on Perwez, I shall pursue the enemy towards that town.

The corps of Generals Thielman and Borstell formed part of the army which your Majesty vanquished yesterday. They were still here this morning at 10 o'clock, and announced that twenty thousand of their men were disabled. They inquired, on leaving, the distances of Wavre, Perwez, and Hannut. Blucher was slightly wounded in the arm, which did not prevent his resuming command, after having his wound dressed. He did not pass through Gembloux.

I am, respectfully, sire, your Majesty's faithful subject,

Marshal Count DE GROUCHY.

I now read two letters from Napoleon which show clearly that the verbal instructions, with which Grouchy seeks to screen his error, were accompanied by other words, explanatory of them, and showing that the order was strictly in accordance with the military principles which should have been followed by Grouchy:

EN AVANT DE LA FERME DE CAILLOU,
le 18 Juin, 1815, *à dix heures du matin.*

MONSIEUR LE MARÉCHAL: The emperor has received your last report, dated from Gembloux.

You speak to His Majesty of only two Prussian columns which have passed at Sauvenières and Sart-à-Walhain. Nevertheless, reports say that a third column, which was a pretty strong one, has passed by Gerry and Gentennes, directed on Wavre.

The emperor instructs me to tell you that at this moment His Majesty is going to attack the English army, which has taken position at Waterloo, near the forest of Soignies. Thus His Majesty desires that you will direct your movements on Wavre, in order to approach us, to put yourself in the sphere [*en rapport*] of our operations, and keep up your communications with us; pushing before you those troops of the Prussian army which have taken this direction, and which may have stopped at Wavre, where you ought to arrive as soon as possible. You will follow the enemy's columns, which are on your right, by some light troops, in order to observe their movements and pick up their stragglers. Instruct me immediately of your dispositions and of your march, as also of the news which you have of the enemy, and do not neglect to keep up your communications with us. The Emperor desires to have news from you very often.

The Marshal DUKE OF DALMATIA.

18 Juni, une heure après midi.

MONSIEUR LE MARÉCHAL: You have written to the Emperor at three o'clock this morning that you would march on Sart-à-Walhain; your intention, then, is to go to Corbaix and Wavre. This movement is conformable to His Majesty's arrangements which have been communicated to you. Nevertheless, the Emperor orders me to tell you that you ought always *to manœuver in our direction*, and to *seek to come near to our army*, in order that you may join us *before any corps can put itself between us.* I do not indicate to you the direction you should take; it is for you to see the place where we are, to govern yourself accordingly, and to connect our communication so as to be always prepared to fall upon any of the enemy's troops which may endeavor to annoy our right, and to destroy them.

At this moment the battle is in progress on the line of Waterloo, in front of the forest of Soignies. The enemy's center is at Mont. St. Jean; maneuver, therefore, to join our right.

The Marshal DUKE OF DALMATIA.

P. S.—A letter which has just been intercepted says that General Bülow is about to attack our right flank; we believe that we see this corps on the height of St. Lambert. So lose not an instant in drawing near us and joining us, in order to crush Bülow, whom you will take in the very act.

The Marshal DUKE OF DALMATIA.

It will be observed that Grouchy admits that at 1 p. m., June 17, Napoleon ordered him to

Pursue the Prussians, complete their defeat by attacking them as soon as you come up with them, and never let them out of your sight.

Grouchy also admits that Napoleon said:

It was for me [Grouchy] to discover the route taken by Marshal Blucher; that he was going to fight the English; that I ought to complete the defeat of the Prussians in attacking them as soon as I should have joined them.

He also admits that the order dated Ligny, June 17, dictated by the Emperor and signed by Bertrand, said:

You will pursue the enemy; explore his march, and instruct me as to his movements, so that I can find out what he is intending to do.

* * * * * * *

It is important to find out what Blucher and Wellington are intending to do.

Now observe that Grouchey's letter to the Emperor, written at 10 o'clock that night, said:

The Prussians divided in two columns, one taking the route to Wavre.

* * * * * * *

If the mass of the Prussians retire on Wavre, I will follow in that direction.

Also bear in mind that at 10 o'clock on the morning of the 18th Napoleon acknowledged the receipt of this information, at the same time saying:

A third column, which is a pretty strong one, has passed, directed on Wavre.

This order also says:

The Emperor instructs me to tell you, that at this moment His Majesty is going to attack the English army, which has taken position at Waterloo, near the forest of Soignies. Thus His Majesty desires that you will direct your movements on Wavre, in order to approach us, to put yourself in the sphere of our operations.

To show that Napoleon expected Grouchy to be close upon the Prussians, remember that the Emperor's letter of 1 p. m., of the 18th said:

You ought always to maneuver in our direction, and to seek to come near to our army in order that you may join us before any corps can put itself between us.

This letter also informed Grouchy that Bülow was about to attack Napoleon's right, and it closed with these words:

We believe we see his corps on the heights of Saint Lambert. So lose not an instant in drawing near us, and joining us, in order to crush Bülow, whom you will take in the very act.

It does not matter whether we take what Grouchy claims to be his verbal orders, or the authenticated official letters of instruction. In either case it is clear that he did not give an intelligent obedience to Napoleon's directions, although he did comply with the literal language of certain phrases that the order contained.

It might be interesting to proceed with an account of the sublime heroism which Napoleon instilled into his soldiers and which they evinced on June 18 in their attack upon Wellington, and in resisting the assaults of Blucher upon their right flank and rear. But I have no heart to discuss an engagement which, with all its brilliancy of conception and courage and intrepidity of execution, was lost by the misjudged action of a man who owed his rank and honors to the imperial leader whose fame and power ceased to exist when the charge of the imperial guard of France was checked, and they were compelled to recoil from a carnage too bloody for humanity to endure. It is painful to go further. The battle of Waterloo was lost when Grouchy failed to intelligently comply with the Emperor's orders; and no heroism could have compensated for the great disparity of numbers which existed between the contending armies.

Begging the House to excuse my long digression for the purpose of illustration, I now return to the subjects, leaving the events of June 18, 1815, to consider those of

AUGUST 29, 1862.

General LOGAN now admits that Longstreet was on Jackson's right, but he insists that Porter ought to have complied with the literal language of one phrase of the 4.30 order, although by doing so he would have been drawn away from Pope, which would have caused him to disobey three other phrases that the order contained.

This is precisely the way that Grouchy justifies himself in disobeying the order to approach Napoleon, and to put himself in the sphere of Napoleon's operations, and to draw near to Napoleon "before any corps of the enemy can put himself between us"—that is, between Napoleon and Grouchy.

Does not this illustrate that corps commanders must use discretion, and that they must obey orders so as to successfully carry out the purposes of the commanding general?

I will place in the record a map illustrating the relative location of the places I have mentioned.

PUNISHMENTS FOR INSUBORDINATION.

The course pursued towards subordinates by nations and commanding generals who have sustained reverses has varied greatly. Passion and not reason has often guided their action, and when sovereigns and generals of armies have found themselves involved in difficulties by reason of their own derelictions and false movements, they often attempt to shift censures and fasten responsibilities upon subordinates, and in these efforts they have too frequently allowed a mean and despicable selfishness to control their actions, regardless of the better dictates of the heart.

Many cases have arisen where rulers have sought to inflict punishment for example's sake, and where *packed courts have been used* for the purpose of branding stigmas upon rising men, whose talent and courage were making them so prominent and popular as to create jealousies which developed into envy, hatred, and malice. This spirit is not confined to rulers and to persons in high places alone. It develops itself in all circles of society, and in all the seasons of life. Some children, with more of pleasure than pain, cause the infliction of punishments upon their fellows, their schoolmates, and even upon their brothers and sisters, by withholding truth, and sometimes by wicked falsehoods. This inclination grows with the growth, and, as "the child is father to the man," it hardens and matures itself into cold and deliberate cruelty, so that *commanders are found to create courts* for some particular and selfish end, to construct them of truculent officers to be swayed too often by perjury. I desire to say, before proceeding, that I do not apply these terms to the Porter court. The primary evidence as to the location of the confederate army was not placed before it, the most competent witness to testify on these points being cut off by the line of battle that divided the contending armies of what were then two separate nationalities.

SOME CURIOUS FACTS AS TO THE CONSTRUCTION AND CONDUCT OF THE COURT.

In connection, however, with this observation of mine, as to the Porter court-martial, I feel it my duty to call attention to this extraordinary statement of facts, as they exist, not only as to the organization of the court, but as to a part of its conduct in the course of the investigation:

It is now known that the movements of two divisions of General McDowell's corps gave up the key to the situation by their movements on August 28. I refer to the divisions of King and Ricketts—the former by his withdrawal from Gainesville and the latter by falling back from Thoroughfare Gap. It is to these two movements more than to anything that Porter did, or failed to do, that caused Pope's defeat on the 30th, and yet the officers who commanded those divisions were members of the court that tried Porter, in which either may have had the casting vote. Furthermore, General King was called by the Government as a witness to help make out the case for the prosecution, while he was a member of the court engaged in trying Porter. Can anything be more monstrous than such a proceeding in a court pretending to administer justice? When the record first disclosed this fact to me I thought there must be some mistake as to the identity as to officers mentioned. I know that the enemies of Porter were powerful and unscrupulous, but I was not prepared to find that they had gone to the length of trying him before their own prosecuting witnesses.—*Colonel Moulton's letter to General Gibbons.*

The facts here stated have become historical, and it may be declared to the world, that in this great case of the trial of Fitz-John Porter for his life, as a coward, some of his *accusers* were his *judges*, nay, more—some of his judges were officers whose military *movements* had brought about the very mischief for wh' h he was *by them* condemned!! And one of these was produced as a witness against him at the trial, and having testified as such witness, gravely resumed his place on the board as a judge!

THE IMPATIENT JUDGES.

Another thing is disclosed in the conduct of this Porter court-martial. They were in haste to get out of the *judicial harness*. They were needed in other quarters, and for other purposes.

It is a matter of record in the proceedings (see pages 218 and 219) that when the case was closed and the accused read his defense, that the judge-advocate declined to reply, stating: To prepare a written reply, in keeping with the gravity of the proceedings to the argument of the accused, would require several days, thus involving a delay which it is most important to avoid. From the consideration and from the urgent demand which exists for the services of members of this court in other and more active fields of duty, it is felt that the public interests will be best subserved by asking, as I now do, that you will proceed at once to deliberate upon and determine the issues which are before you.

Now, Mr. Speaker, a judge who has in his hands the life of a human being

IS NOT PERMITTED TO BE IN A HURRY.

He may grow weary under long and laborious toil in listening to evidence and in examining facts, but when he reaches the solemn moment of judgment he must deliberate unembarrassed by the hurly-burly of the outside world, and not allow himself to be led away by any extraneous matters. But in this case, involving the life and honor of this distinguished American general, the judge-advocate gravely says to the court:

To prepare a written reply in keeping with the gravity of the proceedings to the argument of the accused would require several days, thus involving a delay which it is most important to avoid.

And again this same judge-advocate, after thus acknowledging the gravity of the proceedings, perhaps shaking his finger at the court, makes this further impressive observation:

From the urgent demand which exists for the services of members of this court in other and more active fields of duty, it is felt that the public interests will be better subserved, by asking, as I now do, that you will proceed at once to deliberate upon and *determine* the issues which are now before you.

Mr. Speaker, I have a faint recollection of a sarcastic line of English poetry, something like this:

But men must hang, that jurymen may dine.

A stroke of satire leveled at the proverbial impatience of English juries.

I do believe the day will come when some American Juvenal will arise who will find in the history of the trial of Fitz-John Porter abundant materials for a scorching song, and I earnestly hope that he may take advantage of the occasion to lash all

IMPATIENT JUDGES.

whether found on the bench, on the wool-sack, or on the drumhead.

JUDICIAL HASTE AN ELEMENT OF TYRANNY.

That voracious judicial vulture, Lord Jeffreys, was always *in a hurry*. When he convened his grand jury at Bristol, in his bloody ridings in England, so memorable in the judicial history of that country, he glared and stormed at the jury, and exclaimed: "*I am here to do the King's business.*" Everybody knew what that meant. He had come to repeat his sanguinary role—*to hang fifty men a day!*

It is fair evidence of haste in a judge *to hang fifty men in a day*. It would seem that at that time men were merely cattle in England. But they are not so considered in America. Here, the life of an individual, however humble, can be taken by a court only after the most solemn consideration. Here, too, we pretend that

HONOR IS DEARER THAN LIFE.

Certainly, to a soldier whose dream is of glory, honor is dearer than life.

Certainly, to a commanding general of an army corps, whose plume is already glittering with the rays of glory, won on the fields of battle in the service of his country, *honor is dearer than life.*

Certainly, to Fitz-John Porter, as he stood that day before that court-martial—having uttered a defense which put that staggered judge-advocate to the *heavy task of several days' labor* to answer—certainly to him, honor was dearer than life.

NEVERTHELESS,

as it appears from the facts above referred to, that very court-martial *had not time* to give to that defense the consideration that its gravity demanded, for the court was advised, and, as it appeared, acted upon the advice, "to come *at once to a determination* of the matters before it."

The writer of the Tribune article does not, however, appear to entertain my idea of the official integrity of officers of the Army, as is shown by his thrust at Generals Terry and Getty, in his statement that Terry was Pope's competitor for the anticipated vacancy among the major-generals, and that Getty was an applicant for promotion to brigadier-general.

I regret that he made the allusion, as I feel he did both these officers great injustice; but it is not surprising that, in the study of a case which shows the use of so much selfishness, treachery, and perfidy to destroy Porter, he would be led to believe that integrity and honor had become in a measure supplanted by the baser instincts of humanity.

This yielding to popular passion is no new phase in the history of men.

The cry of

Crucify him! crucify him!

by the raging multitude could not be resisted by Pontius Pilate. The trial and acquittal of our Saviour had taken place. The verdict was:

I have examined him before you and find no cause in this man touching those things wherein you accuse him. No, nor Herod neither.

Subservience to those who dispense office was at that time not unlike it is to-day, and all hesitancy ceased when he heard the threat:

If thou release this man thou art *not Cæsar's friend,*

and this judge and ruler, giving him over to death, satisfied himself with the pusillanimous expression:

I am innocent of the blood of this just man.

Magistrates and judges of all times, including those of to-day, are so disposed to yield to the clamor of popular fury that in all States and all nations it has been found necessary to incorporate in written statutes provisions for removing trials from the scene of excitement and prejudice.

If such a law had existed in 1865, the records of our country would not show that

IN A PERIOD OF EXCITEMENT MRS. SURRATT WAS TRIED,

sentenced, and executed on the charge of harboring her son, who was charged with a crime of which, upon his subsequent trial, he was acquitted. It requires no argument to demonstrate that the mother could not have possibly been guilty of crime in harboring her son, when the facts finally showed that the son himself was not guilty.

MILITARY DISCIPLINE AMONGST THE ROMANS.

No nation ever exercised military subordination more rigidly than the Romans. Their armies were models of discipline in the most enlarged sense of that phrase. But military punishments were enforced with the greatest caution, and, excepting a few rare instances, with humanity. The Romans are known, in one instance at least, to have rewarded with honors and congratulations the greatest military blunder ever perhaps committed by any of their generals. When Varro fought and lost that most disastrous battle of Cannæ, in which he displayed the greatest want of capacity and evinced the utmost ignorance of military affairs, the magnanimous people of Rome went out to meet him, upon his return to the city after the disaster, and warmly *congratulated* him "that he had not despaired of the Republic." Why was this? Simply because they knew that Varro was honest and patriotic, and that what he had done was done through ignorance, untainted by a corrupt intention.

On this subject a very learned and distinguished writer on the history of the wars and customs of the Romans gives us this enlightened chapter on that phase of Roman heroism:

The Romans were not only less ungrateful than other republics, but were also more lenient and considerate in the punishment of the generals of their armies. For if their misconduct was intentional, they punished them humanely; and if it was caused by ignorance, they not only did not punish them, but rewarded and honored them nevertheless. This mode of proceeding had been well considered by them; for they judged that it was of the greatest importance for those who commanded their armies to have their minds entirely free and unembarrassed by any anxiety other than how best to perform their duty, and, therefore, they did not wish to add fresh difficulties and dangers to a task, in itself so difficult and perilous, being convinced that, if this were done, it would prevent any general from operating vigorously. Suppose, for instance, that they had sent an army into Greece against Philip of Macedon, or into Italy against such tribes as had at first gained some victories over them. Now, the commander of such an expedition would naturally feel the weight of all the cares attendant on such enterprises, and which are very great. But if in addition to these anxieties the mind of the general had been disturbed by the examples of other generals, who had been crucified or otherwise put to death for having lost battles, it would have been impossible for him, under the influence of such apprehensions, to have proceeded vigorously. Judging, therefore, that the ignominy of defeat would be sufficient punishment for such a commander, they did not wish to terrify him with other penalties.

The following is an instance of how they punished intentional faults:

"*Sergius and Virginius* were encamped before Veii, each commanding a separate division of the army, Sergius being placed on the side where the Tuscans could make an attack, and Virginius on the opposite side. It happened that Sergius being attacked by the Faliscans and other tribes, he preferred being beaten by them and put to flight rather than apply to Virginius for assistance; and on the other hand, Virginius, waiting for his colleague to humble himself, was willing rather to see his country dishonored and the army of Sergius routed than march unsolicited to his succor. Certainly a very bad case and worthy of note, and well calculated to cause unfavorable conjectures as to the Roman Republic, if both these generals had not been punished. It is true that whilst any other republic would have inflicted capital punishment upon them, they were subjected by Rome only to a pecuniary fine. Not but what their misconduct merited severer punishment, but because the Romans, for the reasons above explained, would not vary from their established custom."—*Machiavelli.*

But the Roman generals-in-chief, and the Roman consuls and dictators were not always so generous or so lenient as the Roman people. The rigid sternness of some of these military-civic superiors led to he commission of acts the most savage and revolting, one of which tshall here notice:

HOW TORQUATUS MANLIUS EXECUTES HIS SON.

In the war between the Romans and the Latins the consuls issued orders that "no person should *fight with any of the enemy, except in his post.*"

It happened that among the other commanders of the troops of horsemen which were dispatched to every quarter to procure intelligence, *Titus Manlius,* the consul's son, came with his troop to the back of the enemy's camp, so near as to be scarcely distant a dart's throw from the next post, where some horsemen of Tusculum were stationed under the command of Geminius Metrius, a man highly distinguished among his countrymen, both by his birth and conduct. On observing the Roman horsemen, and the consul's son, remarkable above the rest, marching at their head (for they were all known to each other, particularly men of any note), he called out, "Romans, do ye intend," with one troop, to wage war against the Latins "and their allies? What employment will the two consuls and their armies have in the mean time?" Manlius answered: "They will come in due season, and with them will come one whose power and strength is superior to either—Jupiter himself, the witness of those treaties which ye have violated. If at the lake of Regillus we gave you fighting until ye were weary, I will answer for it that we shall in this place also give you such entertainment that for the future it will not be extremely agreeable to you to face us in the field." To this Geminius, advancing little from his men, replied: "Do you choose, then, until that day arrives when with such great labor ye move your armies, to enter the lists yourself with me, that from the event of a combat between us two it may immediately be seen how much a Latin horseman surpasses a Roman?" Either anger or shame of declining the contest or the irresistible power of destiny urged on the daring spirit of the youth, so that, disregarding his father's commands and the edict of the consuls, he rushed precipitately to a contest in which, whether he was victorious or vanquished, was of no great consequence to himself. The other horsemen removed to some distance as if to behold a show.

THE DUEL ENSUED AND YOUNG MANLIUS TRIUMPHS.

Then, collecting the spoils, he rode back to his men, and together with his troop, who exulted with joy, proceeded to the camp, and so on to his father, without ever reflecting on the nature or the consequences of his conduct, or whether he had merited praise or punishment. "Father," said he, "that all men may justly attribute to me the honor of being descended of your blood, having been challenged to combat, I bring these equestrian spoils, taken from my antagonist, whom I slew;" which, when the consul heard, turning away instantly from the youth, in an angry manner, he ordered an assembly to be called, by sound of trumpet, and when the troops had come together in full numbers, he spoke in this manner:

"Titus Manlius, forasmuch as you, in contempt of the consular authority, and of the respect due to a father, have, contrary to our edict, fought with the enemy, out of your post; and, as far as in you lay, subverted the military discipline by which the power of Rome has to this day been supported, and have brought me under the hard necessity either of overlooking the interests of the public or my own and those of my nearest connections, it is fitter that we undergo the penalty of our own transgressions than that the commonwealth should expiate our offense, so injurious to it. We shall afford a melancholy example, but a profitable one, to the youth of all future ages. For my part, I own, both the natural affection of a parent and the instance which you have shown of bravery, misguided by a false notion of honor, affect me deeply. But since the authority of a consul's orders must either be established by your death or, by your escaping with impunity, be annulled forever, I expect that even you yourself, if you have any of our blood in you, will not refuse to restore by your punishment that military discipline which has been subverted by your fault. GO, LICTOR; BIND HIM TO THE STAKE!" Shocked to the last degree at such a cruel order, each looking on the ax as if drawn against himself, all were quiet, through fear rather than discipline. They stood, therefore, for some time motionless and silent; but when the blood spouted *from his severed neck,* then, their minds emerging, as it were, from the stupefaction in which they had been plunged, they all at once united their voices in free expressions of compassion, refraining not either from lamentations or execrations; and covering the body of the youth with the spoils, they burned it on a pile, erected without the rampart, with every honor which the warm zeal of the soldiers could bestow on a funeral. From thence "Manlian orders" were not only then considered with horror, but have been transmitted as a model of austerity to future times.

It should be here observed that upon the successful closing of this war, when Torquatus Manlius returned to Rome, that only the aged people went out to meet him, the young refusing to join in doing him honor, and ever after *continued to execrate and curse him.* Philosophers and historians, in succeeding ages, have been found to commend this conduct of Torquatus Manlius. For myself, I have no hesitation in expressing my intense aversion to the act. It was atrocious, because it was unnecessary; it was cruel, because it was unnatural; it was tyrannical, because it exercised paternal authority in conjunction with military power; and it was hypocritical and mean, because it was a strained effort to distort the heart and to substitute Romanism (so called) for humanity, and thus to contribute to the personal renown of the imperious parricide. I would rather a thousand times be

the young Manlius dead than the old Manlius living. From this tragic picture of horrid war I turn for relief to the contemplation of another, wherein I behold the grandest of all the monarchs of this earth, the illustrious David, the God-appointed King of Israel, lamenting over the dead body of his erring son Absalom. Absalom had rebelled and waged war against his father, and was slain, as a consequence of that war. Nevertheless, the heart-stricken, good old monarch, precipitated by natural emotions, falls into the most violent lamentations, seeing nothing before him but the breathless beauty of a darling son, whose grievous sins were all forgotten in the agony of a father's grief.

In the one picture I see humanity deformed by the god of war into a demon; in the other, I see humanity in its godliest aspect, asserting Christianity a thousand years before its advent into this world. This stupendous parricide of Torquatus was

PROMPTED BY MILITARY AMBITION.

The love of personal renown had crushed out all the other loves in that man's heart. The long contemplation of war and blood had made of him a brute. Personal glory had become his god, and the god of personal glory is a demon.

The same awful mischief which military ambition perpetrated in this particular case, envy and jealousy have perpetrated in a thousand others. Between the chief and subordinate commanders of the Roman armies, in all the ages of the kingdom, the republic, and the empire, there

EVER EXISTED A PERVADING PERSONAL JEALOUSY.

The chief would not allow his lieutenants to fight in his absence, because a victory might have redounded to the glory of the lieutenant, thus stripping the chief of so much coveted renown. This jealousy, however applicable to the earlier chieftains in the Roman wars, became especially conspicuous in the days of Marius, Sylla, Cæsar, and Pompey. Perhaps the solitary exception to this remark is found in the person of Cincinnatus, for the simple reason that he did not allow glory and ambition to play their vicious roles in his immortal career.

ANOTHER CASE OF ROMAN FEROCITY.

In connection with the foregoing reflections I give a brief account of another leading case of the furious determination of a Roman dictator to punish a lieutenant who *had fought against orders.*

THE CASE OF QUINTIUS FABIUS.

In the war with the Samnites, Cursor, the dictator, having occasion to go to Rome, left strict orders with the master of the horse to remain in his post, and not to engage in battle during his absence. After the departure of the dictator, Fabius, having *discovered* by his *scouts* that the enemy were in as unguarded a state as if there was not a single Roman in their neighborhood, the high-spirited youth (either conceiving indignation at the sole authority in every point appearing to be lodged in the hands of the dictator, or induced by the opportunity of striking an important blow), having made the necessary preparations and dispositions, marched to a place called Imbrinium, and there fought a battle with the Samnites. His success in the fight was such that there was no one circumstance which could have been improved to more advantage if the dictator had been present.

The fight resulted in a *splendid victory for Fabius*, and the slaughter of 20,000 of the enemy, and had been fought upon the discovery of a certain feeble situation and condition of the enemy which had been *developed after the dictator had left*, and which authorized and called for a fight; a general of our day, refusing to take advantage of such a situation, would be covered with merited disgrace.

Now, when the dictator heard of this victory he flew into the greatest rage, for he considered that he had *lost just so much renown as Fabius had achieved for himself.* He hastened back to the army and placed Fabius in the hands of the lictor, and was about to inflict upon him the penalty of death, when the offending officer fled from the camp to Rome, and appealed for protection to the senate and to the people. But the raging dictator followed him to the senate and was inexorable, though the senate and people with great unanimity interceded for Fabius.

In this famous controversy the dictator planted himself upon the precedent which Torquatus had made in the slaughter of his son, and insisted that the splendor of the victory was no offset to the breach of Roman discipline. His arguments and invincible resolution prevailed, and Fabius was forced to submit on his knees to the inexorable will of the dictator. But seeing that all the people and the senate of Rome were undisguisedly on the side of the young hero, the dictator so far relented as to grant Fabius his life, asserting to the last that the public submission of Fabius had re-established the *Manlian edict*, and that his pardon was dictatorial mercy, persuaded by the prayers of the people.

POLITICAL JEALOUSIES AND ASPIRATIONS.

Another peculiarity cropped out in the Roman wars—political ambition built upon military success. Marius, by all odds the greatest man of his day, was early penetrated with a desire to achieve military renown as a foundation of civil power at Rome. He succeeded. Sylla, his lieutenant, followed in his footsteps. Having supplanted Marius to a certain extent in war (for it was Sylla's strategy that closed the Numidian war by the perfidious capture of Jugurtha), Sylla resolved to supplant Marius at Rome in civil authority. Hence the stupendous civil wars between Marius and Sylla, which were the beginning of the end of the grand old Roman nation.

In these wars, growing out of political jealousies, every man fell who was in the way of the rising of either of these bloody aspirants. To suspect a subaltern was to execute him, if

THE EXIGENCIES AUTHORIZED THE SACRIFICE.

Now, it is quite evident that this political ambition which so engrossed the old Romans *is a prominent feature at this day in American politics.*

War made George Washington President of the United States, so it made Andrew Jackson, so it made Harrison, and Taylor, and Grant. This war element had its influence in making Pierce President; so also it extended into the election of Hayes and Garfield; each had been military men with more or less renown. This element extended also into the nomination of General Hancock; and it is well known that it was the mythical idea that Richard M. Johnson, of Kentucky had killed Tecumseh that made Johnson Vice-President.

This spirit is especially recognizable as a part of American politics from the persistence with which General Scott's friends pressed him for President, without a record excepting his military renown. Now, Mr. Speaker, I really doubt, and I express it here freely in my place, whether there were many successful generals in our late terrific war who did not feel in their captivated ears at some exquisite moment of sweeping triumph the unutterably harmonious humming of that *ineritable bird, better known as the "Presidential bee."*

The use of these observations in this place is simply to give me the liberty of suggesting that in the sacrifice of Fitz-John Porter by that cruel court-martial the evil spirit of military and political jealousy and ambition entered fearfully and most effectually.

THE TRUE ENDS OF PARTY ORGANIZATIONS.

Is this House now willing to make a political matter of this question?

The legitimate ends of political parties are the urging and establishing of great principles; the means of preserving the free institutions of one's country; of promoting the prosperity of the people, and working for the amelioration of mankind; to find the best means to protect personal liberty and private property; to bring about the greatest good to the greatest number, and to throw around the citizen an ægis broad enough to shield him, not only in the enjoyment of property and liberty, but to *guard* and *defend* his *honor;* these are the ends of party, and in this view of it I too am a party man. But rather than carry my partisan feelings into a contest which involves the honor of a gallant soldier, who had fought bravely for his country in the face of danger and death, I would see my right arm severed from my body.

If you are disposed to make this a party question, remember two things:

1. It was under Republican rule that this great wrong was committed.

2. A Republican Congress has the power to undo this mischief, and refuses the last opportunity to relieve its party from the obloquy of having done a great wrong.

GENERAL GRANT'S MAGNANIMITY.

On this very subject, in this very case, you have before you a splendid example in your own gallant and honored leader, General Grant. With a magnanimity that does honor not only to him but to the whole human race, his mind being disabused of error and prejudice by the revelations of the truth of history, he rises superior to party, and asserts the grandeur of a real heroic nature in proclaiming to the world not only his own grave error, but he publicly expresses genuine and honorable and manly grief for the mischief he has done this injured man by having refused to undo the greater mischief which had been done to him by this cruel court-martial; lamenting that when he had the power to undo the mischief, his mind labored under the belief of this man's guilt upon a false theory and a fatal delusion.

As much honor as General Grant has won in the service of his country, his glittering plume is yet brightened in its gleamings by this other ray of glory, coming, not from a victory on the field of battle, but from that greater victory over self, over party, and over prejudice.

Every point now and heretofore claimed by Fitz-John Porter to prove his innocence of all wrong, intentional or otherwise, under the charges on which he was tried, is

FULLY ESTABLISHED IN THE ORIGINAL RECORD

of the court-martial, printed and shown in his defense at the time.

The subsequently presented newly discovered evidence confirms the original testimony given in his behalf, and disproves that of his accusers and prosecutors.

Owing to circumstances best known to the court, the evidence in his defense was not credited, while that of the prosecution, now fully disproved, was received as correct.

Most of the new evidence was documentary and written on the ground during the events inquired into.

The War Department exercised an espionage over all of Porter's correspondence, and he complained to the court that letters to him from the Army were withheld and pilfered.

Complaint was made and made again to the Post-Office Department; but it was months before he received even a portion of the abstracted

and withheld documents, which when presented with other evidence confirmed the old testimony and

ESTABLISHED HIS INNOCENCE

on all points. Other documentary evidence was withheld or mislaid by his accusers; some of this has not come to light, though its tenor is known. Other papers proving essential facts asserted by him but denied by his prosecutors were brought forward in 1878, by one of his accusers, from the secret recesses in which they had been held since 1862—brought out to prove a "point" in favor of the accusing witness, and they proved Porter's entire innocence of one of the gravest charges, and would have done so in 1862, when they were asked for. I refer to Porter's letter, which showed that he received the 4.30 order after 6 o'clock, and which had been in General McDowell's possession for sixteen years.

The minority report of the Senate, submitted by Senator LOGAN on May 31, 1882, as if feeling the necessity of asserting a full and fair trial, says that for forty-five days the court-martial was in session and that after a "patient investigation," during which many witnesses were examined, Porter was found guily. Nothing, however, is said of the fact that only thirteen days (four being Sundays or holidays not used) of the forty-five were given to the defense, and that those were cut short by the one idea of

EXPEDITING THE TRIAL,

that the service might not be inconvenienced, no matter how the ends of justice might be perverted, which seems to have actuated the Secretary of War, who issued a peremptory order to the court to sit without reference to hours. When Porter was required to enter on his defense not one of his important witnesses had been summoned or notified that he was to be a witness, although at the beginning of the trial Porter had been required by the judge-advocate to furnish a list of his witnesses—an unusual demand, the plea for making it being that the trial would be expedited and the service put to less inconvenience; and further, one witness, General Pope's chief of staff, held for the prosecution, was ordered away from Washington so soon as it was found that he was to be a witness for the defense. Eminent statesmen, honored jurists, and lawyers as able and distinguished as are in our country have declared after a careful and "patient study" of the records of that court-martial that

FITZ-JOHN PORTER SHOULD HAVE BEEN ACQUITTED.

Conscious of his innocence, and as preparation for an appeal, almost simultaneously with the publication of the sentence, Porter asked for the publication of the record by the Senate. His appeal was met by Senators presenting a volume, which had been surreptitiously published and hastily issued, which contained only the evidence for the prosecution, not one word for the defense. And so

SUCCESSFUL WAS THE DECEPTION

in creating the impression that the whole evidence had been published, that the Senate denied the motion to print.

Senator Fessenden said, holding the volume up to view:

He was rather in favor of having the record printed and go to the country. But the record had been printed; he had received a copy and read it. He believed that the result arrived at was amply justified by the facts, and no other results could have been reached in any court. But the record was very voluminous; it would create a vast expense under the present circumstances, and as it was already printed he did not think it best to adopt the resolution.

That volume, bound with other anonymously written and surreptitiously printed pamphlets of the prosecution, furnished to Senators, is now in existence.

THE PRESS ALMOST UNANIMOUSLY FAVORABLE TO PORTER.

The press of the country, that had carefully watched the proceedings of this court-martial, and which had all the evidence, almost unanimously announced their opinion, a fair sample of which is an article in the New York Times January 12, 1862, from which I quote:

It is very certain that the trials (General McDowell's and Porter's), although the impeachments of each officer were so grave, have not resulted in establishing any startling and terrible crimes to shock the country and disgrace the service.

In the minority report of the committee of the Forty-sixth Congress, page 29, "the opinion of a careful military historian, the author of perhaps the best history of our civil war that has been written" and written without "prejudice or passion," is given, but if the members of the committee had turned to the appendix, pages 761–763 of the history by the Comte de Paris, from which the extract was taken, they would have found the amended opinion, and on page 292 of the later American edition they would have found all trace of it gone and commendation substituted; and they no doubt would all have been as much astonished as was one of the minority when this appendix and the new addition were shown to him, unfortunately not until after the report had been made. If the minority still retain their exalted appreciation of this author, then certainly when they find passages derogatory to Porter changed under new light to commendations, in justice they should give him the benefit of this high opinion.

I give the exact words of the Comte de Paris (Appendix, page 761):

We shall pass over in silence the charges of incapacity, cowardice, and treason. These are belied by Porter's whole career, who, both as a soldier and a chieftain, had been tried on more than one battlefield, and whose devotion to the cause he served can not be called into question. * * * After his defeat General Pope censured his lieutenant for not having prevented the junction of Jackson and Longstreet by placing himself between them on the Gainesville and Groveton road. He asserted that this maneuver was practicable and that it would have assured the defeat of the confederates. It was in consequence of this accusation that Porter was tried and condemned. At a later period when the facts became more fully known and the official reports of the confederate generals were given to the public it was shown that the junction of the two confederate corps was effected long before Porter could have reached the point which had been indicated to him.

* * * * * * *

General Pope has weakened the effect of this charge by his immoderate course and by presenting the facts in a light which does not bear investigation. On the one hand he asserts that he ordered Porter to attack the enemy's right, and assumes that he willfully disobeyed him in not fulfilling his instructions. Now, this order, as we have already stated, was only dispatched at half past 4 o'clock, and Porter declared that he did not receive it until the moment when night rendered its execution impossible. The movements of the several corps had been so frequently countermanded that the officers of the general staff were unable to ascertain the exact position of each, so that the delay in the transmission of that order is not to be wondered at. On the other hand Pope, in his anxiety to prove that Porter's inaction had permitted the enemy to concentrate all his forces upon that portion of his line which was defended by Jackson, quotes the official report of the latter. But he made a mistake in the dates, as we have ascertained by examining a collection of confederate reports on the campaigns of Virginia, published in Richmond in 1864 (volume 2, page 96); the quotation he produces has reference to the 30th of August, and not the 29th. This explanation will suffice to show how important it is to be circumspect in examining the various documents that have been published on both sides if one wishes to arrive at the exact truth.

In the stress laid on the fact that Mr. Lincoln, then President, approved the sentence of the court, it should be remembered that the proceedings of the court were never examined by him, and that he approved the sentence mainly on the argument of the judge advocate, which misrepresented the evidence. Never was a great-hearted or great-minded executive more grossly betrayed by the servants in whom he trusted. Mr. Robert Lincoln's testimony plainly shows that his father was misled by the Judge-Advocate-General's interpretation of Porter's dispatch to Generals McDowell and King; nor should Governor Newell's letter and testimony, showing that President Lincoln acknowledged to him that he believed himself misled and would be glad of an opportunity to reopen the case, be forgotten.

It has been said that Porter should be judged on the 29th of August, 1862, by what he knew of Longstreet to guide his acts; also, that Longstreet was not in his front, and if so, that he did not know it. In this connection, I refer to Porter's letter of January 9, 1871, to the honorable Secretary of War, and to a dispatch of August 29, 1863, from General McDowell to General Pope, both accompanying this letter. It will there be seen that for the purpose of assuming a great success after a severe battle on the 29th that General Pope claimed in his dispatch from the battlefield that he had been fighting the *combined* forces of Longstreet and Jackson; but in order to convict Porter, who acted on a positive knowledge of Longstreet's presence in his immediate front, General Pope testified in 1862 that Longstreet had not arrived up to a late hour in the evening and subsequently reported him coming on the field all that night and next day.

Again, General McDowell testified in 1862 that he knew nothing of Longstreet or of the cause of the falling back to Manassas of Ricketts and King, and that he did not meet them until after parting from Porter. Yet in part of that dispatch, written before seeing Porter, he says he had met King, had heard of Ricketts, and that they had fallen back, "being overmatched" by Longstreet. The record of McDowell's court of inquiry, sitting in the same building with Porter's court, shows that he was proving that he knew all about Longstreet, and had arranged to prevent him coming through Thoroughfare Gap, only nine miles from Porter, on the morning of the 28th August. In 1878 he testified that he had imparted his information to Porter.

ANIMUS.

The charge that Porter exhibited ill-feeling toward General Pope is not sustained by the proof. But we see scattered through the testimony very strong evidence that General Pope entertained both jealousy and animosity against Porter.

In his first report of the battle of August 30, he said:

The attack of Porter was neither vigorous nor persistent, and his troops soon retired in considerable confusion.

Porter lost about 2,100 out of less than 8,500 men for the fighting that General Pope styles "neither vigorous nor persistent."

Other corps of General Pope's army lost from August 16 to September 2, inclusive—Sigel 2,087 out of 9,000, Heintzelman 2,238 out of 9,000, Reno 1,523 out of 7,000, McDowell 5,469 out of 18,000; and of these 5,469, more than 2,000 of McDowell's losses were reported as "missing," while Porter's "missing" was only 458.

It will therefore be seen that in the fight that General Pope says was "neither vigorous nor persistent" Porter's loss in killed and wounded on that afternoon was, in proportion to the strength of the various corps,

NEARLY DOUBLE THAT OF ANY OTHER CORPS

during all the battles of the campaign, which lasted eighteen days.

In describing the attack of General Porter, which General Pope says was neither vigorous nor persistent, Stonewall Jackson uses these words:

In a few moments our entire line was engaged in a fierce and sanguinary struggle with the enemy. As one line was repulsed another took its place and pressed forward as if determined, by force of numbers and fury of assault, to drive us

from our positions. So impetuous and well sustained were these onsets as to induce me to send to the commanding general for re-enforcements, but the timely and gallant advance of General Longstreet on the right relieved my troops from the pressure of overwhelming numbers, and gave to those brave men the chances of a more equal conflict. As Longstreet pressed upon the right, the Federal advance was checked, and soon a general advance of my whole line was ordered.

The Schofield board, after describing Porter's conduct on this occasion, comment upon it in these words:

Thus did this gallant corps nobly and amply vindicate the character of their trusted chief and demonstrate to all the world that "disobedience of orders" and "misbehavior in the presence of the enemy" are crimes which could not possibly find place in the head or heart of him who thus commanded that corps.

* * * * * * *

Porter's faithful, subordinate, and intelligent conduct that afternoon saved the Union army from the defeat which would otherwise have resulted that day from the enemy's more speedy concentration.

* * * * * * *

Whoever else may have been responsible, it did not flow from any action or inaction of his.

* * * * * * *

We believe not one among all the gallant soldiers on that bloody field was less deserving of such condemnation than he.

Now, when we recall General Pope's testimony against Porter on his trial, contradicted as it was in many material points by an array of witnesses, many of them called by the prosecution, does it not appear that General Pope was possessed by some personal and malignant animus against Porter?

On January 15, the gentleman from Ohio [Mr. DAWES], by interposing objections, prevented the consideration of the bill for the relief of Fitz-John Porter. He afterward obtained leave to address the House, and, by unanimous consent, I was granted the same privilege. His delay until this time made it necessary for me to proceed without a knowledge of the positions he would assume or the line of argument he would pursue, and it was not until to-day that his views were presented to the House, so as to give me an opportunity to reply.

It would seem, Mr. Speaker, that what I have already said has anticipated every material point in the speech of the learned and distinguished gentleman. There were, however, a few assertions and insinuations in his speech to which I will briefly allude. He states:

General Porter had, therefore, a trial according to the custom of war in like cases—a fair trial and by a court of the highest possible standing as to intelligence, character, and integrity.

It had not been my intention to discuss the legal features connected with the court, as I did not feel such a course was at all necessary to

PORTER'S VINDICATION.

It had been my impression that all persons who had examined the matter admitted the illegality of the proceedings under which he was tried; the matter of contention being that his conduct was so exemplary that no honorable court could hesitate a moment, after hearing the evidence as now presented, to entirely exonerate him from any and all blame or censure.

But as General DAWES has stated that Porter had a fair trial according to the customs of war in like cases, I will reply by asserting that the court, as constituted, was in violation of the sixty-fourth article of war and the sixty-fifth article as modified by act of Congress May 29, 1830. It was also in violation of the seventy-fifth article of war, and if the statements of those who still assail General Porter are correct some of its members have disregarded the requirements of the sixty-ninth article of war, which, if true, would involve those gentlemen in the turpitude of disregarding the oath that is recited in said article. I will first call attention to the sixty-fifth article of war, as modified.

I read from the Army Regulations of August 10, 1861, page 495. The act referred to is an amendment to the sixty-fifth article of war:

Whenever a general officer commanding an army, or a colonel commanding a separate department, shall be the accuser or prosecutor of any officer in the Army of the United States under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States.

The proceedings and sentence of the said court shall be sent directly to the Secretary of War, to be by him laid before the President, for his confirmation or approval, or orders in the case.

So much of the sixty-fifth article of the first section of "An act for establishing rules and articles for the government of the armies of the United States," passed on the 10th of April, 1806, as is repugnant hereto, shall be, and the same is hereby, repealed. (Act 29th May, 1830, sections 1, 2, 3.)

Pope was a general officer, commanding an army, and Porter was an officer in the Army of the United States, under his command.

It will therefore be observed that the act of Congress modifying the sixty-fifth article of war directly applies to a case like this.

General Pope and General Halleck could not be ignorant of these provisions, but is it not probable that they feared the inquiry which would have come from President Lincoln had they asked him to order the court? Did they not apprehend he would have hesitated before ordering a court to try the hero of Gaines's Mill, Cold Harbor, Chickahominy, Malvern Hill, and the brilliant victory of August 30 at second Manassas? Is it not possible that Lincoln was asked and either hesitated or refused to order the court?

Certainly these men would have made some effort to procure a legal tribunal before resorting to violation of law in their efforts to crush a man whose reputation they sought to destroy.

It is true that they give the face of the paper an appearance of legality, Pope's name not being signed to the charges. The signature reads:

B. S. ROBERTS,
Brigadier-General Volunteers and Inspector-General Pope's Army.

When this point of illegality was suggested, Judge Holt said:

There is no reference in the order appointing this court to General Pope at all. I wish to state distinctly that Major-General Pope is not the prosecutor in this case, nor has he preferred these charges, nor do I present them as being preferred by him.

It is true that General Pope swore before the court-martial that he was not the prosecutor, but his report of the battle of August 30 clearly showed that he was the animating cause of the prosecution; and when it became no longer necessary for him to fire from under cover, he acknowledged or rather boasted that he was Porter's accuser and prosecutor.

In supplement to Senate Report No. 142, Thirty-eighth Congress, second session, volume 2, I find on page 190 extracts from a letter written by General Pope, which I will read. It is addressed:

Hon. B. F. WADE,
Chairman of the Joint Committee on the Conduct of the War.

It says:

I have the honor to acknowledge the receipt of your letter of the 18th May, 1865.

* * * * * * *

Within two months it was actually found necessary to depose General McClellan from his command, and bring Fitz-John Porter to trial.

* * * * * * *

In the last days of January, 1863, when the trial of Fitz-John Porter had closed and when his guilt had been established I intimated to the President that it seemed a proper time then for some public acknowledgment of my services in Virginia from him.

* * * * * * *

I considered it a duty I owed to the country to bring Fitz-John Porter to justice, lest at another time and with greater opportunities he might do that which would be still more disastrous.

With his conviction and punishment ended all official connection I have since had with anything that related to the operations I conducted in Virginia.

Although this is conclusive, it is only a part of the abundant evidence that General Pope was both the accuser and prosecutor of Porter, and as the court was appointed by General Halleck and not by the President, it was an illegal tribunal from the inception of its proceeding, and its findings were void, even if all else had been legal.

In discussing this feature of this article I quote O'Brien on Courts-martial, page 227:

WHO MAY ORDER GENERAL COURTS-MARTIAL.

By the sixty-fifth article of war, any general commanding an army, or colonel commanding a separate department, may appoint general courts-martial whenever necessary.

But, by the act of 29th May, 1830, section 1, whenever said general or colonel shall be the accuser or prosecutor of any officer in the Army of the United States, under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States.

It is intended to prevent the packing of a court and still more, perhaps, to prevent the suspicion of such packing.

The effect of this article is, first, when an army is assembled in a body, to prevent any other than its commander from ordering general courts-martial and to limit this privilege, even in such cases, to commanding officers having at least the rank of general. The second effect of the article is, when a territory is divided into different departments, to confine the right of ordering general courts-martial to the commanding officer of a department, and to grant this privilege to him only when he has, at least, the rank of colonel.

With regard to the value this distinguished gentleman placed on himself, in his conversation with Mr. Lincoln in January, 1863, I will simply suggest that if he had only put himself on the New York Stock Exchange and bought himself for what Mr. Lincoln seemed to estimate his worth to the country and then sold himself for what he thought he was worth it would have required but few deals for his wealth to have exceeded the colossal fortunes of Stewart, Vanderbilt, or Astor. I will now read the sixty-fourth article of war, from page 495, Army Regulations, of August 10, 1861:

ART. 64. General courts-martial may consist of any number of commissioned officers from five to thirteen, inclusively; but they shall not consist of less than thirteen when the number can be convened without manifest injury to the service.

This article applies to all courts-martial and is intended when possible to give an officer a full court even when tried for a most trivial offense. That being true, why should the law be disregarded in the trial of such a man as Porter upon charges involving life and honor? Washington city was at the time filled with high titled military men, and with all this array could not Halleck and Pope find more than nine officers whom they could trust with their commission?

I do not mean to say that a court would be illegal composed of less than thirteen members, nor shall I discuss the question of what should be regarded as

MANIFEST INJURY TO THE SERVICE.

But I insist that the spirit and letter of the sixty-fourth article of war were grossly violated by ordering Major-General Porter to be tried in the city of Washington by a court consisting of nine members, with the thousands of officers of all grades in and about Washington; and it is impossible to ascribe other than improper motives in providing for less than thirteen members of the court.

In 1 *Attorney-General's Opinions*, page 299, Mr. Attorney-General Wirt, in referring to this provision of the sixty-fourth article of war, after stating that it does not refer to convenience, nor is the injury alluded to only a probable one, but it must be a *manifest injury to the service*, uses these words:

And if a *smaller number act* without such manifest emergency, I repeat "that they are *not a lawful court* and an execution under their sentence would be murder."

I will now read the seventy-fifth article from page 497:

ART. 75. No officer shall be tried but by a general court-martial; nor by officers of an inferior rank if it can be avoided. Nor shall any proceedings of trials be carried on excepting between the hours of 8 in the morning and 3 in the afternoon, excepting in cases which, in the opinion of the officer appointing the court-martial, require immediate example.

Of the nine officers appointed by the court only two held commissions of the same grade as Porter, all the balance being brigadier-generals. There were at this time more than thirty officers in the Army who were superior in rank to General Porter. Is it possible for any one to contend that the officers ordering the court could not have avoided naming eight officers of a grade lower than that held by the accused? Comment upon this matter is unnecessary.

I will now allude to another action on the part of the prosecution, and remark that they may select that horn of the dilemma which best suits the purpose of their effort at justification. The seventy-fifth article of war provides that trials shall be carried on between the hours of 8 a. m. and 3 p. m., except in cases which

REQUIRE IMMEDIATE EXAMPLE.

General Porter's friends have insisted for twenty years that one purpose of his immolation was, because the disasters of others required the punishment of some officer for an example.

The proceedings of the court show that orders were given for its sessions to be held regardless of hours, so that either it was considered necessary to make an immediate example or this law was grossly violated by the action of the official who issued the order.

It is certainly not creditable to the Government that documentary evidence was

WITHHELD

or mislaid by General Porter's accusers. Some of this has not yet come to light, but other papers which prove essential facts, which were insisted upon by Porter at his trial, but denied by Pope and the prosecution, were brought forward in 1878 by General McDowell, he having secretly withheld such papers since 1862. These papers were brought forward by McDowell to prove a point to sustain his assertions as an accusing witness; but the effect of said papers was to sustain and confirm other proof which General Porter had insisted upon and which disproved one of the strongest points insisted upon by the prosecution in 1862.

In the elaborate and well-arranged speech of the distinguished gentleman from Ohio [Mr. DAWES], he has apparently selected every particle of alleged proof and every point which could be brought against this unfortunate soldier.

Unlike, however, General Pope, he is not universal in his condemnation. He says:

I respect General Porter for his valor on other fields, but for his failure on this field I condemn him.

His allusions to Porter's accusers do not show that his opinion of those gentlemen is very exalted. I will read:

I have spoken not for General Pope. History must attend to his case; it is not here for trial. I have no concern as to the plots or machinations of General Irvin McDowell. I know nothing of his personal schemes, plans, or purposes in that campaign.

General DAWES also sustains General Porter and contradicts General Pope in many points of evidence. The night of August 27, it will be recollected, Pope testifies was starlight. General DAWES's recollection is very different. He says:

I have no doubt that that night was dark; nights are apt to be when there is no moon. There is unimpeachable evidence that the night was dark. I find evidence that it was "very dark," given by my gallant leader who fell at Gettysburgh, General John F. Reynolds. He testifies:

"It was a very dark night, as was the succeeding night. I recollect both of them distinctly from having been about a good deal until after 12 o'clock on each night."

Ah, on the succeeding night I was about myself, and so was my honorable friend from Wisconsin. We can swear it was dark—very dark.

General DAWES's recollection that this was a very dark night is also sustained by a number of other witnesses whose testimony I have cited to this House. He, however, commits a grave error when he makes this statement, which I will read:

The sentence was approved by Abraham Lincoln, President of the United States. The Hon. Robert T. Lincoln, in his testimony upon the subject, says:

"My father was exceedingly severe in his condemnation."

Had he looked into the record of the Schofield board he would have found on pages 320 and 321 the evidence of Governor Newell, who testifies that he had seen General Porter only twice, and that his personal and political relations with President Lincoln were intimate and friendly and that he had a conversation with President Lincoln regarding Porter's case. In answer to a direct question from the court regarding Mr. Lincoln's statement on this occasion, Governor Newell said:

Mr. Lincoln stated that he had not been able to give that personal attention to the cause which its merits required; that he had accepted the opinion of the Judge-Advocate-General and of the War Department as the basis of his action; that if any evidence exculpatory of General Porter could be introduced he would be very glad to give him an opportunity to have it presented; that he had a high regard for General Porter personally and as a soldier, and that he hoped that he would be able to vindicate himself in that way. I had at least two conversations with the President on that subject, the import of which I have given you. I do not recollect the precise language, but it made a special impression upon my mind at the time, and my recollection has been fortified by a letter which I wrote to Governor Randolph, and which reminds me of this particularly.

General DAWES and others of Porter's assailants make assertions regarding General Garfield which I hope are equally erroneous. In their earnest efforts to argue what they seem to choose to regard as their side of the question they do not apparently reflect upon the great injury they were inflicting on the great and

DISTINGUISHED DEAD.

If it was true, as stated by some of General Porter's assailants, that information had been received by them regarding the opinion of any of the members of the court or any intimation as to how any member voted upon any of the charges or specifications, then it is also true that the member of the court who, they say, gave them information in the matter was guilty of violating the oath which he took not to divulge said facts. The letter alleged to have been written by General Garfield I hope and trust was imposed upon the gentlemen by some enemy of our martyred President. I hope General Garfield's friends will come to his rescue and prove, what I believe they will be able to prove, that this, like the Morey letter, was a forgery.

I can not conceive that after reading Mr. Lincoln's views, to which I have alluded, General Garfield would have used an expression to injure Porter and at the same time pervert the position of Mr. Lincoln. If he had in a thoughtless moment written such a letter or uttered careless expressions of the same character to confidential friends, he certainly had too much confidence in them to believe that his reputation would be assailed by their publication to the world.

My very high opinion of General DAWES convinces me that he was ignorant of this testimony regarding President Lincoln when he put on the first page of his speech the eight words taken from an expression of Hon. Robert T. Lincoln. These unexplained words standing alone do injustice to both the living and the dead. They misrepresent Mr. Lincoln and make his distinguished son appear to attribute to him views very different from those expressed by him when first informed of the wrong done to Porter.

It seemed that Mr. Lincoln evinced a great pleasure in learning of Porter's ability to vindicate himself, also remarking that "he had a very high regard for General Porter personally and as a soldier."

Of course the distinguished Secretary of War, in the phrase of eight words attributed to him by Mr. DAWES, referred to the ideas which his father derived from the review placed before him by Judge Holt.

I feel confident, when my gallant friend, General DAWES, learns that his expressions did injustice to the magnanimity and love of justice of both President Garfield and President Lincoln, that he will hasten to correct the error into which he has been led.

General DAWES seems to be a gentleman whose mind was made up on this matter twenty years ago. His language on this floor is:

As a soldier of the army of General Pope, and afterward in the Army of the Potomac, I then accepted this action of the court-martial as conclusive upon the subject.

Is it not probable that this fact, together with his acknowledged ability, was the reason why he was selected to combat this cause against General Porter on this floor? General DAWES also says:

That other generals under Pope in that campaign may have failed is quite probable. It was a general failure all around, so far as results are concerned. To assail other generals does not defend Porter.

The intensity of DAWES's feelings he does not attempt to conceal. Because of the disastrous results of the campaign, he seems to think the immolation of some one is due to the country; but in all his long speech I can not see that he gives any reason why Porter should be the one selected for sacrifice. His own wishes on the subject are very tersely and forcibly expressed. I will read his exact words:

From an old letter of my own, written from our camp near Belle Plain, April 8, 1863, I take these words:

* * * * * * * *

"Shot to death by musketry for Fitz-John Porter would have been poor penance for the thousands slaughtered at Bull Run, and we, their surviving comrades and friends, would for their sakes rejoice at it."

I respectfully submit to this House that in the trial of this cause a member who admits such prejudice should be struck from the panel of jurors. We will not object to the use of his great ability as counsel against the accused; but I feel confident from my knowledge of his better feelings he will of his own motion decline to stay with us in the double capacity of judge and juror. But whatever may be his disposition in this regard, the friends of justice will certainly appreciate his incapacity to give this case an impartial consideration.

General DAWES's effort to prejudice the case by alluding to the time that has elapsed since the court-martial met in 1862 is a point hardly worth considering. The entire country knows that General Porter has been during all the time assiduous in his demands for a proper hearing of his case. The effort to sustain a wrong by such a plea would meet with no favor from the people. Another effort is made to detract from the dignity of the Schofield board, by assailing them with the statement that they "were without power to compel the attendance of witnesses." This is an equally unfortunate allusion. The record shows that the only witnesses wanted by the Government or by Porter's accusers were easily procured, and it also shows that this want of power to compel the attendance of the witness was only made apparent by the court's strenuous efforts to bring General Pope before it to testify. Pope's appeals to the Government to

SAVE HIM FROM

the severe examination and confusing inquiries to which he would have been subjected is now a matter of history.

Again, General DAWES, wincing under the overwhelming proofs developed by the Schofield board, as a last resort attempts to weaken its findings by speaking of its constitution as of questionable legality.

This attack upon President Hayes would have come with better grace from some one else than the distinguished member from Ohio. The board was, in fact, in the nature of a court of inquiry, which is especially provided for by the articles of war. Even if it should be said that a court of inquiry has no jurisdiction to report upon a citizen, it must be remembered that its report and inquiries were with regard to many gentlemen who still bore commissions in the Army. I have already considered what the evidence shows regarding the animus of the parties, but as General DAWES states that "the animus of Porter will be the controlling consideration in the debate before the American people," let me ask what animus was in Porter's heart when he hurried from the Peninsula to the support of Pope, not even waiting for orders but anticipating them? What was his animus on August 30, when by gallantry he saved Pope from disastrous defeat? What animus was shown in his reply to a letter from General McClellan which that officer wrote to him at the earnest solicitation of President Lincoln? The animus of Porter during all this time is the same as that which he exhibited from June 26 to the night of July 1, when by his great gallantry and skill he won those

VICTORIES

to which earlier in these remarks I have alluded.

Mr. Speaker, we accept this question of animus, and we inform General Pope and his friends that they shall not retreat from the position which they have taken. Let us consider Pope's animus and that of the Government officials in their treatment of Porter. What was the animus inducing Pope to testify that he had nothing to do with the charges against Porter? He knew that statement to be untrue, and has subsequently made statements that proved that it was not true. He also knew that if he admitted before the court that he was Porter's accuser he would have destroyed the legality of the proceedings. What animus was exhibited toward Porter by the Judge-Advocate of the Army? He had prosecuted Porter before the court as judge-advocate. He then reviewed the proceedings of the court in the capacity of Judge-Advocate-General of the Army.

When Porter completed his defense Judge Holt was invited by the court to reply, but he declined to do so; yet under an order of the President he revised the proceedings in the capacity of Judge-Advocate-General of the Army, preparing a most elaborate argument against Porter, in which he canvassed and reviewed the evidence; and this was the paper which was placed before President Lincoln.

My friend, Mr. DAWES, knows that this argument of the judge-advocate of the court should have been made before that body so that General Porter could have had opportunity of replying thereto. One more point on animus. If Mr. DAWES will read the proceedings of the Porter case, page 489, he will find that during the trial Major-General William B. Franklin informed Porter that, if requested, General John F. Reynolds, General George H. Thomas, and himself would go before the court and swear that they would not believe either Pope or Roberts under oath.

Such evidence would have instantly crushed the prosecution, and Porter knew it, but he declined to have these distinguished gentlemen testify, giving as a reason that it would give rise to bad feeling. Could there, Mr. Speaker, be a more glaring case of animus than was exhibited by McDowell when he circulated what he represented to be a copy of Stonewall Jackson's report of the battle of the 29th, when in truth and in fact the report referred to the battle of the next day, in which Porter was so distinguished? What kind of animus was it, Mr. Speaker, which induced the ordering of an

ILLEGAL COURT?

Illegal because it was not ordered by the President as required by law; illegal because it was in violation of the articles of war. It contained but nine when it should have contained thirteen members. Illegal again, Mr. Speaker, because two of its members were not disinterested in the result of the trial. Illegal also, Mr. Speaker, because one of these interested judges was placed upon the stand as a witness and resumed his place upon the bench as a juror and judge.

But I am wrong, Mr. Speaker, in detaining the House any longer in regard to the argument of the gentleman from Ohio. I hope upon further reflection that he will be led to do this wronged man justice.

In closing, Mr. Speaker, let me say that I have never seen General Pope in my life, and my knowledge of General Porter is limited to the short time that he was my instructor in artillery at West Point. In common with all men who were thrown under his influence, I recognized in him those elements of which honorable and brave soldiers are constituted. During the last quarter of a century I have not met him but once, and that for a single moment, and in the presence of those who demanded his attention, so that he did not recognize me as one of his pupils at the Academy. I have no prejudice for Porter, nor do I desire to criticise his assailant. Every word that I have said I feel is justified by evidence. I have not sought to vindicate Porter. My object in saying these words to the lovers of right throughout our land is to add my feeble mite toward the establishment of truth, the vindication of honor, and the upholding of the sublime principles of justice.

In order to illustrate some of the foregoing remarks and positions, I take the liberty of adding a number of curious and instructive cases, all historical, involving and elucidating the subject of military punishments for insubordination and dereliction of official duty. These cases show the danger of hasty trials in times of great tumult and of those high and turbulent excitements which usually exist in times of war; when nations are contending in arms on the field of battle, amid scenes of slaughter and the thunders of artillery; when the nerves of men are strained to the utmost, and their minds are thrown out of that quiet equilibrium so necessary to weigh with deliberation the testimony which sways the judgment involving the life or honor of eminent men.

The history of wars is full of gloomy records which show the hasty conviction of the most honorable and innocent men; and some of these, to which I here call attention, show that time has exculpated many a victim of injustice, where history in discovering innocence had to weep over the dead who had passed away from earth under clouds of infamy, too far removed to hear the voice of vindication as it sweeps over the grasses and turfs of the defamed grave—a vindication powerless to do aught but to revive the melancholy memory of a blasted name.

All the persons were very distinguished officers, all were convicted upon evidence which time showed was either false or insufficient, and all have been vindicated by history, notwithstanding great efforts on the part of their prosecutors to repress and hide the development of truths.

APPENDIX.

ADMIRAL BYNG.

[Encyclopædia Britannica.]

The celebrated British Admiral Byng entered the navy at an early age, became captain in 1727, and in 1745 was made rear-admiral of the red. In the year 1755 the British Government received intimation that the French were fitting out a naval expedition in Toulon, and it behooved them to attend to the defenses of Gibraltar and Minorca. Nothing, however, was done until the intentions of the French were too apparent, and Byng was then intrusted with ten miserably equipped ships of war, and set sail from Spithead on the 7th of April, 1756. He put in at Gibraltar to receive stores, and there learned that the French had made good their descent upon Minorca. On the 19th of May he came in sight of St. Philip's, still held by the British, but failed to establish communications with the governor.

On the following day he engaged with the French fleet, which was inferior in number of vessels but vastly superior in armament and equipment. There seems no doubt that the division under Byng's charge did not second with sufficient eagerness the bold attack made by Admiral West. The action was indecisive, and next morning Byng called a military council, and it was resolved that, under the circumstances, it was hopeless to attempt anything further, and that Minorca must be left to its fate. The fleet returned to Gibraltar. The indignation of the English at the transaction was intense, and the government took advantage of it to avert from themselves the charge of incapacity. Byng was at once superseded and brought home under arrest. A court-martial on his conduct sat during December, 1756, and January, 1757, and found that the admiral had not done his utmost to relieve St. Philip's or to defeat the French fleet, though they fully acquitted him of cowardice or treachery. The only punishment open to them to inflict was that of death, and they passed their sentence with the utmost reluctance, coupling it with an earnest recommendation to mercy. No attention was paid to this or to other attempts to mitigate what was felt to be an unduly severe punishment for mere incapacity. The unfortunate admiral was shot on the 14th of March, 1757.

ROBERT CLIVE.

Robert Clive, Baron of Plassy, in the peerage of Ireland, was the founder of the empire of British India before he was 40 years of age. At 18 he was sent to Madras in the civil service of the East India Company. He was just of age when in 1746 Madras was forced to capitulate to Labourdonais during the war of the Austrian Succession. The power of the Great Mogul was at that time in the hands of three provincial viceroys, the nawabs of the Deccan of Bengal and of Oudh. Clive successively established British ascendency against the French in these three great provinces. The English supported the claims of Mohammed Ali against Sahib in the province of the Carnatic; and Clive with a small force and only three field-pieces gained possession of its capital, Arcot, and there sustained a siege of fifty days against the forces of Sahib, supported by the French. He was finally relieved by English troops from Mahratta.

In all history there is scarcely a parallel to this exploit of 1751, until the siege of Lucknow in 1857. When war again broke out in 1756 Clive's efforts helped to drive the French from their settlements, and the treaty of Paris in 1763 confirmed Mohammed Ali in the position Clive had won for him. Two years after the British possessions in Southern India were formally recognized by the Emperor of Delhi. The siege

of Arcot gave Clive a European reputation. Pitt pronounced him a "Heaven-born general." He returned home early in 1753. He was sent out in 1756 as governor of Fort St. David, and on his way out he took Bombay and captured Gheriah, a piratical stronghold. He took his seat as governor on the very day on which the nawab of Bengal captured Calcutta.

On the 5th of August Suraf-ab-Dowlah took the old fort of Calcutta and plundered it; the English fled, many jumping from the ships into the river. Of one hundred and forty-six who were forced into the "Black Hole" in the stifling heat of that sultry season only twenty-three came out alive. Disembarking below the city, Clive marched through the jungles, invested Fort William and by the assistance of the fleet reduced it, January 2, 1757. A month later he defeated the nawab and forced him to conclude a treaty favorable to the English. Clive then sent a fleet up the river against a French settlement, when the treacherous nawab refused to be bound by the treaty, and Clive was compelled to treat him as an enemy.

On the 21st of June Clive arrived on the bank opposite Plassy with 1,100 European and 2,100 native troops and ten field-pieces. The nawab had drawn up 18,000 horse, 50,000 foot, and fifty-three pieces of heavy ordnance served by French artillerymen. When, after a heavy rain, the sun rose brightly on the 22d, the 3,200 men and the six guns crossed the river and took possession of the grove and its tanks of water, while Clive established his headquarters in a hunting lodge. On the 23d the engagement took place and lasted the whole day. Except the forty Frenchmen and the guns they worked, the enemy did little to reply to the British cannonade, which, with the Thirty-ninth Regiment, scattered the host, inflicting on it a loss of five hundred men.

In 1760, at 35 years of age, Clive returned to England with a fortune of at least £300,000, and the quit-rent of £27,000 a year, after caring for the comforts of his parents and sisters, and his old commander, Lawrence. The money had been honorably and publicly acquired with the approval of the company. The amount might have been four times what it was had Clive been either greedy after wealth or ungenerous to the colleagues and troops whom he led to victory. In five years the young man had crowded together a succession of exploits which led Lord Macaulay to compare him to Napoleon Bonaparte. Then it was that he set himself to reform the home system of the East India Company, and commenced a bitter warfare with Mr. Sullivan, chairman of the court of directors, whom finally he defeated. In this he was aided by the news of reverses in Bengal. On the 3d of May, 1765, he landed at Calcutta.

Kassim Ali had induced not only the viceroy of Oudh, but the Emperor of Delhi himself, to invade Behar. After the suppression of the first mutiny in the Bengal army Major Momo, "the Napier of those times," scattered the united armies on the hard-fought field of Bexar. The Emperor Shah Aalum detached himself from the league, while the Oudh viceroy threw himself on the mercy of the English. He returned to the Oudh viceroy all his territory save the provinces of Allahabad and Corah, which he made over to the weak emperor. But from that emperor he secured a most important document in the "firman from the King Shah Aalum, granting the dewany of Bengal, Behar, and Orissa to the company 1765."

The date was the 12th August, the place Benares, the throne an English dining-table covered with embroidered cloth and surmounted by a chair in Clive's tent. Clive's final return to England was the signal for an attack of his personal enemies. Every civilian whose illicit gains he had cut off, every officer whose conspiracy he had foiled, every proprietor or director whose selfish schemes he had thwarted, now sought their opportunity. Burgoyne, of Saratoga memory, did his best to induce the House of Commons, in which Lord Clive was now member for Shrewsbury, to impeach the man who gave his country an empire, and the people of that empire peace and justice. The result after the brilliant and honorable defense of his career, which will be found in Alman's debates for 1773, was a compromise.

On a division, the house, by a vote 155 to 95, carried the motion that "Lord Clive did obtain and possess himself of £234,000 during his first administration of Bengal," but refusing to express an opinion on the fact, it passed unanimously the second motion at 5 in the morning that "Robert, Lord Clive, did at the same time render great and meritorious service to his country."

The first motion satisfied the animosity of those whose ambition Clive had thwarted, and the second satisfied the consciences of those who knew the first motion was a base slander upon a great and brave man.

He died 1774, in his fiftieth year.

THOMAS ARTHUR LALLY.

Count Lally, son of Sir Gerald Lally, an Irish loyalist who accompanied James II in his exile in France, when scarcely 12 years of age performed his first military service at the siege of Barcelona.

In 1745 he distinguished himself at the battle of Fontenoy, where he led the Irish brigade whose gallantry secured victory to the French. Louis XV made him a brigadier-general on the field. Several years later he received the appointment of governor-general of the French establishments in the East, but the means placed at his disposal were wholly inadequate. He landed at Pondicherry April 28, 1758, and found that the agents of the French East India Company were secretly against him. Nevertheless the Coromandel coast was conquered in a few weeks. He laid siege to Madras in December, carried the Black Town, and had some prospect of success; but being unsupported by D'Aché, the commander of the French fleet, and having no money to pay his mutinous soldiers, he was obliged to retire on the arrival of an English fleet.

Besieged in Pondicherry, he held out for ten months; but he was finally compelled to surrender his garrison of seven hundred men, January 14, 1761, to General Coote, who had 22,000 troops and was supported by fourteen ships. He was carried as a prisoner to London; but having heard that he was charged by his personal enemies with various crimes, he obtained his release on parole, went to Paris, entered the Bastile in order to hasten his trial, and remained there for nineteen months. Accused by the very men who had caused his ruin as a traitor and defaulter, a mock trial took place; witnesses of the worst character were allowed to testify against him; he was refused counsel, and was not even allowed to present his defense. At last, after a long, secret deliberation, he was sentenced to death and executed. Several years afterward the whole of these proceedings were revised, and the sentence was finally reversed in 1778.

THOMAS COCHRANE, EARL OF DUNDONALD.

As commander of the sloop Speedy, to which Lord Cochrane was appointed in 1800 (he was then 25 years of age), he performed a series of exploits in capturing vessels of immensely larger size than his own, which are almost without parallel in the annals of naval warfare.

The Speedy's cruise of thirteen months, during which she took upward of fifty vessels, with one hundred and twenty-two guns and five hundred and thirty-four prisoners, ended in her own capture by three French line-of-battle ships, after making so gallant a resistance that the French captain to whom Cochrane delivered up his sword at once returned it. After a brief imprisonment Lord Cochrane was exchanged. The promotion to post rank to which he was fully entitled came somewhat tardily in August, 1801, and the persistence with which his claims had to be urged laid the foundation of the bad undefstanding with the authorities at the admiralty that caused him to be lost to the British service a few years later, while he was still in his prime.

In August, 1806, Lord Cochrane was transferred to the command of the Imperieuse (44), in which during the succeeding two years he did immense damage to the enemy's fleet in the Bay of Biscay and the Mediterranean. One of his most gallant exploits during this period was his defense of Fort Trinidad, near Rosas, which he held for twelve days (November, 1808) against overwhelming odds. When he found further resistance impossible he blew up the magazines and returned to his ship.

Meanwhile, though his services were so distinguished, his relations with the admiralty had not become more friendly. At the general election in May, 1807, he had been returned triumphantly for Westminster in the Radical interest, along with Sir Francis Burdett; and during the brief interval spent at home, while he was in command of the Imperieuse, he had rendered himself still further obnoxious as a critic in Parliament of naval abuses. In 1809, however, the authorities had occasion for a daring service which he alone was found competent and willing to undertake. It had been suggested to them that the French fleet blockaded in Basque Roads might be destroyed by means of fireships, and the hazardous duty was intrusted to Cochrane. On the night of the 11th of April he personally piloted the vessels loaded with explosives to the entrance of the harbor, where they spread such terror that seven French frigates slipped their cables and ran on shore, five of them being afterward destroyed.

Unfortunately this first success was not followed up as it ought to have been. Lord Gambier, the commander of the blockading fleet, ignoring the repeated and urgent request of Cochrane, refused to order a general attack, and thus the opportunity of destroying the whole of the enemy's ships was lost.* Lord Cochrane was bitterly disappointed, and made no attempt to conceal his opinion of the incompetency of his superior, who found himself compelled to demand a court-martial. The trial was worse than a mockery; the court was packed, witnesses were manipulated, and charts fabricated, with the scandalous result that Gambier was acquitted and Cochrane by implication disgraced. There was of course no further professional employment for one who had been stigmatized as a false accuser. For four critical years Lord Cochrane held no command, and his country lost the services of one of the few naval heroes she has had worthy to be named along with Nelson.

In his place in Parliament he did what he could to secure a reform of the many abuses connected with the administration of the navy, and his unsparing criticisms greatly embittered his already unfriendly relations with the admiralty and the government. In 1814 an unfortunate concurrence of circumstances, suspicious in themselves, though capable of a satisfactory explanation, led to his being accused, along with several others, of a conspiracy to defraud the Stock Exchange by circulating a false report of the success of the allies and the death of Napoleon. He had only a week or two before so far overcome the disfavor with which he was regarded by the admiralty as to secure his appointment to the command of the Tonnant, the flag-ship of his uncle, Sir Alexander Cochrane, but he had to resign the position in order to meet the prosecution which the government was not slow to institute.

The trial was conducted before Lord Ellenborough, a noted partisan, who, if he did not, as Cochrane's friends have insinuated, exceed the limits of his office in order to secure a conviction, certainly showed no favor to the accused, who were all found guilty. Lord Cochrane was sentenced to a fine of £1,000, twelve months' imprisonment, and an hour in the pillory. His ruin and disgrace were completed by his being expelled from the House of Commons and deprived with the usual humiliating ceremonies of the Knighthood of Bath, which had been bestowed on him after his heroic service at Basque Roads. Popular sympathy, however, was strongly with him. An influential minority of forty-four voted against his expulsion from the House of Commons, and when a new writ was issued for Westminster he was unanimously returned, no one having ventured to stand against him. A public subscription was raised by his constituents for the payment of his fine.

His colleague, Sir Francis Burdett, pledged himself to stand along with him in the pillory if that part of the sentence was carried out, and the government judged it prudent to remit it. Lord Cochrane's conduct was throughout that of an innocent if somewhat imprudent man.

At his trial he volunteered a full explanation of the suspicious circumstances that were urged against him, and after his conviction he took every opportunity of protesting against the injustice that had been done him and was urgent in his demand for a new inquiry.

At the close of his imprisonment Lord Cochrane, finding little hope of active service in his native country, took command of the fleet of Chili, offered him in 1818, and he subsequently served the Brazilian Government most brilliantly and successfully.

Finding inaction impossible, Lord Cochrane gave his services to the cause of Greek independence, being appointed admiral of the Greek fleet, in which for the first time his heroism and exalted military genius were of no avail. On his return to England Lord Cochrane found himself the object of a popularity that had grown rather than abated during his absence. His great achievements had been spoken of in the warmest terms in the House of Commons by Sir James Mackintosh, who urged the government to restore him to his place in the service of his native land.

With the accession of King William and the formation of a liberal ministry there came at last a tardy and imperfect reparation to Lord Cochrane for the injustice he had suffered. He was restored to his rank in the navy, but with this he had to remain content. It was with bitter and indignant feelings that he found himself compelled to accept a pardon under the great seal instead of the new trial he had long and vehemently demanded. And the restoration to his rank was robbed of much of its grace by the fact that the honor of the knighthood of the Bath, of which he had also been deprived, was not restored at the same time, and that the arrears of his pay were withheld. In 1831 he succeeded his father in the earldom of Dundonald.

On the 23d November, 1841, be became vice-admiral of the blue. Another installment of the

LINGERING ATONEMENT

that was due to him was paid in 1847, when the honor of knighthood of the Bath was restored, though, by that strange fatality which seemed to have decreed that no reparation made to him should be complete, his banner was not replaced in the chapel of the order until the day before his burial. No one will now deny that this "heroic soul branded with felon's doom" suffered more cruel and undeserved wrongs than ever fell to the lot of any warrior of his genius and achievements.

Lord Dundonald died at Kensington on the 30th October, 1860, and was buried in Westminster Abbey.

COMMODORE JAMES BARRON.

On June 22, 1807, the frigate Chesapeake, thirty-eight guns, Captain Gordon, bearing the broad pennant of Commodore Barron, was boarded by a boat from the British ship Leopard, of fifty guns, Captain Humphreys, to search her for certain deserters from the British navy. Commodore Barron refused to submit to this extraordinary demand, and in a very few moments afterward the Leopard fired a broadside into the Chesapeake. The American ship was in no condition to return it; besides her inferior force, she was in utter confusion on first coming out of port, and although the guns had been loaded, rammers, wads, matches, gun-locks, and powder-horns were all wanting. The Leopard continued to fire until Barron, finding that no resistance could be made, ordered the colors struck.

A single gun was fired by the Chesapeake just as her colors were hauled down. There being no matches at hand, it was discharged by means of a coal brought from the galley. The ship received twenty-one shot in her hull, and three were killed and eighteen wounded; among the latter were Commodore Barron and his aid, Mr. Broom. Four men claimed as English were taken out of her, and she returned to Hampton Roads the same evening. Intense excitement was created throughout the country by this outrage.

Barron was court-martialed and sentenced to be suspended for five years without pay or emoluments. Barron remained abroad till 1818, when an attempt was made to restore him to duty. This was resisted by many officers, including Decatur, who had been a member of the court-martial, and after a long and bitter correspondence Barron sent Decatur a challenge. The duel was fought at Bladensburgh, March 22, 1820. Both fell at the first fire. Decatur died the same night, and Barron recovered after months of great suffering.

Facts developed soon after Barron's trial quite conclusively showed that he was in no wise responsible for the condition of the vessel upon which he was ordered to sail, but the deep sympathy and indignation of the people at the cruel injustice meted to him was the only reparation that was made to him.

This case of Commodore Barron is still fresh upon the minds of all readers of history, while the late action of the Government in restoring to the Army Surgeon-General Hammond and Colonel Granville O'Haller shows that their previous dismissal was without warrant of law or justice. But the recent centennial anniversaries of the capture of Stony Point and the surrender of Lord Cornwallis at Yorktown have called our attention to one of the bravest actors in those battles, whose fate makes a record of the most atrocious outrage which ever disgraced the annals of military jurisprudence.

GENERAL HULL'S CASE.

General William Hull, a gentleman of the highest culture and attainments, was among the first of the Revolutionary patriots who rushed to the defense of our country. He served with great distinction as an officer of the line

UNDER WASHINGTON

at the siege of Boston, and in the battles of Trenton, Princeton, and Monmouth.

General Washington, in his published letter to Major-General Heath, dated December 13, 1779, says:

Colonel Hull is an officer of great merit, and whose services have been honorable to himself and honorable to his country.

In the summer of 1780 General Washington solicited him to accept a position upon his staff as aid-de-camp, which appointment he declined at the earnest request of Major-General Baron Steuben, inspector of the Army, under whom Hull was then serving as inspector-general of the division of Major-General Howe. Baron Steuben visited General Washington especially on this subject, and stated to both General Washington and Colonel Hull that he, "Hull, would be more useful in the office of inspector than in any other situation, and hoped such considerations would influence their decision for him to remain."

Colonel Hull also fought under General Lee at White Plains, under General St. Clair at Ticonderoga, and under General Gates in the battles of the 19th of September and the 1st and 3d of October, and in the capture of Burgoyne's army at Saratoga.

Hull also commanded and led his regiment, four hundred strong, in the assault and capture of Stony Point, and for his great gallantry in that battle he received the

PARTICULAR THANKS

of General Wayne and General Washington and Congress.

By General Washington's special permission, given in his published letter of January 7, 1881, Colonel Hull attacked and defeated the enemy at Morrisania.

Major-General Heath, in a letter dated December 30, says:

The success of this Morrisania enterprise was doubtful in the opinion of General Washington, but Colonel Hull, with the troops under his command, was successful. With great address and gallantry they forced a narrow passage to the enemy, and with the loss of one subaltern, one drummer, and ten privates killed, one captain, one sergeant, and eleven rank and file wounded, completely defeated the enemy, and, besides the killed and wounded, took upward of fifty prisoners, cut away the ponton bridges, took a considerable quantity of forage, a number of cattle, &c., for which they were thanked in public orders.

General Heath also states twice in this letter that—

Colonel Hull sustained a conspicuous character of a brave and good officer and possessed the particular esteem and confidence of General Washington.

Colonel Hull continued in active service during the entire war of the Revolution.

For gallantry at Dorchester Heights, White Plains, and Trenton General Washington promoted him to the rank of major.

His heroic conduct at Princeton, Ticonderoga, Bemis Heights, Stillwater, Saratoga, Monmouth, and Stony Point won him promotion to lieutenant-colonel, and he was acting under the orders of Washington with the rank of colonel when Cornwallis surrendered in 1781.

When the Army was disbanded at the close of the war Hull was tendered by Washington the appointment as

LIEUTENANT-COLONEL OF THE ONLY REGIMENT

which was retained in the service, and when the Army was organized in 1799 for the anticipated war with France he was selected by Washington as one of the major-generals.

General Hull was appointed commissioner to make treaties with the Indians 1798; appointed judge of the court of common pleas 1798; was State senator 1798 to 1805, and governor of Michigan 1805 to 1812.

Appointed brigadier-general regular Army 1812, and declined (see evidence of Secretary of War Eustis, page 3, Appendix Hull's Trial). Again appointed brigadier-general regular Army to command troops at Detroit, which appointment was conferred and accepted for the distinct purpose of enabling him to better protect settlers in Michigan from Indian depredations. This appointment was coupled with the assurance on the part of the Government that in the event of a war with

England a naval force would be placed upon Lake Erie, as General Hull had previously suggested in a paper laid before the Secretary of War, showing that in that contingency Detroit could not be held unless the lake was thus kept under our control.

Before reaching Detroit, and before he had any intimation of the declaration of war with England, the entire baggage of his troops with the hospital stores and implements, was captured on Lake Erie by the British, and Fort Mackinaw, a post north of Detroit, had also fallen into their hands.

General John Armstrong, who afterward became Secretary of War and an opponent of Hull, in his notice of the war of 1812 (page 47), thus censures Secretary of War Eustis for this disaster:

> We have seen that General Hull lost his own baggage and that of the army, the whole of his hospital stores and intrenching tools, and sixty men in consequence of the ill-judged and tardy manner employed in transmitting to him the declaration of war. A fact so extraordinary in itself and so productive of injury to the public calls for more development than has yet been given to it.
>
> Still more extraordinary was the fact that the news of the declaration of war reached the Canadian authorities some days before it reached General Hull, and this under the frank of a Washington official, this error or treason being the direct cause of the disaster.

With Lake Erie under the undisputed control of the British and the entire line of march to Detroit being filled with hostile Indians, all military men of experience considered the few hundred men under Hull, detached as they were two hundred and fifty miles from re-enforcements or supplies, as

VIRTUALLY SACRIFICED

by the declaration of war with England.

General William Henry Harrison, afterward President, writes to the Secretary of War, August 6, 1812:

> The information received a day or two ago from Detroit is of the most unpleasant nature. The loss of Mackinaw will probably be followed by the capture of Fort Dearborn. It is my opinion that it will be the object of the British to draw as many of the Indians as possible toward Malden to cut off the supplies from and ultimately to capture General Hull's army.—*Clarke's History of Campaign of* 1812, page 396.

The Government appreciated this, and suggested that Colonel Wells should re-enforce Detroit with a large detachment and convey rations and supplies to Hull.

General Harrison deemed this hardly practicable, thinking it would only add to the force sacrificed. Harrison, in replying to this suggestion in his letter of August 10, 1812 (Dawson's Life of Harrison, page 275), says:

> I greatly fear the capture of Mackinaw will give such éclat to the British and Indians that the northern tribes will pour down in swarms upon Detroit, oblige General Hull to act on the defensive, and meet and perhaps overpower the convoys and re-enforcements which may be sent him. It appears to me, indeed, highly probable that the large detachment which is now destined for his relief under Colonel Wells will have to fight its way. I rely greatly on the valor of these troops, but it is possible that the event may be adverse to us, and if it is Detroit must fall.

(See Clarke's Campaign of 1812, page 397.)

The Government appreciated these views and was deeply impressed with the jeopardy in which Hull's force was placed, and directions were given to create a diversion at the east end of Lake Erie to induce a withdrawal of a portion of the enemy which was in front of Hull, and thus release the pressure upon the beleagured forces at Detroit. General Hull had frequently in his letters shown the necessity of such a diversion. (Appendix to Hull's Trial, 38.)

During July the often-repeated orders of the Secretary of War to General Dearborn, who commanded the entire northern army, was similar to the following paragraph in the orders to General Dearborn dated August 1, cited in Appendix No. 10 to Armstrong's Notices of the War of 1812; also Appendix to Hull's Trial, page 38:

> You will make a diversion in favor of him (General Hull) at Niagara and Kingston as soon as it may be practicable.

Major-General Dearborn neglected to make the slightest movement to comply with these instructions, but in direct violation of these orders made an armistice with the enemy,

EXCLUDING HULL'S FORCE

from its benefits, which enabled the British Major-General Brock and Sir George Prevost (who had full control of Lake Erie) to throw their entire army and thousands of Indians upon Hull and compel the surrender of his little undisciplined and unprovisioned force of seven hundred men.

In the life of Sir George Prevost this armistice is thus spoken of:

> A *ruse de guerre* as creditable to the shrewdness and sagacity of Sir George Prevost as it was disreputable for the obtuseness or treachery of General Dearborn.

No. 11 of Armstrong's Notices of the War of 1812, in the appendix, is the following extract of a letter from Sir George Prevost to General Brock:

> I consider it most fortunate that I have been able to prosecute this object of the government [the armistice] without interfering with your operations on the Detroit.

(See Clarke's History, page 355.)

General Armstrong, afterward Secretary of War (volume 1, page 97 in his Notices of the War of 1812), says:

> We have already stated that to lessen the pressure on General Hull, Major-General Dearborn was directed to make such movements against the British posts in his front as would have the effect of preventing them from re-enforcing the garrison at Malden, or otherwise altering the relation as to strength which had hitherto existed between Hull and Proctor.
>
> But for this service the major-general had made no preparation and appeared to have little relish, as on the very day on which he was thus instructed by the Government (though sufficiently apprised that detachments had been sent to Malden and that the situation of Hull was becoming more critical every moment) he did not hesitate to enter into an armistice by which he completely disabled himself from giving any aid to that officer either by vigorously assailing the British posts in his front (now rendered comparatively weak by the absence of Brock and the troops carried with him) or by extending to him and his army the benefits of the temporary suspension of hostilities into which he had entered.

(See Clarke's Campaign of 1812, page 354.)

On August 12, 1812, General Hull's situation was as follows: His last letter from the War Department (July 9) informed him that he must

NOT RELY UPON RE-ENFORCEMENTS.

On the north, Michilimackinac had fallen, and 3,200 Indian warriors were marching upon Detroit from that quarter. The lake which lay to the south of Detroit and east was under the undisputed control of the British. On the south or southwest a dense forest for over two hundred miles, filled with hostile Indians, separated him from the nearest settlements. The detachments under Major Van Horn, Colonel Miller, and Colonels Cass and McArthur, which had attempted to penetrate this forest and succor a much needed and hoped-for convoy with provisions, had been checked or driven back by the hordes of Indians who, aided and directed by British officers, had established strong fortifications within fourteen miles of Detroit. To the west was an unexplored wilderness.

Letters just received from Generals Hall and Porter, who commanded small posts to the east on Lake Erie, informed him that—

> A large number of boats filled with British troops had passed over to Fort Malden, and that the British forces with the Canadian militia and savages on the opposite side of Niagara River were moving by water to the same point; and at the same time General Hull was informed that nothing could be done to check their movements, and that no assistance or co-operation could be afforded to him.

General Hull's troops, estimated by his brigade-major, Jessup, and Colonel Cass at from 750 to 1,060 officers and men, which included teamsters, laborers, and other non-combatants, were ignorant, undisciplined, and many of them imbued with a spirit of insubordination and mutiny, fostered and encouraged, and in some cases even initiated, by militia officers of all grades, including colonels of regiments. They were without efficient arms, with but little ammunition, and were deficient in supplies of all kinds. (See Colonel Miller's evidence, Hull's Trial, pages 116 and 117; also, Appendix No. 2, Hull's Trial, page 14; also, Memoirs of Campaign of 1812, page 61.)

In his front was Major-General Brock with a thoroughly equipped and disciplined army, with no limit to the vast hordes of Indians which were anxious to obey his orders, and the armistice which Sir George Prevost had effected with

MAJOR-GENERAL DEARBORN

placed at General Brock's disposal as many thousand British troops as he could possibly desire.

In addition to the above, General Brock had subject to his command the entire Canadian militia, which numbered more than 18,000 men. (See Memoirs of 1812, pages 19 and 20.)

This was the condition of affairs when Major-General Brock wrote as follows:

August, 15, 1812.

General WILLIAM HULL:

> The force at my disposal authorizes me to require of you the immediate surrender of Fort Detroit. It is far from my intention to join in a war of extermination; but you must be aware that the numerous bodies of Indians who have attached themselves to my troops will be beyond my control the moment the contest commences.
>
> You will find me disposed to enter into such conditions as will satisfy the most scrupulous sense of honor. Lieutenant-Colonel McDowell and Major Glegg are fully authorized to conclude any arrangement that may lead to prevent the unnecessary effusion of blood.
>
> ISAAC BROCK, *Major-General.*

General Hull was

GOVERNOR OF A DEFENSELESS PEOPLE

as well as commander of the troops at Detroit. His pride as a soldier induced him to reply that he was prepared to meet any force at his disposal and any consequence which might result from it. (Hull's Trial, Appendix 2, page 23.)

General Brock opened a severe fire from his batteries and advanced his troops to the attack.

Hull left the inclosed fort in person, rode to his advanced battery under a heavy fire and superintended the dispositions for defense.

The evidence of Major Munson and Captains Dyson and Maxwell says: "General Hull's bearing was cool and collected." (See Hull's Trial, pages 128–131, 133.)

Notwithstanding the hopelessness of the situation General Hull continued to make

ALL POSSIBLE PREPARATION FOR DEFENSE;

but during the night one hundred of his men deserted with their arms to the British standard, confirming the previous statements of the militia colonels that these men could not be relied upon. The Michigan militia had been for years separated by vast forests from American settlements. Social and business relations and frequent marriage connections with the

Canadians had caused a growth of identity of feeling and interest. (Memoirs of 1812, page 60.)

Most of the remainder of Hull's forces were Ohio militia; the same troops who had refused to march at Urbana; the same troops which Colonel Miller referred to in his evidence when he stated that Colonel Brush said on the morning of the capitulation, "his men would run away to a man." (Hull's Trial, page 125.)

The same troops whose mutiny Colonel Miller's regiment suppressed while *en route* to Detroit. (Hull's Trial, page 125; and Memoirs of Campaign 1812, page 35.)

The same troops

WHO REFUSED TO OBEY ORDERS

to cross the river into Canada. The same troops which Colonel Cass said would desert to a man if ordered to take post at the Miami. (Hull's Trial, page 33; Memoirs, page 65.)

The same troops which Lieutenant Bacon testified were without subordination or discipline, and who were frequently disorderly, and who rode their officers upon a rail.

The same troops, Lieutenant Bacon saw refuse to obey orders, the same troops referred to when he heard Colonel Miller informed that there was another mutiny among the Ohio militia, and the same troops to whom he alluded when as a staff officer he gave to Colonel Miller an order to suppress the mutiny.

The same troops which were referred to when the commander said to Colonel Miller: "Your regiment is a powerful argument; without it I could not march these volunteers to Detroit." (See Hull's Trial, pages 124 and 125.)

The senior officer of these troops was

COLONEL CASS,

who admitted that he encouraged his troops to refuse to obey orders which they did not approve, notwithstanding the fact that they had never heard a hostile gun, and notwithstanding the further fact that their commander was a veteran of thirty battles and enjoyed the implicit confidence of General Washington, and for twenty years had been his tried and trusted friend. (See Cass's letter, Memoirs, page 65.)

Cass also openly admitted (see Hull's Trial, Appendix No. 2, page 26) that two days previous to the attack these officers were engaged in a mutinous conspiracy which he says Hull prevented by sending two colonels off on detachments.

In Memoirs of Campaign of 1812, page 60, we find the following:

In addition to all this combination of force which was proceeding against me symptoms appeared in the interior of my camp not less alarming; the spirit of mutiny which before had manifested itself in whispers increased and became more open. It was evident it was now fostered and encouraged by the principal officers of the militia and was fast rising into an avowed conspiracy.

This was the condition of the garrison of Detroit when its commander found himself confronted by the forces of Sir George Prevost and Major-General Brock with

ALL THE MILITARY RESOURCES OF ENGLAND

then in Canada at their disposal. General Dearborn, the commander-in-chief of the American army, having stipulated and agreed that the American army would remain quiet during an indefinite period, during which the entire resources of England then in Canada were left free to overpower and capture the troops under General Hull, at daylight on the 16th

GENERAL HULL WAS WITH HIS TROOPS

outside the fort engaging the enemy.

He had learned that Dearborn's armistice had thrown upon him all the British troops, Canadian militia, and Indians on the northern frontier.

He also learned that in addition to this combination and increase of the enemy's force, contrary to all expectation, the Wyandots, Chippewas, Ottawas, Pottawatomies, Munsees, and Delawares, all tribes of Indians who had been counted upon as friendly with Americans, had gone over and joined the British standard. (Hull's Trial, Appendix No. 2, page 14.)

A report dated after the loss of Detroit, published in a French Canadian paper, gives the following as the British force in Canada:

Royal Artillery	500
First Royal Scots Infantry, first battalion	1,200
Eighth Regiment, King's Own	1,000
Forty-first Regiment, first battalion	900
Forty-first Regiment, second battalion	350
Forty-ninth Regiment	700
One Hundredth Regiment	900
One Hundred and Third Regiment	800
One Hundred and Fourth Regiment	750
First Veteran Battalion	500
Canadian Fencibles	800
Nineteenth Dragoons	500
Glengary Fencibles	800
Voltigeur Corps	800
Embodied militia, about	6,000
Two troops volunteer cavalry	150
Three companies chasseurs	150
Eighty-ninth Regiment	500
German Legion, called De Walteville's	1,600
Total	18,900

One of the detachments General Hull had sent with orders for Colonels Cass and McArthur to join him now came in, having been driven back by the enemy, and reported their inability to continue upon their mission. (Hull's Trial, Appendix No. 2, page 15.)

The fort, or rather inclosure, which was a fort only in name, had become filled with women, children, and old and decrepit people of the town and country. The enemy's fire had already killed some of those helpless people, and they could not retire back of the town without being killed by the Indians.

The whole effective force under General Hull were new troops unaccustomed to camp life. A laborious march, a number of combats and skirmishes, in which a portion of these troops had engaged, a large amount of sickness, and a want of medicines and comforts had still further reduced his strength of effective troops. (Hull's Trial, Appendix No. 2, page 15–16.)

While in this defenseless condition Major Anderson brought the intelligence that two companies, the advanced post under Captains Knagg and Shover, had gone over to the enemy, while at the same time Colonel Brush exclaimed to his general, "By God, every man of his regiment had or would desert to the British" (Hull's Trial, page 123; also Appendix, pages 91–93), events adverse to General Hull and over which he had no control had transpired in rapid succession—

First. The fall of Mackinaw and Chicago, and the destruction of the garrison of the latter place.

Second. The absolute impossibility of procuring ammunition and provisions.

Third. The failures of convoys with supplies to make their way to him from the settlements.

Fourth. The general uprising of the Canadian militia and the fact that all the savages, including many tribes heretofore friendly, had joined the British standard.

Fifth. The ignorance, disaffection, conspiracy, and mutiny which pervaded his troops, culminating in desertion to the enemy.

Sixth. The action of General Dearborn in failing to comply with orders from the Secretary of War to make a diversion in General Hull's favor.

Seventh. The astounding conduct of Dearborn in agreeing to an armistice which turned all the British forces upon General Hull's small detachment. This was the situation when, on the 16th day of August, General Hull found his most advanced post had deserted and joined the British troops.

The information regarding the extent and character of General Dearborn's armistice was confirmed by official papers in the possession of General Brock, which were sufficient to justify Hull in the belief that General Dearborn entered into the armistice with the view that the

SACRIFICE OF THE FORCE AT DETROIT

which would inevitably result would be compensated for by advantages which he expected to gain in other localities.

The hundred or more of his men who had deserted during the night were now with Major-General Brock, and that officer was now thoroughly informed regarding the deplorable condition of Hull's force, their limited supplies and ammunition, and the disaffection and mutinous spirit which prevailed. It was clear a further effort at battle would accomplish nothing, and it was equally clear that

A BUTCHERY OF WOMEN AND CHILDREN

would follow should further progress of the conflict be permitted.

No alternative was left but to capitulate to General Brock while it was still in the power of that officer to protect the non-combatants from the knife of the savages. It was impossible under the circumstances to avert defeat, and it was clear that even a temporary success over General Brock would avail nothing, as the rapidly approaching force both of British and Indians would in a few hours number twenty armed men to every fighting soldier under his command.

The terms exacted by General Hull secured an immediate parole and return to their homes of most of the garrison, making, however, no stipulations favorable to himself.

NOT A WORD OF CENSURE WAS HEARD EITHER BY THE ARMY OR PEOPLE.

General Armstrong, in his notices of the war of 1812, No. 10, says:

The inaction by General Dearborn, which enabled Brock to leave his posts on the Niagara undisturbed and unmenaced, and even to carry with him a part of his force to Detroit and there to capture Hull, his army, and territory, was not noticed by any kind of disapprobation on the part of the Government. The inference is fair that it (the Government) was willing to take the responsibility on itself.

The edition September fifth of The War, a newspaper said to have been published, at least in a measure, under the auspices of the Government, contains the account of the loss of Detroit, in which it uses these words:

General Hull's army is represented as having been in the greatest distress. They were almost destitute of provisions, and many of them were sick. It is said that eight hundred only were able to do duty.

The same article also said:

To whom to attribute this great national disaster we do not know, but conjecture that the blame will fall upon the Secretary of War.

The Administration did not attempt to deny that all the blame attending the loss of these troops rested entirely upon them or upon General Dearborn, whose situation was such as to really make him a part of the Administration.

This is supported by the following letter taken from Records of the War Office, volume 6, page 253:

WAR DEPARTMENT, *December* 18, 1812.

SIR: Your letter of the 11th is received. Fortunately for you, the want of success which has attended the campaign will be attributed to the Secretary of War. So long as you enjoy the confidence of the Government the clamor of the discontented should not be regarded.

You are requested to make an exchange of General Hull as soon as possible.

WILLIAM EUSTIS,
Secretary of War.

Major-General DEARBORN.

Colonel Cass had left Detroit on the 14th of August with most of the able bodied and best equipped soldiers of the command.

On the 15th, when Detroit was attacked by General Brock, Hull sent orders for Colonel Cass to return, which order he made no preparation to obey.

At the capitulation on the 16th Colonel Cass was left to choose whether he would take the risk of cutting his way through to the settlement or returning under General Brock's pledge of British protection from the savages.

Though two days' march from Detroit, he returned, and Colonels Cass and McArthur and the men under their command were paroled and returned to their homes.

The most pronounced division in political opinion at this time was between the war party and those who believed it was unnecessary and ought to have been averted.

The Administration and war party were severely censured for their management, which resulted in the disaster at Detroit.

The Presidential election was now about to take place, and the effort of any one tending

TO TURN THE TIDE OF DISAPPROBATION

from the door of the administration was most earnestly desired.

Colonel Cass arrived in Washington in this crisis. He was politician enough to see a road to promotion and preferment, and with a British parole in his pocket he commenced a series of letters, which abounded in misrepresentation, and sought to shield the Secretary of War and General Dearborn and cast the blame resulting from their errors upon General Hull, who was a prisoner at Montreal.

The leading papers were supporters of the Administration and largely elaborated the opinions and

MISSTATEMENTS OF COLONEL CASS,

all of which had a very appreciable effect upon the public mind.

The force surrendered by Hull was falsely stated to have been 2,500, when in fact after the desertions on the night of the 15th he had less than 600.

Cass, a militia colonel, without even having been in battle, was appointed to the rank of brigadier-general in the regular Army, and others who were at Detroit and who aided the statement of and sustained Cass were also liberally promoted.

Cass and his coadjutors insisted that if Hull had held out, supplies and re-enforcements would have been brought to succor him.

Subsequent experience showed that

HULL WAS RIGHT

in not relying upon such a contingency. After the loss of this meager force General Harrison was placed in command of the Northwest with over 10,000 men and ordered to penetrate to Detroit. By October 22, 1812, he had made no progress, and writes to the Government as follows:

To get supplies forward through a swampy wilderness of near two hundred miles in wagons or on pack-horses which are to carry them provisions is absolutely impossible. (See Armstrong's Notes of the War, volume 1, page 59; also Clarke's Northern Campaign, page 373.)

And it was not until after Perry's victory, in September, 1813, had opened Lake Erie that Harrison was able to act against Detroit, which he then captured without resistance.

Again, General Cass stated in his letter of September 10, 1812, which he reiterated as his opinion in his evidence upon General Hull's trial, that provisions could have been procured in the country around Detroit.

This was not true, and it was afterward proven that little more than a month previous to September 10, when General Cass had no purpose to subserve, he was writing letters asserting precisely a contrary opinion of the condition of the country. (Clarke's Campaign of 1812, page 369; Memoirs of 1812, page 60.)

HOW CRIMINALLY UNJUST

to censure Hull for not holding Detroit under such circumstances, and how equally unjust to censure him for not cutting his way through to the American settlement. His effective force, as before stated, was hardly six hundred strong. His road required a détour for sixty miles to the southwest along the bank of the lake, making it necessary for him to cross all rivers and streams at their mouth, all of which, together with the lake, were under the undisputed control of the British, with their army and Indian allies and a naval force consisting of five vessels of war and a number of gunboats, some of the British vessels carrying twenty cannon, (see Memoirs of 1812, page 27), while at the same time

DEARBORN'S ARMISTICE

turned the entire force of the English and Indians to attack him by both land and water, and impede his march at every step. Two months later Major-General Harrison, with 10,000 men, found and reported it impossible to penetrate the forest from the settlement to Detroit, and this, too, after the armistice had terminated and only a small portion of the British and Indians were opposing him, and when no portion of the British navy was in position to menace his line of march. (See Memoirs of 1812, page 73.)

Again, Colonel Cass by his conduct also showed Hull was right.

When Hull was attacked Colonel Cass was two days' march en route for the States, with three hundred picked men, all of the healthy and effectives of his own and McArthur's regiments. He was well ammunitioned and unincumbered with luggage.

Major-General Brock and Sir George Prevost were engaged against Hull; yet Colonel Cass, with all these advantages, dared not attempt to reach the settlement, and gladly

MARCHED TO DETROIT AND SURRENDERED

himself and command to the British forces.

With what propriety could Hull have attempted the same march, with the women and the sick and feeble and attacked at every step by the armies of Sir George Prevost and Major-General Brock, aided by the vast hordes of Indians which these officers controlled. That General Hull did right is now the verdict of every honest and intelligent man in America, and every informed and honest historian of the present day justifies him in every particular. So clearly was General Hull justified by the Administration that any thought of censuring him was not in any way suggested.

On the contrary, the Secretary of War, after four months' deliberation, writes, under date of December 18, 1812:

The want of success which has attended this campaign will be attributed to the Secretary of War.—*Clarke's Campaign of* 1812, page 421.

It was clear that General Dearborn and the Administration had brought about the disaster, and it was difficult to see how any one could so pervert facts as to relieve them from the responsibility. At first no attempt was made, but the Administration soon found, or rather had forced upon them, a man ready and willing to do anything which would give him preferment with those in power. That man was Colonel Cass, who, as before stated, soon appeared in Washington, and, with a British parole in his pocket, commenced by

BASE FALSEHOODS

to decry his old commander, then in a British prison, at the same time lauding himself, General Dearborn, and the Administration. Colonel Cass was a man of talent and plausibility, but he showed in this that in a matter of personal interest scruples had to be subordinated to ambition. He sought by his letters to protect the Administration and General Dearborn and to place the entire blame upon General Hull. He asserted that Hull wanted neither men nor supplies of any kind, that the Army was in all respects in good condition, and that the British might easily have been defeated.

These letters soon had the effect which Cass and his supporters sought to produce upon the public, who did not know that this same Colonel Cass had written to Governor Meigs and to his own brother-in-law a few days before the surrender—

That the Army was in want of everything and must perish unless soon assisted.

Also using expressions in his letters to them of which the following is a sample:

Our situation is become critical. Bad as you may think our situation, it is still worse than you can believe.

Cass also knew, but kept it a secret, that his friends, whom he relied upon to join in accusation against Hull, and who did join in those accusations, were deserting so rapidly that regiments were becoming depleted, and that a hundred of them did desert to the enemy on the night after the action of August 15.

Cass also knew, but did not make it public, that Colonel Brush, one of Hull's accusers, on the morning of the capitulation, upon hearing that the most advanced post had deserted to the British, rushed up to General Hull, exclaiming "By God!" or "he believed, by God, that his men would desert to a man." (See pages 91 and 93, Appendix to Hull's Trial.

Cass also knew that Lieutenant-Colonel Miller had positively refused to be commanded by either Colonels Cass or McArthur or Findley, and that the entire force was in a state of insubordination. Cass also knew, but withheld the fact, that on another occasion Colonel Brush publicly announced and told General Hull "he believed that his men would run away to a man." (See Hull's Trial, page 125.)

There was no one to rectify these falsehoods by publishing General Harrison's letter of August 6, 1812, which states that, even under conditions much more favorable than those which surrounded Hull on August 16, "Detroit must fall." Nor did any one show that, while Cass and the Administration and General Harrison regarded Hull's position as critical, he was cruelly sacrificed by the failure of General Dearborn to obey orders and make a diversion in favor of General Hull, but who on the contrary made an armistice and threw the whole British force in Canada upon him.

Hull was a dignified gentleman, who, to refute all accusations, asked for an immediate trial.

A court was ordered, consisting of the following officers: Brigadier-Generals Wade Hampton, James Bloomfield, and H. Burbeck; Colonels E. Izard and A. McComb, artillery; J. Burn, cavalry; J. Simonds, J. Kingsbury, J. Parker, H. Brady, W. H. Winder, and P. P. Schuyler, infantry. Supernumeraries: Lieutenant-Colonels W. Scott, artillery; J. Chrystie and R. Dennis, infantry; and A. J. Dallas, judge-advocate.

General Hull hastened before this tribunal confident of prompt vindication.

General Dearborn felt certain that this court, consisting as it did of honorable and with a fair average of experienced soldiers, would necessarily

EXONERATE GENERAL HULL

and at least incidentally place censure upon himself, and an order was issued dissolving the court and preventing the investigation so much desired by General Hull.

Immediately a most discreditable plot was planned which is without an equal in the annals of judicial proceeding.

A portion of the press under the patronage of the Administration, Dearborn, as commander-in-chief, being as it were, a part of it, kept up a series of articles to influence the public mind favorable to the Administration and General Dearborn and unfavorable to General Hull, and at the end of the year

ANOTHER COURT

was directed to convene.

Of the fourteen officers appointed upon this court, thirteen of whom were to try General Hull, and determine matters which ought by right to be submitted only to officers of the highest honor and military experience and learning, twelve were men from civil life, whose occupations and calling had been

CIVIL AND POLITICAL

rather than military.

Eight of them were not in the military service at all during the campaign of 1812, and the average length of time they all had held commissions was less than a year.

These men owed their positions as generals, colonels, and lieutenant-colonels, not because of any service whatever, but because they were violent political partisans and supporters of the Administration (see Clarke's Campaign, 1812, page 423).

They did not enter the Army as a profession, and it would seem had no idea of remaining in the Army, and in point of fact they returned to civil and most of them to political life upon the close of the war. Not one of them ever received a brevet or any kind of promotion for service, and as far as can be learned not one of the twelve was ever in battle.

Colonel Gardner's excellent work, which gives the record and a sketch of all Army officers and carefully mentions all service in battles, recites the records of all these twelve officers, giving a sketch of their service in and out of the Army, and these records do not show that any one of the eight was ever in or near any battle or skirmish or action of any kind whatever, and investigations indicate that this is equally true regarding eleven of these officers. If all else had been fair and just the appointment of

SUCH A BODY OF MEN

to try a veteran of twenty battles and a trusted friend of Washington was sufficient to put the stamp of dishonor upon the entire proceeding.

But to make matters worse, one of these members, Colonel Conner, was at the time upon the staff and a member of the military family of General Dearborn, and owed to his influence a promotion to lieutenant-colonel just before the court convened as well as all previous appointments and promotions. Two other members of this court had been recently promoted, and three others were or had been members of General Dearborn's military family, and were generally regarded as thoroughly under his influence.

Certainly such a court could be relied upon to protect General Dearborn and the Administration, no matter what evidence was produced; they were mere parasites, without character to lose, unknown to fame, and

MEN WHO REMAINED UNKNOWN

to the end of their days; a pack of subservient tools to echo the wishes and mandate of General Dearborn, the commander of the American Army.

That mandate was, so far as in them lay, to strike at the honor of a brave and trusted officer of General Washington.

The law gives a majority of a military court the power to make a verdict.

These young unknown tools of the Administration could certainly outvote Colonels Fenwick and House, who were regular officers and who might be supposed to be men of integrity. Certainly with that majority in his favor General Dearborn ought to have felt certain of being protected, and all these men knew that

HULL'S CONVICTION WAS DEARBORN'S VINDICATION.

But with all this Dearborn was not satisfied. His vindication appeared to be his uppermost thought. Fenwick and House might influence these young members to regard their oaths and do justice to General Hull.

DEARBORN WAS COMMANDER-IN-CHIEF

of the American Army. A war was being waged and then at its height which jeopardized the existence of our country as a separate nationality. Certainly his duty demanded that he should remain in the field where his soldiers were standing in line of battle. This was eminently true, but it was also true that General Dearborn's

PERSONAL INTEREST CALLED HIM ELSEWHERE.

Hull's acquittal was his condemnation.

This must be averted at the expense of country, and, if need be, of honor.

If he were on the court his vote at all hazards was sure to be for Dearborn and against Hull, and his influence with the young men, most of whom owed their positions to him, and all of whom, it might be presumed, looked to him for future preferment, would no doubt, the schemers hoped, attain the wicked end they desired.

To the astonishment of every one, Major-General Dearborn, the commander-in-chief of the American armies, was ordered to act as president of this court, and to the greater astonishment of those who did not know him, he

LEFT HIS ARMY IN TIME OF WAR

and went to Albany to sit in trial and render a verdict in a case which was essentially, paramountly, and virtually his own.

To do this took him from the field from early in December, 1813, to some time in April, 1814, which shows what was sacrificed in order that this man might determine his own cause.

So much for the constitution of this inquisition.

It would be interesting if we could get a correct view of the proceedings of this remarkable tribunal, but that we are denied. We see that General Hull in his defense often alludes to the failure of the recording officer to write down rulings and even evidence which would benefit the accused, and he therefore appeals to the members of the court to recall the omitted paragraphs.

There were some things, however, which they allowed to be spread upon the record to which we shall make some allusion.

The court met January 3, 1814.

Four principal witnesses of the Government were present, but the court declined to proceed, says the record, "for want of witnesses."

They adjourned from time to time until January 19, and thus for sixteen days the commander of the American Army, in the height of war, kept himself and thirteen other

OFFICERS IDLE AT ALBANY,

when they were so much needed to confront the enemies of our country. The purpose to be subserved by this delay was soon developed.

On the 19th the array of Government witnesses were assembled, with many indications that they had been drilled to do the work needed by their masters.

The whole concourse were brought into court and General Cass, the most talented, led off with his evidence, to which the others

LISTENED WITH SUCH CARE

as it was thought at the time would prevent the possibility of embarrassing contradictions.

General Hull had made so many objections to the various unlawful proceedings of the court, which had in every case been overruled, that he finally determined not to go through the useless form of further protestations.

One honorable officer of the court, however, upon his own motion, insisted that this

TUITION OF WITNESSES

should not be allowed; but he was promptly rebuked by General Dearborn, who stated it was not necessary, in his judgment, to examine these witnesses separately. (Hull's Trial, Appendix, page 17.)

General Hull had from the first been

DENIED THE PRIVILEGE OF COUNSEL

to address the court, although the Government employed Hon. A. J. Dallas and Hon. Martin Van Buren, then regarded as the ablest advocates in America, to conduct the prosecution.

If Hull was guilty of anything it was improperly surrendering the garrison at Detroit, which charge could have been expressed in a dozen lines, but these astute lawyers drew up a series of intricate charges covering over one hundred pages of ordinary paper.

In this mass of verbiage were concealed expressions admitting of various meanings, the real use to which they were to be applied never being developed until during the closing argument of the Government.

MOST FLAGRANT VIOLATIONS OF LAW

were permitted by this remarkable tribunal. Officers were permitted to testify to their recollection of written documents when the witnesses themselves admitted these documents were under the control of the prosecution and easily attainable, and this, too, even when the defense denied that the documents alluded to were such as described by the verbal testimony. (Hull's Trial.)

The prosecuting witnesses are here worth a passing notice. Their military experience, with few exceptions, had been confined to the two

months' service under General Hull just preceding their capture by General Brock. During these two months their conduct had been insubordinate, mutinous, and almost treasonable. So ignorant were these men of military usage and propriety that they did not conceal the fact of their disobeying General Hull's orders, issued by him in June, for the army to march from Urbana to Detroit (see Memoirs, page 35), nor his orders to cross into Canada; nor did they deny their refusing to march to the Miami, stating they would desert rather than obey; nor did they deny that two days before the capture of the troops they were in open mutiny against their commander. On the contrary, they boasted of these acts, vindicating themselves with the statement that they had lost confidence in the military capacity of their commander.

The majority of the court seemed to concur with their witnesses in these views, and apparently commended such disgraceful and unmilitary conduct, all of them failing to observe that the first mutiny and disobedience of these officers was at Urbana, when General Hull first assumed command, with a reputation indorsed by Washington as one of the bravest and most skillful officers of the Revolution.

So little did the officers who conducted this prosecution know of military duty and propriety, that they even embodied in the charges (see Trial, Appendix, pages 7 and 14):

That the officers and soldiers were induced to lose and did lose confidence in the courage and military capacity of their said commander.

Now, mark that this opinion of these men was reached before they saw General Hull in the presence of an enemy, and mark also that it was precisely the reverse of the opinion reached by Washington and Generals Wayne, Steuben, Saint Clair, Gates, Heath, Commodore Charles Stewart, Majors Bannister and McCracken, and Governor Brooks and Captain Tufts. These illustrious men, as shown by history, witnessed and testified to General Hull's intrepidity, courage, skill at Dorchester Heights, White Plains, Trenton, Morrisania, Princeton, Ticonderoga, Bemis Heights, Stillwater, Saratoga, Monmouth, and Stony Point. Some witnessed what they termed Hull's heroic conduct at some battles and others witnessed and admired the courage he displayed upon other fields in which they participated.

Also, continue Hull's accusers of 1812 who had never seen him in battle:

The officers and soldiers naturally became dissatisfied and disgusted.

These men, without military knowledge or experience, were selected by General Dearborn and the Government to give their opinions regarding General Hull's conduct and to testify against him.

Some of them had been promoted from the rank of lieutenant-colonel of militia to the rank of general in the regular Army and others of lesser rank had received promotion on a similar scale.

Of the fourteen witnesses relied upon by the Government, all came with commissions as officers of the regular Army.

Twelve of the fourteen had been recently appointed from civil life or the militia service, and all had very recent commissions, some dated three months before the sitting of the court, some dated eight months previously, and some received promotion and commissions while waiting as witnesses at the trial.

All of these promotions must have been given to

PAY FOR THEIR EVIDENCE,

as neither Gardner's Dictionary of the Army nor any other work records that they ever did any creditable service, and so far as most of them are concerned they did no service at all before the promotion, and it can hardly be supposed that it was intended for these witnesses to do service afterward, as the same records show they did nothing after they left the court.

Even without this bribery of rank they had

STRONG INDUCEMENTS

to swear to suit the prosecution, because if Hull should be vindicated how could they justify their disobedience of orders and their mutiny and conspiracy, or, as these mutineers expressed it, "to incur the responsibility of divesting the general of his command."

They were the men who were to go into court and give evidence as to their opinions regarding the propriety of orders which two years before they had refused to obey. They were also to give in evidence their opinion as to the capacity of the commander they had "conspired to divest of his command," a conspiracy which they were only prevented from carrying out by Colonels Cass and McArthur being detached with their regiments. Could any doubt arise in the mind of General Dearborn what would be the evidence of such witnesses?

It was true that a cross-examination developed a great deal to break the force of their opinions and to materially embarrass the witnesses, but this had probably been anticipated, and Hull was unlawfully

REFUSED THE RIGHT TO HAVE COUNSEL

to assist him in the cross-examination of witnesses, and the bad effect arising therefrom was also in some degree prevented by vigorous applause from the Administration organs, which were lavishly distributed and, together with pamphlets containing most scandalous falsehoods, hawked for sale at every door of the Capitol while the trial was progressing. (Memoirs of 1812, page 13.)

One point in evidence is also worthy of notice.

Militia officers who had never been in battle, and who only saw General Hull while he was inside the fort or inclosure, gave their opinion that he was influenced by fear, because they saw him in a safe place and marks of tobacco-juice were about his mouth.

Now, it must be observed that seven militia officers who gave that character of evidence all testify that they saw General Hull inside the fort and out of danger, while regular officers like Colonels Miller and Kingsbury and Captain Maxwell, who had been in over twenty battles, testify that they saw

GENERAL HULL EXPOSED TO THE ENEMY'S FIRE

on the advanced line while balls were passing and repassing, and that he, General Hull, appeared firm, cool, and collected. (Hull's Trial, pages 128 and 129; Appendix, page 103, and Appendix No. 2, page 7.)

It must be observed that General Hull was with his advanced line under fire during the 15th; was on the line during the night of the 15th and on the morning of the 16th.

Lieutenant Bacon swore that he saw General Hull once on the 15th on the parapet, and once on the 16th. He saw him also in different parts of the fort during the cannonade, and that General Hull appeared engaged as usual. (Hull's Trial, page 124.)

Colonel Richard Platt also swore that General Hull's character stood in cardinal points, intelligent, brave, active and enterprising. (Hull's Trial, page 145.)

Is it not remarkable that brave veterans should see General Hull firm, collected, and

COOL WHILE UNDER FIRE,

and that men who had never seen a battle and who testify they were in a place of safety when their observations were made, should when they saw General Hull in a place of safety be of opinion he was deficient in courage? (Hull's Trial, page 128; Appendix, 103.)

Major-General Heath, Major Bannister, Captain Francis Tufts, Governor Brooks, Major McCracken, and Admiral Charles Stewart, all war-worn veterans, testified to General Hull's distinguished gallantry.

How disgraceful in the face of all this credible evidence for the court to give weight to the evidence of militia officers who had never been in battle, and whose interest induced them to swear falsely against their commander to as far as possible justify their "disobedience of orders," "insubordination," "threatened desertion," "mutiny," and "conspiracy" during the two months they were under the command of General Hull. (Hull's Trial, page 66, Appendix.)

Such were the men who, as experts in military experience, science, and art, were called before the tribunal to give opinions regarding the military character and the propriety of military measures adopted by General Hull.

The Administration sent them there with high-sounding titles of military rank—generals and colonels who had never seen a battle or had any military experience. (Hull's Trial, Appendix, page 64.)

A number of official documents which

EXONERATED GENERAL HULL

and placed blame upon General Dearborn and the Administration were known to be upon file in the War Department.

They were applied for by General Hull to use as evidence, but under the false plea that the documents could not be found the officials in Washington allowed the court to adjourn without giving the accused their benefit. That these papers were at this time available to the Government and to Dearborn, the president of the court, is evident from the fact that twelve years afterward, when John C. Calhoun became Secretary of War, he found them regularly filed in the Department, and promptly furnished them upon General Hull's application.

Bad as was all this, a crowning infamy was found to be necessary and was therefore enacted.

So exemplary had General Hull's conduct been that with all the efforts of Dearborn and the Administration no evidence had been produced which would justify an honorable man in doing otherwise than declaring that General Hull deserved commendation rather than the slightest censure, and some of the members of the court

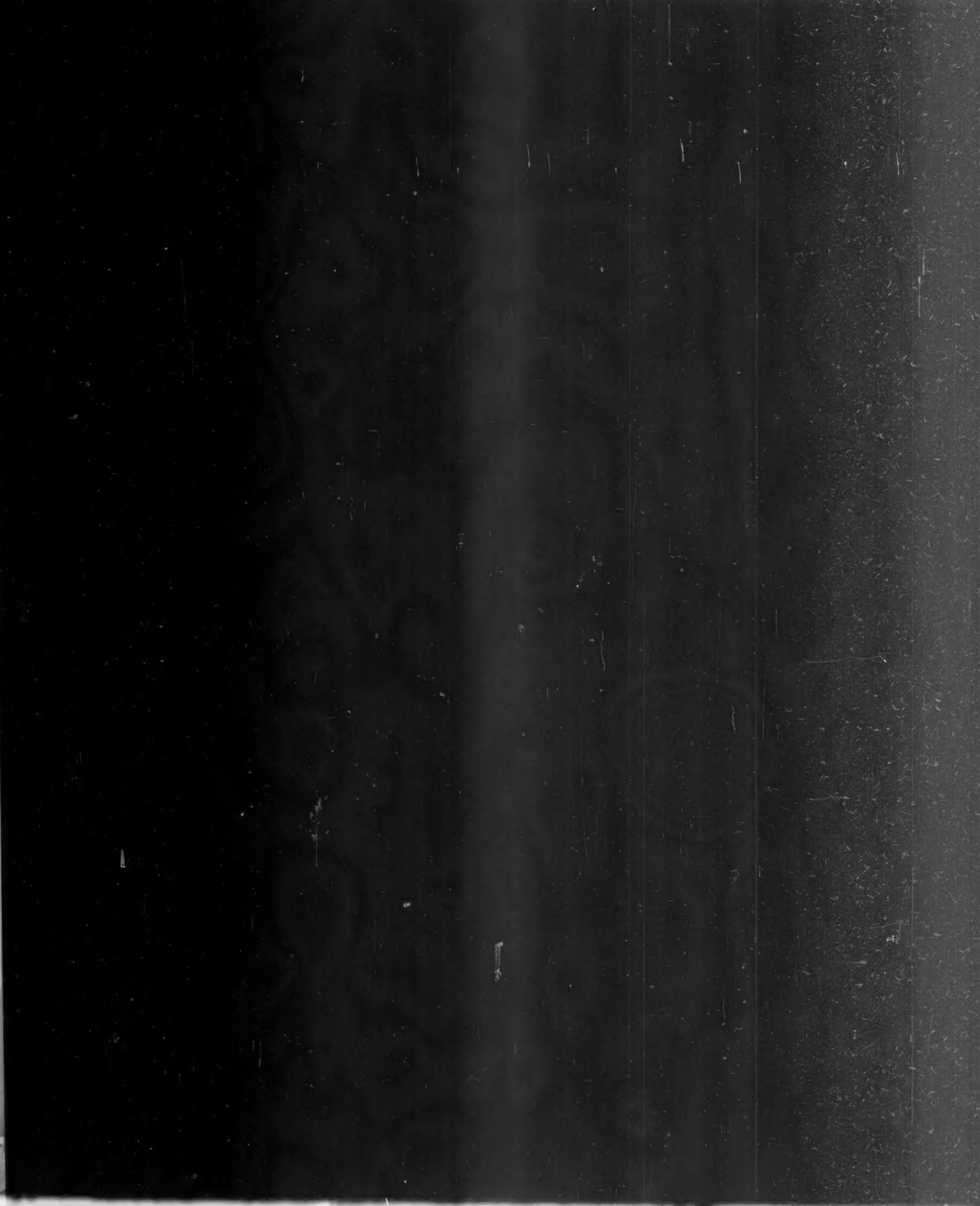
REVOLTED AT THE TERRIBLE INDIGNITY

which was sought to be enacted.

On a military court the members are all jurors as well as judges. To sustain the charges against Hull the vote of two-thirds of the court was necessary. Some of the members had been absent from time to time during the three months occupied in taking testimony. It is evident that General Dearborn became apprehensive the vote of these absent members would be necessary to sustain him and the Administration by General Hull's conviction. It is a rule of both military and civil law, as old as law itself, that each juror must see the witnesses for the prosecution give in their evidence, so that he can judge of its credibility. This rule is unvarying in all civilized countries, and is regarded as one of the most important safeguards of liberty. The honorable members of the court felt that their oaths compelled them to exclude these members and not permit them to vote upon the findings of the court.

On March 7 the Government completed its evidence and had proven nothing to Hull's detriment. Therefore we see (Hull's Trial, page 155) that "General Hull stated he had no evidence to adduce but what was by way of depositions."

Many days were then occupied in speeches by Hon. Martin Van Bu-



BOARD MAP Nº 1.

Engineer Department, U.S. Army.
Bvt. Maj. Gen. A.A. Humphreys,
Brig. Gen. & Chief of Engineers.

MAP
of

Battle-Grounds of August 28th, 29th, & 30th 1862

in the vicinity of

Groveton, Prince William Co., Va.

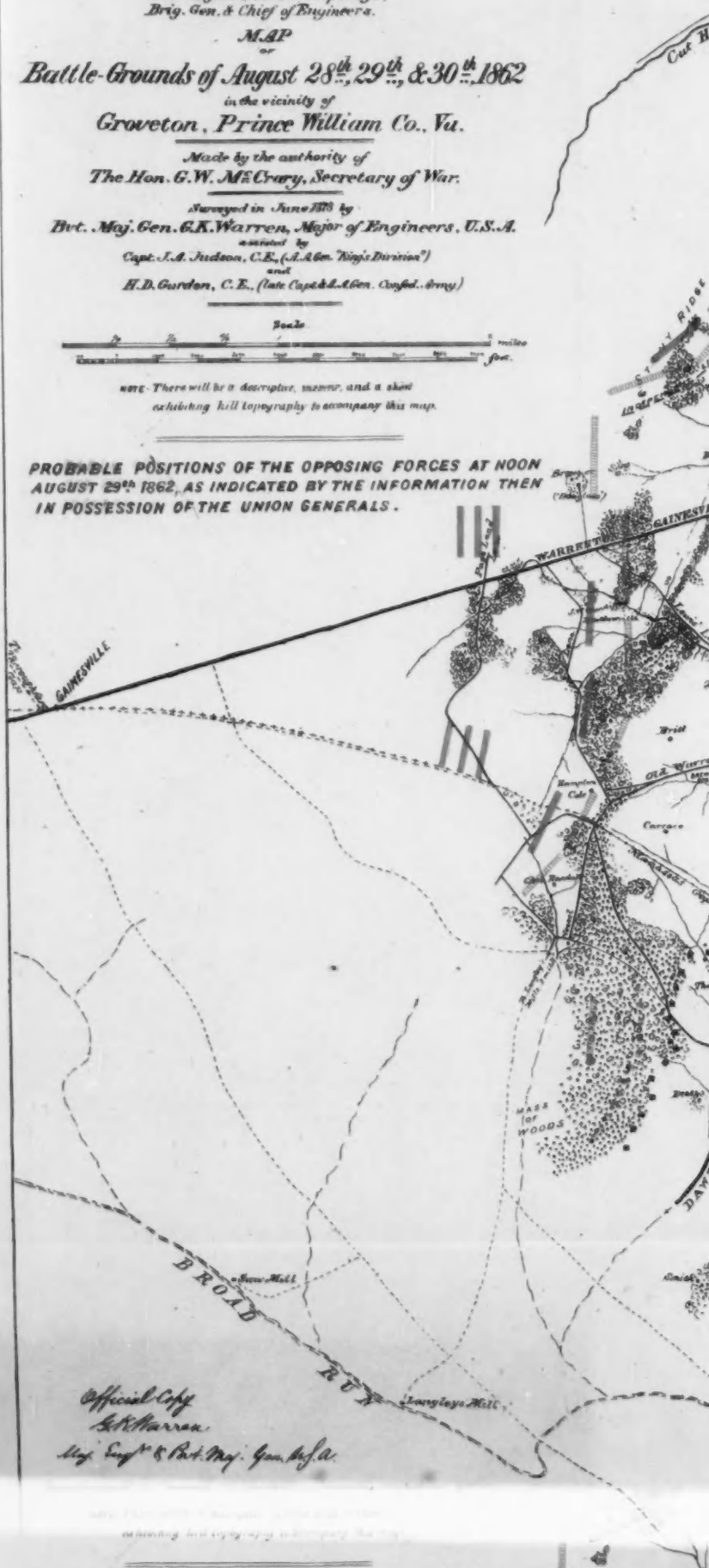
Made by the authority of
The Hon. G.W. McCrary, Secretary of War.

Surveyed in June 1879 by
Bvt. Maj. Gen. G.K. Warren, Major of Engineers, U.S.A.
assisted by
Capt. J.A. Judson, C.E., (A.A.Gen. "King's Division")
and
H.D. Gordon, C.E., (late Capt. & A.A.Gen. Confed. Army)

Scale

Note. There will be a descriptive memoir, and a sheet exhibiting hill topography to accompany this map.

PROBABLE POSITIONS OF THE OPPOSING FORCES AT NOON AUGUST 29th 1862, AS INDICATED BY THE INFORMATION THEN IN POSSESSION OF THE UNION GENERALS.



Official Copy
G.K. Warren
Maj. Engrs & Bvt. Maj. Gen. U.S.A.

Cut Hairpin Run.
Sudley Ford
Sudley Church
BULL RUN
Sudley Road
Matthews
Robinson's
Stone Bridge
Lewis Ford
Bulls Ford
Flat Run
Thoroughfare Gap
Manassas Gap R.R.
Gainesville
Haymarket
Thomas
Whaley
Gaston
Washington
Wood
NEW MARKET
Old Winchester
Alexandria
Steers
Mt. Pisgah
Manassas Branch
Mud Run
Flat Run
Dawkins Branch
Porter's Corps
Kings Division
Manassas Station
Alexandria Railroad

PROBABLE POSITIONS OF THE OPPOSING FORCES AT NOON AUGUST 29th 1862, AS INDICATED BY THE INFORMATION THEN IN POSSESSION OF THE UNION GENERALS.
WARRENTON
GAINESVILLE
Hampton Cole's
Carraro
MASS OF WOODS
BROAD RUN
Saw Mill
Official Copy
G.K. Warren
Maj. Engrs & Brt. Maj. Gen. U.S.A.

Porter's Corps
Kings Division
Ricketts Division
MANASSAS STATION
BRISTOE
NEW MARKET
Steers
Merchant
Flat Run
Goldens Run
Blackburns Ford
Bull Run
Catletts Ford
Aquia Creek Railroad
Alexandria Railroad

Longstreet & William's Map.

Engineer Department, U.S. Army.
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Scale.
miles.
feet.

Official Copy
G.K. Warren
Maj. Engrs & Bvt. Maj. Gen. U.S.A.

Sudley Ford
Cut Harpin Run.
Sudley Spring
Sudley Church
BULL RUN
STONY RIDGE or SUDLEY MOUNTAIN
Sudley Road
Mathews
Stone Bridge
Robinson's
Lewis Ford
Ball's Ford
Henry
Church
Wheeler
NEW MARKET
Steers
Old Warrenton
Carraro
Dawkins Branch
Chapman
Merchants
Bethlehem Church
Manassas Gap Railroad
Manassas Station
Alexandria Railroad

BOARD MAP, Nº 2.

Engineer Department, U.S. Army.
Bvt. Maj. Gen. A.A. Humphreys,
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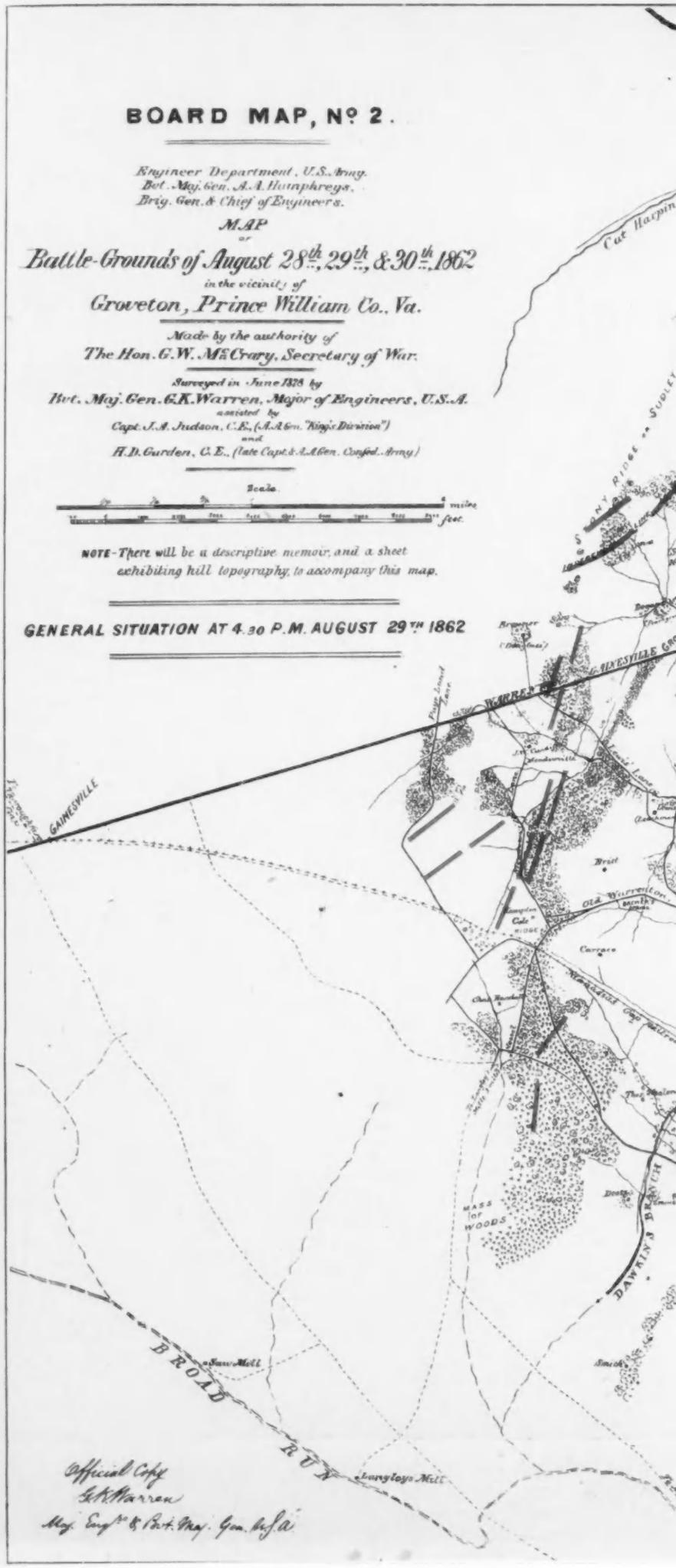
Scale.

NOTE-There will be a descriptive memoir, and a sheet exhibiting hill topography, to accompany this map.

GENERAL SITUATION AT 4.30 P.M. AUGUST 29TH 1862



Official Copy
G.K. Warren
Maj. Engrs & Bvt. Maj. Gen. U.S.A.

Sudley Ford
Cat Harpin Run
Sudley Spring
Sudley Church
BULL RUN
Sudley Road
Union Line
Reno
Matthews
Dawkins
Robinson
Stone Bridge
Warrenton Turnpike
CENTREVILLE BRANCH
Chinn
Wheeler
Gaskins
Washington Road
NEW MARKET
Steers
Mt Dowell's Column
Flat Run
Blackburns Ford
Lewis
Mt Pony
Merchant
Porter's Corps
Alexandria Railroad
MANASSAS STATION

BOARD MAP, No 3.

Engineer Department, U.S. Army.
Bvt. Maj. Gen. A.A. Humphreys,
Brig. Gen. & Chief of Engineers.

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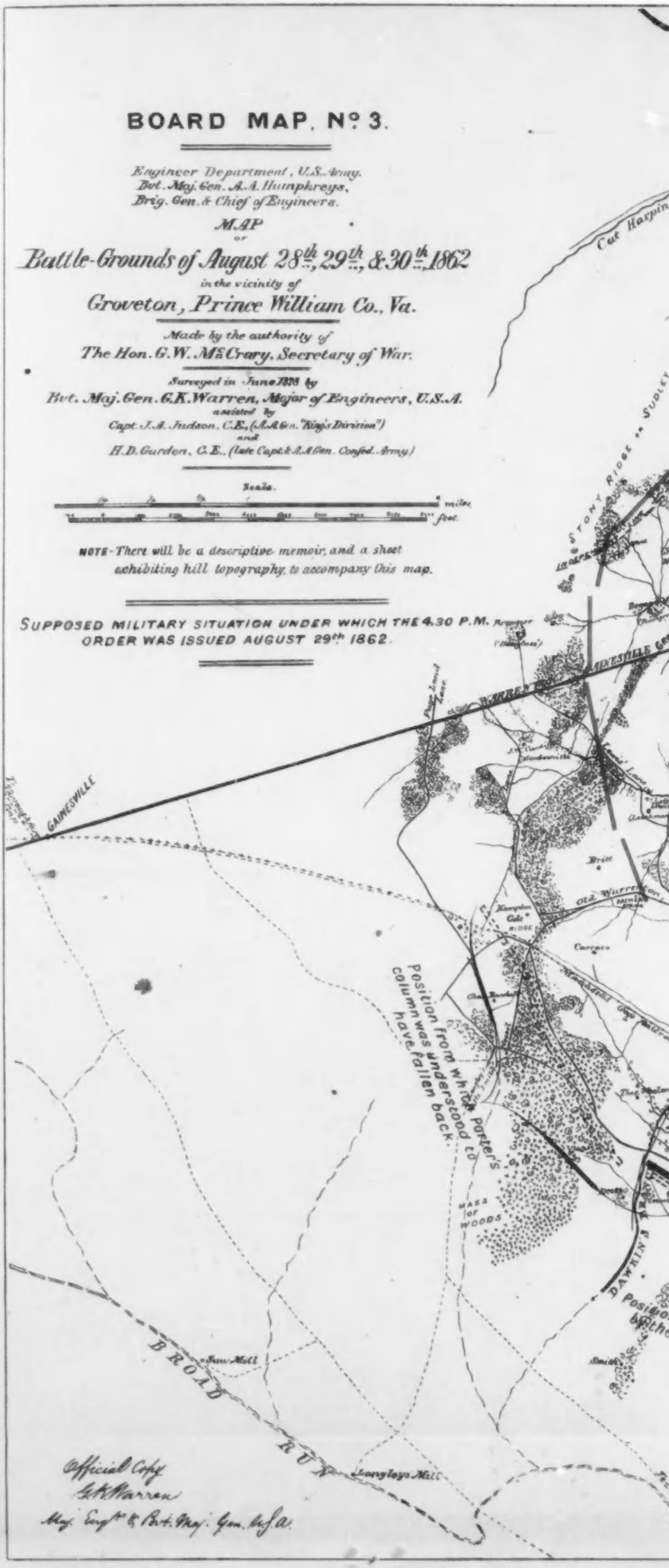
Scale.

miles

feet.

NOTE - There will be a descriptive memoir, and a sheet exhibiting hill topography, to accompany this map.

SUPPOSED MILITARY SITUATION UNDER WHICH THE 4.30 P.M. ORDER WAS ISSUED AUGUST 29th 1862.



Sudley Ford
Cut Harpin Run
Sudley Spring
Sudley Church
BULL RUN
Sudley Road
Matthews
Centreville
Robinson's
Henry
Chinn
Conrad
Wheeler
Gaskins
Washington
NEW MARKET
Steers
Mr. Pine
B.F. Lewis
F.M. Lewis
Wm. Lewis
Manassas Gap Railroad
Gainesville
Merchants
Jeffers
Bethel Church
Flat Run
Groveton
Blackburns Ford
Lewis Ford
Bull Run
Manassas Station
Orange & Alexandria Railroad
Position in which Porter's column was understood by the Court Martial to have been, at 4.30 or 5 P.M.

LETTER-PRESS DESCRIPTIVE OF ILLUSTRATIVE MAP No. 1 OF COUNSEL FOR THE GOVERNM

he contours on this map correctly represent the directions and positions of the ridges and valleys and their approximate relative elevations. They may be in er arbitrary. National forces are delineated in blue, and the Confederate forces in red.

[This map has been prepared at request of the president of the board, *after* argument, to represent the views of the counsel for Government, who attempted to locate positions with a po

NATIONAL FORCES COMMANDED BY MAJOR-GENERAL JOHN POPE, UNITED STATES VOLUNTEERS.

- M, Morell's division.
  - B, Butterfield's brigade.
  - B^2, Martindale's brigade under Barnes.
  - G, Griffin's brigade.
- S, Sykes's division.
  - W, Warren's brigade.
  - B^3, Buchanan's brigade.
  - C, Chapman's brigade.
- Sturgis's division.
  - P^1, Piatt's brigade.
  - T, Taylor's squadron of 1st Pa. Cavalry.
- Smead's Battery K, 5th U. S. Artillery.
- Weed's Battery I, 5th U. S. Artillery.
- Davis's Battery E, 1st U. S. Artillery, under Randol. — Attached to Sykes's division.
- Griffin's Battery D, 5th U. S. Artillery, under Hazlett.
- Martin's Battery C, 3d Mass. Independent Artillery.
- Waterman's Battery C, 1st Rhode Island Artillery. — Attached to Morell's division.
- M P—McDowell and Petitioner at 12 m.

, Petitioner's corps in retreat.

McDowell's Corps.

- R, Ricketts's division.
  - D, Duryée's brigade, 1st. — Leppein's Mai
  - Tower's brigade, 2d. — Hall's Maine
  - H, Hartsuff's brigade, 3d. — Mathew's Per
  - C^1, Carroll's brigade, 4th. — Thompson' In
- K, King's division (Hatch commanding).
  - H^1, Hatch's brigade.
  - D^1, Doubleday's brigade. — Gerrish's batt
- K^1, King's division (Hatch commanding), at 12 m.
  - G^1, Gibbon's brigade.
  - P^2, Patrick's brigade.
- Reynolds's division.
  - S^1, Seymour's brigade. — R^1, Ransom's Ba
  - J, Jackson's brigade. — A, Battery A, 1s
  - M^2, Mead's brigade. — B^1, Battery G, 1s — C, Battery B, 1s
- Buford's cavalry.
  - 4th N. Y. cavalry.
  - 9th N. Y. cavalry.
  - 6th Ohio cavalry.
  - 1st Conn. cavalry.
  - 1st R. I. cavalry, of Bayard's cavalry.

- S^3, Schurz's division.
  - S^3, Schimmelfenning's (1st brigade).
  - K^3, Krzyzanowski's (2d brigade).
- Shenck's division (1st).
  - M^1, McLean's (2d brigade).
  - S^2, Stahl's (1st brigade).
  - S^4, Steinwehr's (1st brigade).
  - M^3, Milroy's Independent brigade.
  - S^5, Sigel's reserve.
  - S^6, Sigel's artillery.
- B^5, Bayard's cavalry, under Beardsley.
  - 1st Pa. Cavalry, Colonel Jones.
  - 1st N. Y. Cavalry, Colonel Windom.
  - 1st Maine Cavalry, Colonel Allen.

Hampton's Ind. Pa. Battery. Romer's Battery. De Beck's Battery, 1st Ohio Artillery. } These batteries belong to Banks's corps, temporarily attached to Schurz's division.

igel's corps.

Heintzelman's corps.

- K^2, Kearney's division. — P^3, Poe's; B^2, Birn; R^1, Robi
- H, Hooker's division. — G^2, Grov; C^1, Carr; T^1, Tayl

Burnside's corps, R^2, Reno's division. — S^7, Steve; F^1, Ferr; N^1, Nich

All the batteries of artillery with the several divisions are not noted and only those which are consid

CONFEDERATE FORCES, COMMANDED BY GENERAL R. E. LEE.

- W^3, Wilcox's division.
  - Wilcox's brigade.
  - Featherstone's brigade.
  - Pryor's brigade.
- H^1, Hood's division.
  - T, Texas brigade.
  - L, Law's brigade.
  - E^1, Evans's brigade.
- K, Kemper's division.
  - Kemper's brigade, under Colonel Corse.
  - Pickett's brigade, under Colonel Hunton.
  - Jenkins's brigade.
- J^2, Jones' division.
  - G. T. Anderson's brigade.
  - Drayton's brigade.
  - Toombs's brigade.
- W^2, Squires's and Miller's batteries Washington Artillery, at 1 o'clock p. m.
- W^1, Squires's and Miller's batteries, with others from Jackson's command, in all 26 guns, at 2 o'clock p. m.

, Longstreet's force.

J, Jackson's force.

- H, A. P. Hill's division.
  - Gregg's brig
  - Branch's br
  - Pender's br
  - Archer's bri
  - Thomas's b
  - Field's brig
- E, Ewell's division, under Lawton.
  - Early's brig
  - Lawton's b
  - Hay's briga
  - Trimball's
- J^1, Jackson's division, under Starke.
  - Jackson's b
  - Starke's bri
- Stuart's division.
  - R^1, Rosser's
  - R, Roberts
  - L^3, Fitz Hu
  - P^1, Patrick
  - B^1, Bachma
  - P, Pelham
- S^1, Five batteries in reserve under Major Shumaker.
- B, Batteries of Braxton, Pegram, and Crenshaw.

Portion of the confederate army of Northern Virginia which did not arrive on the field until after the battle of the 29th of A

Colonel Stephen D. Lee's reserve artillery, stationed at Thoroughfare Gap on the 29th. Arrived on the field at 3 a. m. August 30.
Major-General R. A. Anderson's division (four brigades) on the march to join. Arrived on the field at 3 a. m. August 30.
Major-General D. H. Hill's division (five brigades with artillery) on the march to join. Arrived on the field in the afternoon of the 30th.
Major-General L. McLaw's division (four brigades) on the march to join. Arrived on the field in the afternoon of the 30th.

Note by counsel for the Government.—While the enemy's forces are given a position in line of battle west of Pageland Lane, at 2 p. m., it is considered very doubtful if they had ad nced from a point just east of Ga nd extend below the pike, as early as this time. When Jackson's right was threatened and attacked by Reynolds's division of Pennsylvania Reserves attached to McDowell's corps, and Schenck's division of Sigel's c ackson's right, to move up to near Pageland Lane from the "defensive" position taken at Gainesville (part of Hood's division in advance). That "defensive" position, it is believed, was taken because the enemy did f the Potomac, would come up from the Rappahannock, via Warrenton, on the Warrenton, Gainesville, and Groveton pike, instead of landing at Alexandria, and thus strike in the rear of so much of Lee's army as was verwhelm it before the third of his army, then absent, could arrive. Jackson's cavalry, under Stuart, were down in the indicated direction in order to watch the Manasses and Gainesville road, and were subsequently eneral Banks's corps could have advanced and interposed at Gainesville between the portion of Lee's army under Major-General Longstreet and his re-enforcements then on the march via Thoroughfare Gap. (Vide a

AUTHORITIES FOUND IN THE GENERAL COURT-MARTIAL AND ARMY BOARD'S RECORDS USED IN PREPARATION OF THE TWO ILLUSTRATIVE MAPS OF

National officers.

Major-General John Pope.
Major-General Irwin McDowell.
Major-General S. P. Heintzelman.
Major-General Abner Doubleday.
Major-General S. D. Sturgis.
Major-General Franz Sigel.*
Major-General Z. B. Tower.
Major-General R. C. Schenck.*
Brevet Major-General H. G. Sickles.
Brevet Major-General N. C. McLean.*
Brigadier-General John F. Reynolds.*
Brigadier-General John Buford.
Brigadier-General Charles Griffin.
Brigadier-General M. R. Patrick.
Brigadier-General A. S. Piatt.
Brigadier-General Thomas C. H. Smith.*
Brevet Brigadier-General R. R. Dawes.
Brevet Brigadier-General J. M. Deems.
Brevet Brigadier-General E. D. Fowler.
Brevet Brigadier-General Charles Barnes.*
Brevet Brigadier-General J. P. Taylor.
Brevet Brigadier-General T. F. McCoy.
Brevet Brigadier-General W. P. Richardson.*
Colonel B. F. Smith.
Colonel E. G. Marshall.
Major G. B. Fox.*
Major S. N. Benjamin.
Major W. H. Hope.*
Major George Hyland, jr.
Captain J. J. Coppinger.
Captain Henry Geck.
Captain E. P. Brooks.
Captain R. J. McNitt.
Captain Douglas Pope.
Lieutenant J. S. Hollings
Lieutenant B. T. Bowers
Private William Ready,
Private Charles Duffee,
Private Archelaus Dyer,
Private William Bayard,
Private John Hoffman,
Private William H. Ram

Official reports of Generals S. P. Heintzelman, J. F. Reynolds,* J. C. Robinson, C. Grover, Philip Kearney, Franz Sigel, R. H. Milroy, J. Stahel, N. C. McLean, Carl Schurz, R. C. Schenck (by Colonel William H. Ch ick and Dilger.
Confederate official reports of Generals R. E. Lee, James Longstreet, T. J. Jackson, J. B. Hood, A. P. Hill, J. E. B. Stuart, and subordinate reports.

*These witnesses more particularly as to position of Reynolds's and Schenck's divisions.

VERNMENT.

be in error from five to twenty feet. The datum plane is

with a pointer on the large official map.—*Vide* argument.]

ERS.

pein's Maine Battery.
i's Maine Battery (en route from Bristoe to Manassas).
hew's Pennsylvania Battery F, 1st Penn. Light Artillery.
mpson' Independent Pennsylvania Battery C.

rish's battery of howitzers.

nsom's Battery C, 5th United States Artillery.
ttery A, 1st Pennsylvania Light Artillery (Simpson's).
ttery G, 1st Pennsylvania Light Artillery (Kearn's).
ttery B, 1st Pennsylvania Light Artillery (*Cooper's*).

ry.
P³, Poe's brigade.
B², Birney's brigade.
R¹, Robinson's brigade.
G², Grover's brigade. M⁴, 1st Mass. Volunteer Infantry.
C¹, Carr's brigade.
T¹, Taylor's brigade.
S⁷, Stevens's brigade.
F¹, Ferrero's brigade.
N¹, Nichol's brigade.
B⁴, Battery E, 2d U. S. Artillery, Lt. S. N. Benjamin commanding, with Weidrick's Battery of Sigel's corps and part of Stevens's brigade.

are considered necessary to describe the map.

regg's brigade.
ranch's brigade.
ender's brigade.
rcher's brigade.
homas's brigade.
ield's brigade.
arly's brigade.
awton's brigade.
ay's brigade.
rimball's brigade.
ackson's brigade.
tarke's brigade.
, Rosser's cavalry, videttes.
, Robertson's cavalry, videttes.
, Fitz Hugh Lee's cavalry.
, Patrick's squadron of cavalry. [to Stuart.)
, Bachman's battery of artillery (of Hood's division ordered to report
, Pelham's battery of artillery.
umaker.
shaw.

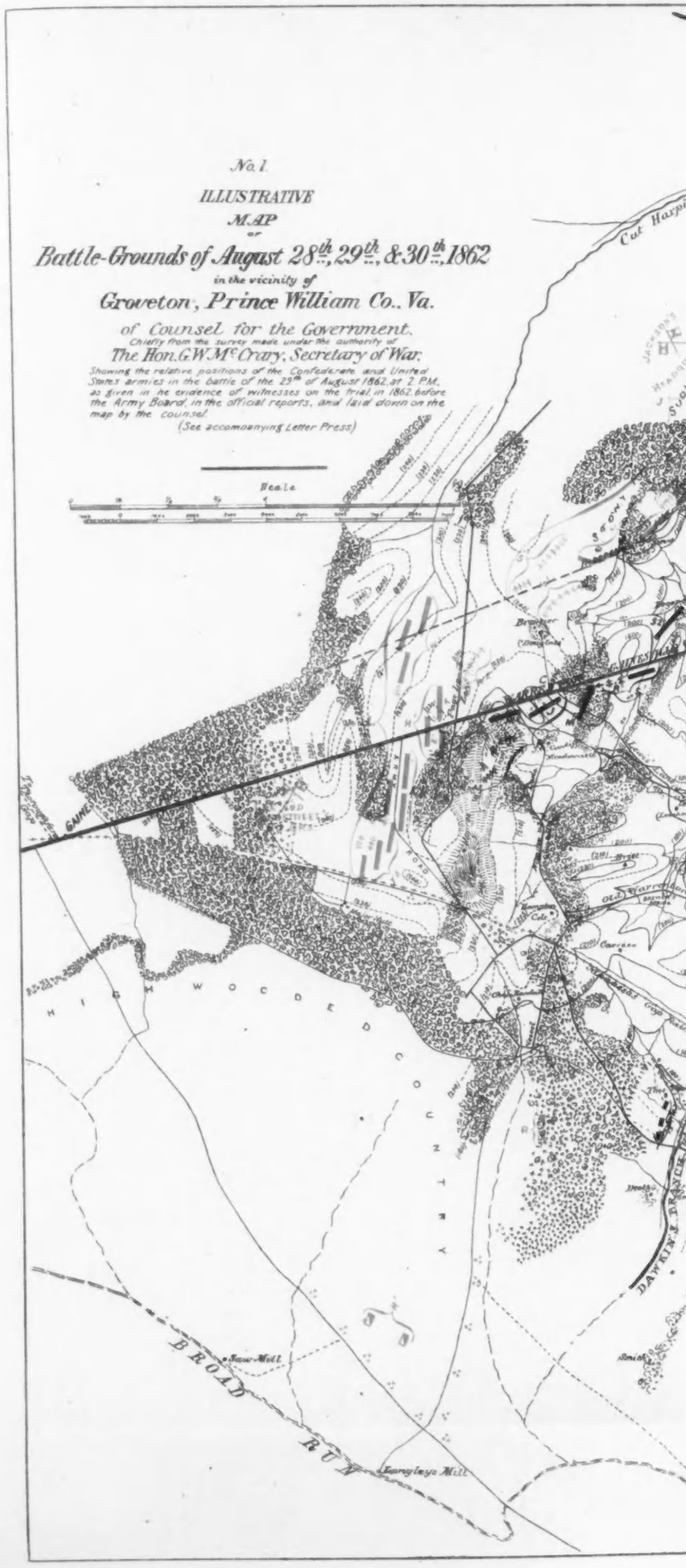
9th of August, 1862.

east of Gainesville, *in force*, to the indicated position, so as to form *complete* line of Sigel's corps, the confederate force under Longstreet had, in order to relieve enemy did not then know but that Sumner's and Franklin's corps, of the Army ny as was on the field, and in conjunction with the national forces on the ground bsequently moved further down to watch the road from Bristoe, from whence p. (Vide argument, board's record, page 1439.)

MAPS OF GOVERNMENT COUNSEL.

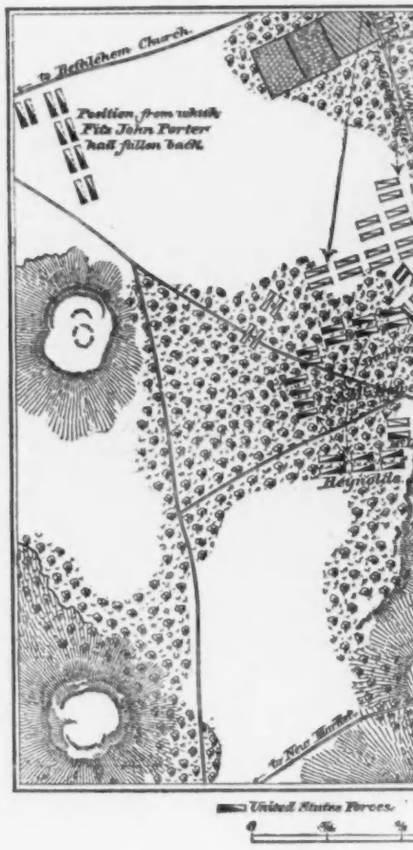
	Confederate officers.
S. Hollingshead.*	Major-General C. M. Wilcox.
T. Bowers.	Brigadier-General T. L. Rosser.
m Ready, 1st Pa. Cavalry.	Major B. S. White.
s Duffee, 1st Ohio Cavalry.	Major Henry Kyd Douglas.
laus Dyer, 1st Ohio Cavalry.	Captain R. McEldowney.
m Bayard, 1st Pa. Cavalry.	Captain James Mitchell.
Hoffman, 1st Pa. Cavalry.	Rev. John Landstreet.
m H. Ramsey, 1st Pa. Cavalry.	Citizen W. B. Monroe.
	Citizen L. B. Carrico.
	Citizen W. B. Wheeler.

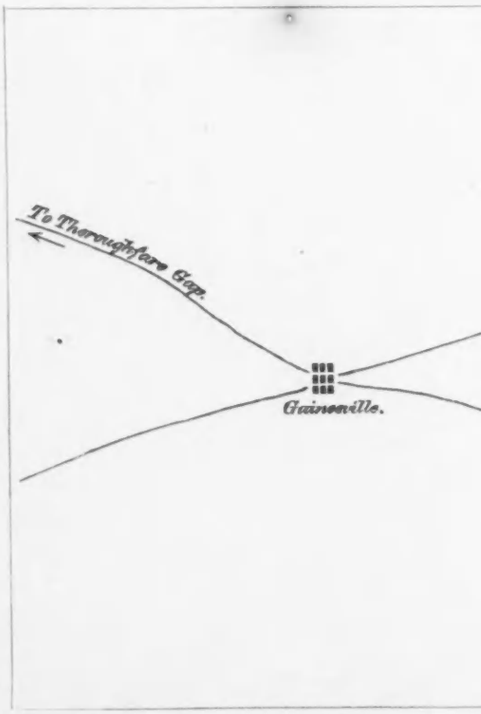
liam H. Cheeseborough*), Colonels J. B. Carr, W. Kryzanowski, Captains Wied-


No. 1.
ILLUSTRATIVE
MAP
of
Battle-Grounds of August 28th, 29th, & 30th, 1862
in the vicinity of
Groveton, Prince William Co., Va.
of Counsel for the Government.
Chiefly from the survey made under the authority of
The Hon. G.W. McCrary, Secretary of War.
Showing the relative positions of the Confederate and United States armies in the battle of the 29th of August 1862, at 2 P.M. as given in the evidence of witnesses on the trial, in 1862, before the Army Board, in the official reports, and laid down on the map by the counsel.
(See accompanying Letter Press)
Scale
Cut Harpin
HIGHWOODED COUNTRY
BROAD RUN
Saw Mill
Sudley's Mill
DAWKINS BRANCH

Sudley Ford
Cat Harpin Run.
Sudley Spring
Sudley Church
BULL RUN
CENTREVILLE
Matthews
Stone Bridge
Pope Head Qrs
Robinson's
Henry
Lewis Ford
Ball's Ford
Holkum's Branch
Blackburn's Ford
MARKET
Mc Dowell
Stevens
Wheeler
Mr. Pleasants
Wm. Lewis
Jas. Berry
Merchant
Used as Dam road in 1862
Wier
MANASSAS STATION
Orange & Alexandria Railroad

POPE'S MAP.

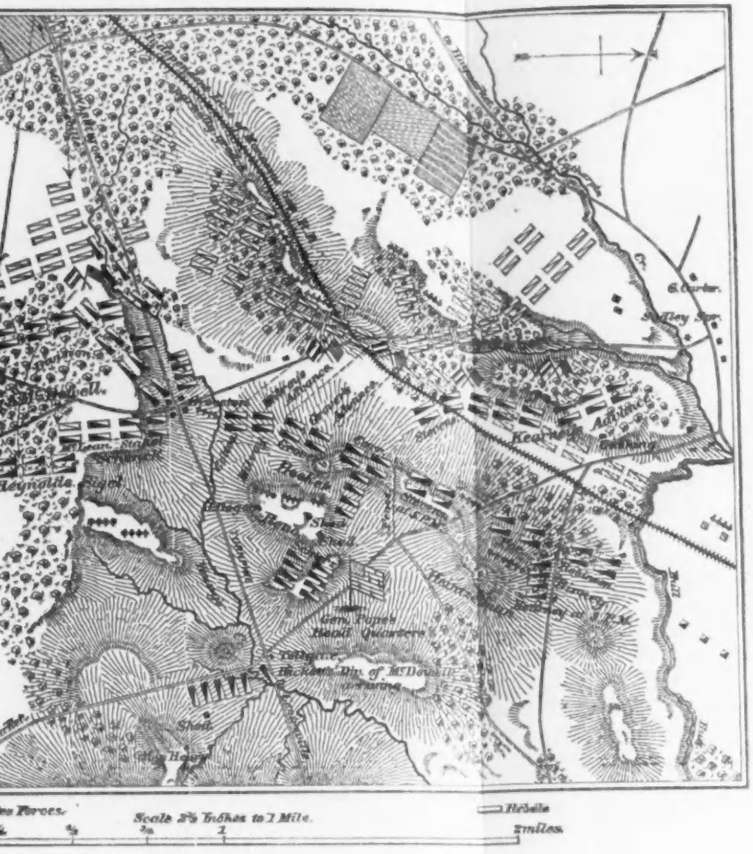

To Bethlehem Church.
Position from which Fitz John Porter had fallen back.
Reynolds
To First Corps.
United States Forces.


To Thoroughfare Gap.
Gainesville.

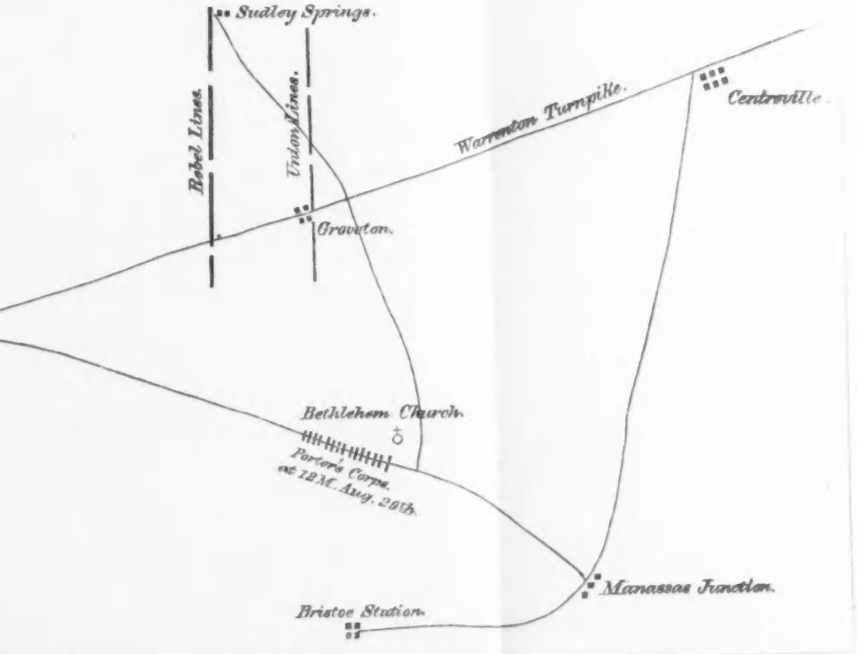
THEAT

Catend

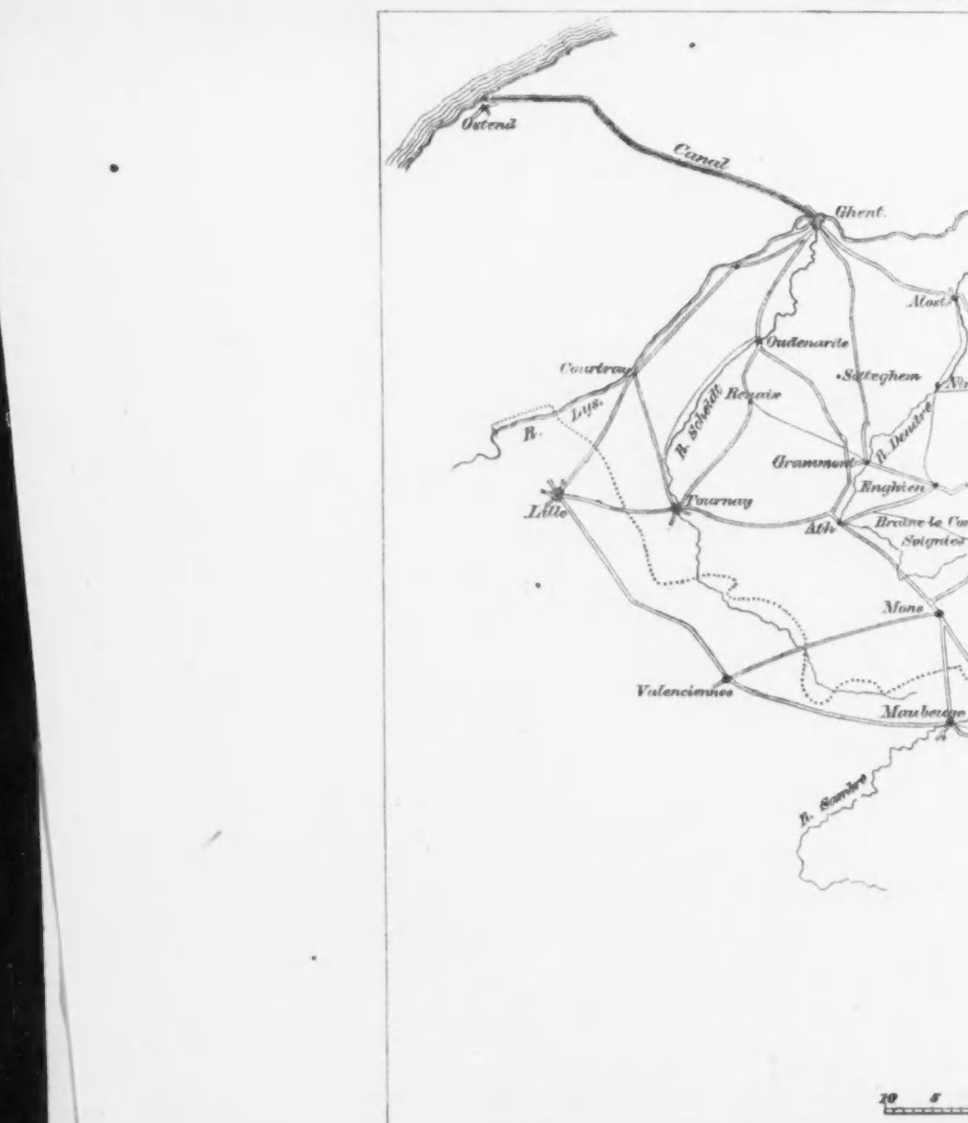
POPE'S MAP.



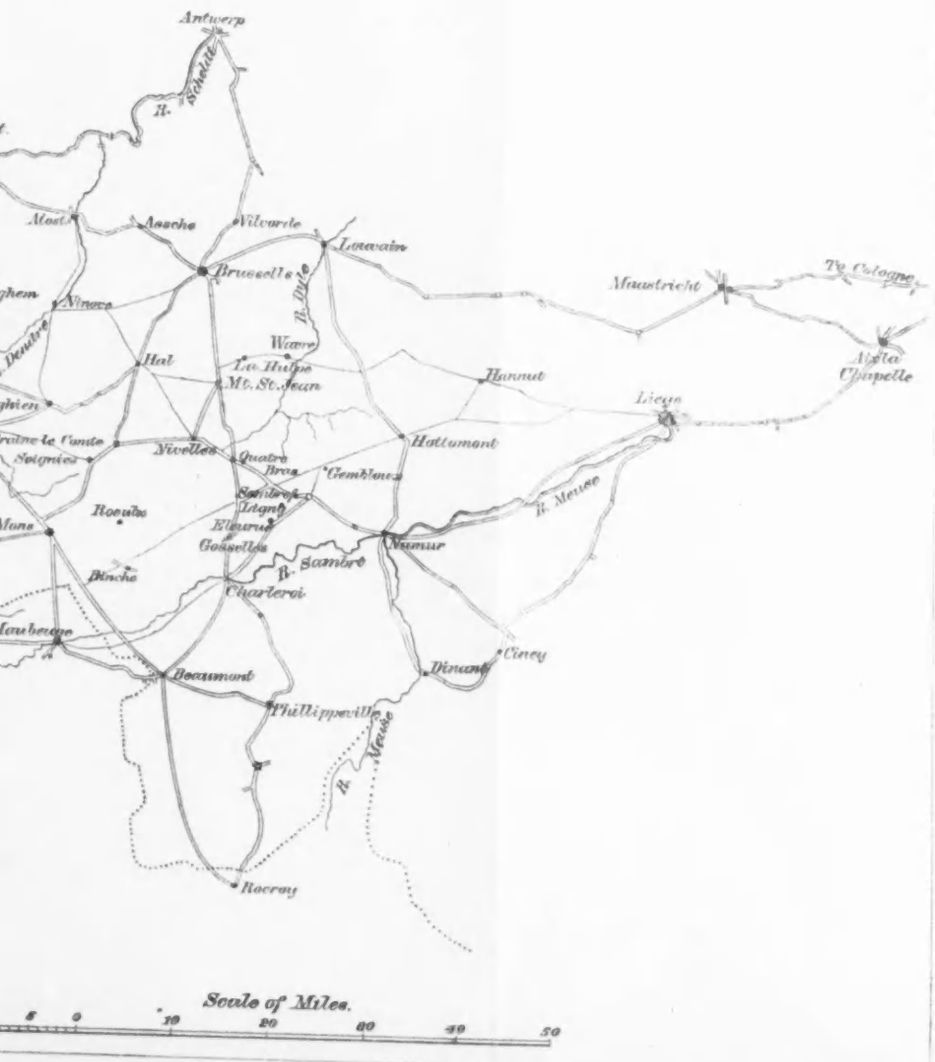
MAP A.



THEATER OF THE WATERLOO CAMPAIGN.


Ostend
Canal
Ghent
Oudenarde
Courtray
Lys
R. Scheldt
Regaix
Graminont
R. Dendre
Enghien
Tournay
Lille
Ath
Mons
Valenciennes
Maubeuge
R. Sambre

THEATER OF THE WATERLOO CAMPAIGN.



ren and Hon. A. J. Dallas, the counsel employed to prosecute for the Government.

Colonel Forbes, the reporter, says (page 2, Hull's Trial):

I have to regret, moreover, that I did not take down *verbatim* the summing up by Hon. Martin Van Buren, the special judge-advocate; the ability and perspicuity displayed by him extemporaneously on an occasion so novel to him excited, I can venture to say, the admiration of one of the most numerous and respectable audiences that ever attended a court-martial in the United States.

General Hull was refused by the court the privilege of introducing counsel to reply to these able jurists, but above and beyond that General Dearborn found

ANOTHER ATROCITY NECESSARY.

More than four months had elapsed since the court was ordered and nearly three since it commenced its sittings. Members, as before stated, had been absent much of the time, and it is convincing that now General Dearborn found that the votes of these absent members were necessary to his purposes, and an order is produced which contained the following directions:

A member of the court who has been absent may take his seat after such absence, and in case an absent member returns and resumes his seat the proceedings which have been had in his absence must be read to him.

Pursuant to this nefarious and unlawful ruling absent members were brought back and voted upon the finding of the court, and this, too, against the protest of honorable members of this tribunal, and thus ended the most atrocious outrage which was ever perpetrated under the form and guise of justice.

I will read a paragraph from page 92 of Captain De Hart's excellent work on court-martial:

If a member of a court-martial should for any cause be absent from his seat during the course of the trial, he can not resume it. It would have been considered vacated, and thus he is excluded from any further participation in the trial. All the members of a court-martial must be present during the proceedings on the reception of testimony, and resumption of his place by a member who has been absent for any period while proceedings were going on would vitiate the judgment of the court. It is essentially necessary that witnesses be examined in the presence of all the members of the court, for no act performed by a part of the court can be legal. The mere reading the recorded testimony in the presence of the deponent is not sufficient.

A case of this description is quoted by Captain Simmons, page 176, in which the reviewing authority said, "This proceeding is so directly at variance with the practice of courts-martial and the principles of justice that it may be held to affect the legality of the judgment of the court," and concluded his remarks by stating that "the irregularity before observed has rendered nugatory the sentence of the court-martial."

In addition to the many other illegalities and wrongs committed in this prosecution, six distinct provisions of the Constitution of the United States were trampled under foot. I read these words of the Constitution:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury, * * * to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

All these guarantees were denied General Hull:

First. He was refused a speedy trial.

Second. He was brought before an interested instead of an impartial jury.

Third. He was not informed of the nature and cause of the accusation.

Fourth. He did not have process for obtaining witnesses in his favor, and was refused evidence of a documentary character.

Fifth. He was positively refused the right to introduce counsel to assist him in his defense.

Sixth. He was not confronted by the witnesses against him. The object of this provision is to have the witnesses confront the court, who are to thus determine their credibility, and hence the gross illegality of the order which it is charged was procured by General Dearborn, and which placed officers on the court to vote on the findings who had not been present, and who had therefore not been confronted by the witnesses who had testified against Hull. This was a flagrant violation of the spirit and meaning of the Constitution. The Constitution does not limit these provisions to civil trials, and even if it did so, the principles are so just and necessary to all tribunals which seek to dispense justice that to disregard them would vitiate and make void any legal procedure.

As additional proof that no sentence of the court was intended to be carried out and that the whole matter was prearranged, I will call attention to the fact that when the proceedings, amounting to thousands of pages, reached Washington and before time had elapsed to give the record of a five months' court any proper examination, the President terminated the half-year's operation of the commander-in-chief of the armies by issuing the following order:

APRIL 25, 1814.

The sentence of the court is approved and the execution of it remitted.
JAMES MADISON.

General Hull returned to his home at Newton, Massachusetts, and at that place and Boston and other cities he was received with the most distinguished attention. Dinners were tendered to him by the most eminent citizens, and unqualified indignation was expressed at the dishonorable course pursued by those who were responsible for the atrocious proceedings of which he was the sufferer.

Some historians, actuated by prejudice, some actuated by a desire to defend General Dearborn, and some through a want of correct information, have made very untruthful statements which did General Hull great injustice, but many have sought to give a correct narration of these operations.

Since I began these comments my attention has been called to Lossing's Pictorial Field Book of the War of 1812. Mr. Lossing says:

I have given in this and the preceding chapter as faithful a general history of Hull's campaign as a careful and dispassionate study of documentary and other contemporaneous narratives, written and verbal, have enabled me to do.

I have recorded what I believe to be undoubted facts. As they stand in the narrative, unattended by analysis, comparison, or argument, they present General Hull in his conduct of the campaign in some instances in an unfavorable light.

But after weighing and estimating the value of these facts in connection with current circumstances to which they bore a positive relationship—after observing the composition of the court-martial, the peculiar relations of the court and the witnesses to the accused, and the testimony in detail, the writer is constrained to believe that General Hull was actuated throughout the campaign by the purest impulses of patriotism and humanity. * * *

When he could perceive no alternative but surrender or destruction, he bravely determined to choose the most courageous and humane course, so he faced the taunts of his soldiers and the expected scorn of his countrymen, rather than fill the beautiful land of the Ohio and the settlements of Michigan with mourning.

Hull had warned the Government of the folly of attempting the conquest of Canada without better preparation; but the young hot-bloods of the Administration—Clay and others—could not wait; and the President and his Cabinet, lacking all the essential knowledge of planning a campaign, had sent him on an errand of vast importance and difficulty without seeming to comprehend its vastness or estimating the means necessary for its accomplishment.

The conception of the campaign was a huge blunder, and Hull saw it, and the failure to put in vigorous motion for his support auxiliary and co-operative forces was criminal neglect.

When the result was found to be a failure and humiliation the Administration perceived it and sought a refuge. Public indignation must be appeased; the lightning of the public wrath must be averted.

General Hull was made the chosen victim for the peace-offering, the sin-bearing scape-goat; and on his head the fiery thunderbolts were hurled. The grass has grown greenly upon his grave for more than forty years. Let his faults (for like all men he was not immaculate) also be covered with the verdure of blind charity. Two generations have passed away since the dark cloud first brooded over his fair fame. We may all see if we will, with eyes unfilmed by prejudice, the silver edging which tells of the brightness of good intentions behind it, and prophecies of evanishment and a clear sky. Let history be just, in spite of the clamors of a hoary error.

If I had time I would also read from J. H. Patton, in his History of the United States, and Colonel T. W. Higginson in his Youth's History of America.

From Harper's Cyclopædia, which has just been handed me, I read the close of a sketch of General Hull:

His name and fame now appear in history untarnished.

From the same work these words close the account of the trial:

To-day the character of General William Hull, purified of unwarranted stains, appears in history without a blemish in the eye of just appreciation.

After many delays General Hull succeeded in procuring from the War Department a number of public documents which were denied him during the trial ten years previous. These, together with other documents, were published in the American Statesman, a Boston paper, and they were copied in other papers and exercised a great influence on the public mind.

Mr. Jared Sparks, in a notice of these documents in the North American Review, said "that from the public documents collected and published the conclusion must unequivocally be drawn that General Hull was required by the Government to do what was morally and physically impossible that he should do." Many other periodicals throughout the Union expressed the same opinion.

Just before General Hull's death the Marquis de Lafayette, a younger man than himself, came to this country and made him a special visit. His declining years were made happy by the reception of very many letters from various distinguished persons, particularly from old companions of the Revolution, expressing their pleasure that he had so completely vindicated his conduct and character. Surrounded by his family he passed quietly and sweetly from this life, declaring on his death-bed in the most solemn manner his conviction that he had done right in surrendering Detroit, and expressing his happiness that he had saved the lives of the peaceful citizens of Michigan, who for seven years he had protected as their governor, from being needlessly sacrificed.

CONCLUSION.

In all the cases that I have appended it will be observed there is a marked similarity. This is natural, because the evil inclinations and passions of men are the same in all ages. Particularly do we see a resemblance between the Hull case and that of Fitz-John Porter. Both were men whose services and gallant conduct had been the admiration of the nation. Both were arraigned pursuant to an afterthought—Porter after a lapse of three, Hull after the lapse of sixteen months. Both applied for an investigation the moment they heard whispers of complaint. Both were refused official documents necessary to their defense. The conviction in both cases was necessary to atone for blunders of their commanders.

Both were assailed by vindictive and ambitious subordinates; particularly is this a prominent feature in the case of General Hull. Both were tried by a court some of the members of which were directly interested in their conviction, and the records of both courts show that

shameful illegalities were necessary to carry out the purposes of their accusers, and much of the evidence of the witnesses for the prosecution in both cases was an *ex parte* defense of themselves; and finally the printed records of both cases is their emphatic and complete vindication.

Both are similar in this: The first printed record in the Porter case was an imposition and a falsehood, because it omitted all the points of Porter's defense, and the record in Hull's case shows for itself that it was manipulated and contorted to make the best case possible for the Government. Evidence favorable to Hull is shown to be omitted, and illegal rulings detrimental to him were not recorded.

I have this moment received a copy of a letter from the most prominent citizens of Minnesota, addressed to General Grant, and commending his noble effort to do justice to General Porter. I will ask to have it printed:

SAINT PAUL, MINN., *February* 13, 1883.

GENERAL: The undersigned citizens of Minnesota, without distinction of party, take this method of expressing to you our high appreciation of your efforts in securing for General Fitz-John Porter that simple measure of justice which a misapprehension of the facts bearing on his case has been so long and largely instrumental in withholding from him. Whatever may have been public sentiment touching the merits of General Porter's case, as presented to the country from time to time by the several tribunals that have been charged with its determination, there is, in the opinion of the undersigned, no denying the fact that at the present time the American people demand his restoration to the position in the Army of which he has been, in the light of more recent disclosures, for twenty years unjustly deprived. Not unmindful of the fact that the representatives in both Houses of Congress from New Jersey, the home of General Porter, have ignored party considerations and united in vain in an appeal to Congress to do a simple act of justice to this wronged soldier and citizen of the Republic, the undersigned ex-soldiers and citizens, generally of Minnesota, having full faith in the patriotism and integrity of General Porter, while thanking you for your efforts in his behalf, express the hope that the example and co-operation in this case of one so illustrious as yourself may lead to the prompt and full vindication of General Porter at the hands of the present Congress.

L. F. Hubbard, governor; Fred. Von Baumbah, secretary of state; Charles Kittleson, treasurer; D. M. Sabin, United States Senator elect; Albert Scheffer, banker; J. C. Devereux, late Third Minnesota Volunteers; J. A. Wheelock, Pioneer Press; J. N. Cardoza, United States commissioner; R. W. Johnson, United States Army, retired; E. C. Bowen, United States Army, retired; Charles A. Moore, capitalist; Nathan Ford, merchant; F. Williams, banker; William Louis Kelly, lawyer; R. B. Galusha, lawyer; P. H. Kelly, merchant; William J. Sleppy, merchant; True S. White, merchant; W. J. Martin, Globe; J. H. Baker, railroad commissioner; David Day, postmaster; H. R. Denny, United States marshal; Edward Richards, United States collector; William Bickel, United States collector; J. M. Gilman, lawyer; William G. Comb, merchant; C. Livingston, banker; Henry H. Sibley, ex-governor and ex-brigadier-general; James D. Wood, Globe (late assistant adjutant-general Old Iron Brigade); John W. Willis; F. J. Mead.

State senators.—Chas. A. Pillsbury, H. J. Peck, Michael Doran, T. B. Clement, H. C. Waite, R. O. Craig, H. C. Rice, S. D. Peterson, H. Steenerson, Z. B. Clark, D. A. Morrison, James O'Brien, George Bundsen, A. L. Sackett, F. Vollmer, Wm. P. Christensen, D. F. Goodrech, Jas. G. Lawrence, Jas. McLaughlin, C. W. Griggs, Thomas Wilson, C. F. Buck, James N. Castle.

Members of the house of representatives.—R. E. Thompson, C. T. Baarnaas, M. V. Dean, Orin Snow, James H. Cassan, T. Paulson, Joseph Bobleter, F. L. Bachelder, Charles M. Morse, M. Doyle, G. C. Hanttry, John Swanson, Thomas A. Welch, R. H. Camme, Henry Anderson, M. S. Seymour, Marcus Johnson, Alexander Moore, Robert Patterson, John S. Way, August Ende, H. Baumgarten, Casper Capser, G. Sidney Smith, M. M. G. Dana (chaplain of house), Ever Sampson, A. Chisholm, Chr. Stahlmany, John Proetsels, O. Peterson, O. O. Lemsen, B. H. Randall, R. W. Jacklin (late major Sixteenth Michigan Mounted Volunteer Infantry), J. C. White, J. L. Farrar, A. Borak, William Anderson, Henry Becker, John J. Lenz, August Mortenson, W. H. Johnson, S. Blackmore, P. H. Rahilly, F. H. Dutson, J. T. P. Sadley, Gordon E. Cole, Robert Deakin, J. R. Howard, S. G. Anderson, C. P. Gregory, E. A. Child, G. W. Ditty, James E. Child, August Stegman, H. Paulson, G. P. Sidenes, S. M. Emery, W. Ropp, J. Allen Burm, J. M. Linnell, E. D. Dyar, H. H. Wells, Charles A. Smith, H. D. Cornich, James Smith, jr., J. A. Peterson, John Frank.

General U. S. GRANT, *Washington, D. C.*

Internal Revenue and Tariff.

SPEECH

OF

HON. WILLIAM R. MORRISON,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883.

The House having under consideration the report of the committee of conference on the bill (H. R. 5538) to reduce internal-revenue taxation, and for other purposes—

Mr. MORRISON said:

Mr. SPEAKER: It is too late to debate this conference bill or to designate the discreditable methods and agencies which brought it here. When passed, as it will be, duties on imports or tariff taxes may be lowered at most one-eighth, or 12½ per cent. of the present rates; but they will still be 40 per cent. higher than they were before the war rates were added. To-day they are higher by 60 per cent. than they were before the addition of war rates. Some have been increased more, others less, but I state the average increase at less than it is when I fix it at 60 per cent.

And yet before these duties were so increased the tariff—the Morrill tariff of March 2, 1861—was fully up to that protective standard of equalization between us and our foreign competitors beyond which the Tariff Commission tells us protection may not go without positive injury to the interests it is intended to benefit. Its author, Mr. MORRILL, advocated it here as a measure which would place our people and their varied industries upon a level of fair competition with the rest of the world. As such a measure it had in the Senate the support of Mr. Simmons, of Rhode Island, the elder Cameron, and other advocates of the protective policy.

I am not disappointed in finding no modification of that policy in this conference measure, based as it is on the Tariff Commission report. Neither did the commission in its proposed rates of duty make any substantial or equitable reduction in the burdens of taxation, although it was professedly appointed to revise the tariff upon a scale of justice to all interests. It credits itself in its report with a substantial reduction of more than 20 per cent., not one-fourth of which it made, unless diminished revenue from increased and prohibitory rates of duty be accepted as a reduction of taxes. A more shameless piece of trickery than that attempted in its revision and assumed reductions never received the respectful attention of the National Legislature. The pending bill will not reduce taxes to the extent it will reduce revenue—it has no such purpose. As a bill to reduce tariff taxation it is aptly described by a German, saying, "Wash me the fur, but don't wet it." The same is true of the commission scheme and the bills fashioned after and from it at both ends of the Capitol.

I put aside from the beginning, as impracticable in this Congress, all question of rightful authority to impose or the justice of imposing taxes on all the people to enable part to acquire property or get money in business, profitable or unprofitable. But might we not reasonably expect and rightfully demand even of this Congress the removal of so much of the 60 per cent. increase or war-tariff taxes as is now no longer necessary for revenue?

The commission, packed to perpetuate the present system, admits and reports that except for the establishment of new industries no duties can be justified which more than equalize the conditions of labor and capital with those of foreign competitors; that duties above such standard of equalization are excessive and positively injurious to the interests they are supposed to benefit; that a substantial reduction of the tariff is demanded by the best conservative opinion of the country, is a due recognition of public sentiment, a measure of justice to consumers, and that it will add to the general industrial prosperity. From 20 to 25 per cent. is stated by the commission as the substantial reduction demanded. Does the majority of the House who would professedly quiet the apprehension resulting from the agitation of this question expect to accomplish it with less? Does the majority here expect the next House of Representatives to accept less than the commission concedes to be demanded by the best conservative sentiment of the country? Gentlemen may continue to protest here their anxiety to quiet the unrest on this subject, but their refusal to double the proposed reductions will be correctly interpreted to contradict all such protests.

Early in this discussion I said, in reply to the honorable chairman [Mr. KELLEY], that it was the duty of this Congress not only to revise the tariff, but to so revise it as to make a real and equitable reduction of tariff taxes, and not to so revise it as to reduce the revenue by increasing rates of duty and taxation, which is the effect of this bill. I said then, and repeat now, its purpose is to forestall action in and by the next Congress, and thus prevent any fair and reasonable reduction. I said then, and now again repeat, that when this bill is passed all those who would maintain war duties or increase them will insist that this is a revision of the tariff, and therefore a settlement of the question which must not again be disturbed or agitated lest a demand for further revision or reduction will unsettle the industrial interests of the country. Sir, the advocates of protective and selfish greed here and everywhere but deceive themselves if they expect from this measure so much as a temporary settlement of the questions for which they seek oblivion.

ADDITIONAL TARIFF REDUCTION OF $30,000,000 CONSISTENT WITH PROTECTIVE POLICY.

With good harvests, without which we can not have commercial and industrial prosperity, we may expect under this bill an income of $10,000,000 from the sale of public lands and other miscellaneous sources; $120,000,000 from internal taxes on spirits, malt liquors, and tobacco, and unless the bill contains artfully concealed prohibitory clauses not yet discovered, $200,000,000 from imports, making an estimated annual revenue of $330,000,000.

For expenses of administration we may estimate $135,000,000—the cost of administration may soon grow to $150,000,000, but it is not likely to outgrow the revenue. The annual average cost of the pension-list for several years can hardly be less than $75,000,000. To pay off the public debt when it is payable in the year 1907 will require for interest and principal an average annual payment of $90,000,000 ($88,832,547; see Appendix). Together these give us a total estimated annual expenditure of $300,000,000, leaving a surplus of $30,000,000. It will thus appear that a reduction of 25 per cent., or twice the tariff reductions proposed by the bill, can be safely made, still leaving a small annual surplus in the Treasury and the tariff 20 per cent. above the protective standard because of the still remaining war rates. Such increased reduction, equitably made and fairly distributed, will lessen

by $25,000,000 the temptation fund of the Treasury, and leave to the people in largely increased proportion the means of comfortable living.

WE TAX OURSELVES OUT OF THE WORLD'S MARKETS.

The necessity for a revision and substantial modification of our commercial and industrial policy rests not alone upon the demand for relief from needless taxation. Legislators and manufacturers contriving by law to keep the markets of our own country exclude us from the markets of all other countries.

The gentleman from Pennsylvania [Mr. KELLEY] tells us that laboring people out of employment can not pay taxes, and that they have always found themselves out of employment, idle, and impoverished when we have had great reductions of tariff duties. This latter statement I have no doubt the gentleman will believe requires some modification. But whatever the fact may be as to the effect of great reductions of tariff taxes, no one has so frequently borne testimony to the lack of employment and the idle and impoverished condition of working people as has the gentleman himself in the last ten years under his favorite system. And now, while we are but continuing that system in aggravated form by this bill, the public journals each recurring day tell of mills unemployed and of workmen with no work to do; no work to do, because men will not pay other men to make goods for which there is no market. Already our manufacturers can make more than our people can use, but this does not deter capital from manufacturing investment under our system of bounteous protection. Our annual growing immigration adds largely to our surplus-producing power and to our necessity for other markets. Of this necessity some weeks ago I said:

To get foreign markets we must be able to sell in them without protection and on equal terms. We must therefore lessen the cost of production of manufactured goods so that we may find a market elsewhere than among our own people. This, Mr. Chairman, can be done in but one of two ways—reduce the rates of wages or reduce the cost of producing manufactures by reducing the cost of materials out of which they are made. Here, Mr. Chairman, is the place to begin by leaving untaxed the ore for making iron. Even on the protection theory this raw material needs no protection. The workers in it have natural protection double the amount of wages paid them. But it is not the workers in iron mines in whose behalf this tax is invoked; they are not the beneficiaries; the mine-owners and receivers of royalty receive whatever advantage comes of this tax, which is an increase on the present rate and explains the character of this bill.

If we would avoid industrial disaster, resulting in reduction of wages and lack of employment with their attendant evils, we can not too speedily remove taxes on the means of production. We must have other markets for our ever-increasing products, to which, if we are not led by prudent statesmanship, we are likely to be driven in adversity for want of it.

REVISION AND REDUCTIONS MADE.

The taxes to be repealed or reduced by the pending bill are chiefly internal taxes. This will relieve bankers, tobacco-chewers, perfumers, snuff-takers, and is "not to be sneezed at" because of the odor of special relief to capital. It is not so much intended to benefit the banking and tobacco interest as the manufacturing capital by furnishing a pretext for maintaining protective war duties. Since that part of the bill repealing internal taxes passed the House the terms of the clause repealing bank taxes have been amended, and if they have not been so altered as to include and cover up such advantage to banks and bankers as in the ordinary transactions of life would be called a cheat, I mistake the effect if not the purpose of the alterations made.

After three months of consideration it has not been ascertained, except perhaps by those skilled in the concealed purposes of the bill, what tax is laid by it on very many articles, or whether the tax on many articles is to be more or less than under existing law. From the day the first tax was laid by the Government under which we live cloves, cassia, and other spices have been taxed and made to contribute a considerable revenue to the Government. Now they are to be made free, and the million dollars heretofore collected on these articles will come from salt, coal, plank, and boards, that somebody may share with the Government the benefits of the increased cost of lumber and salt. The increased cost on spices not produced here would go as heretofore to the Treasury. If, however, we may believe in the protective doctrine of the gentleman from Iowa [Mr. KASSON], and in which he is probably the only believer, that the importer pays and loses half the duty, then this bill remits to the importers of spices a continuing bounty of a half million dollars annually.

Silks go down to 50 per cent.; earthen-ware up to 60, because to the beneficiaries of this bill it may be silks are necessaries and common earthen-ware a luxury not used.

The schedule of duties on iron and steel contains perhaps more hidden and misleading provisions than any other. Such changes of classification have been made in rods, wires, sheets, weights, sizes, and values as are not explainable to the honest mind. Bar-iron, ingot (or bar) steel, and other iron and steel which lie at the foundation of the iron and steel industries are left 40 per cent. above the protective Morrill tariff. Some reductions have been made in most of these less finished forms of iron and steel which are used in the manufacture of still other forms, but the reductions are so artfully made that the resulting benefits do not reach the ultimate consumer and tax-payer. Lower priced qualities of steel, much used by blacksmiths and for use in making agricultural implements and machinery, are to be increased to 45 per cent.—half as much more than the existing rate. Blacksmiths' hammers, sledges, and tools of trade must still pay 81 per cent., pocket cutlery 50 per cent., and, while some reduction is proposed in the tax on iron and steel from which these and various other articles, tools, and machinery are made, the tax on the articles themselves remains the same—the maker gets the benefit of the reduction.

In the list of cottons, compared with present rates apparent substantial reductions have been made on all low-priced cotton cloths; but the reduction is more apparent than real—the rate is still prohibitory on the cheaper goods.

The classification of cotton yarns has been so changed that some are made to pay more under an apparently reduced rate, and are taxed higher than goods to be made of the yarns. No doubt in this as in many other cases the sharers of Congressional bounty have overreached each other.

We collect about $13,000,000 on cottons, equal to about 4 per cent. on all the cottons consumed by our people. The duties from which we collect three of the thirteen millions are reduced, while those from which we collect ten millions are unchanged or are increased, and cotton is to be taxed substantially as now at the average rate of nearly 40 per cent.

Taking no account of any increase which may be hidden away in new classifications, in double or compound duties still maintained, or in raising one duty while lowering the other on the same article, woolen goods are to be reduced from 68 to 62 per cent., or 9 per cent. of the present rate. The pretext for retaining this enormous and compound rate is the duty on raw wool; but care has been taken to reduce wool 18 per cent. while reducing woolen goods 9.

In theory the two duties on woolen goods are laid, one specific, by the pound or yard, to compensate for the duty on the raw wool, the other on the value for protection. Some of the specific rates have been reduced 15 cents and 5 per cent. added to the duty on value which would seem to be a reduction. On inquiry it will be found that in such cases more is laid on than taken off.

When the existing tariff on woolens was made the manufacturers asked and were given10 per cent. increase to compensate them for 6 per cent. internal taxes paid on all manufactures. The 6 per cent. internal tax was repealed more than ten years ago, but the beneficiaries of the 10 per cent. compensation cling to it with a tenacity which could scarcely be excelled by honest men making an honest demand.

Besides the three and a half millions to be taken off of the annual income from the tax on imported silks, the only considerable reduction proposed is that on sugar, estimated at ten millions, for which the opponents of this bill voted. Why the majority here was willing to concede greater reductions on this than upon other necessaries I can not better explain than by repeating from my remarks when the question of the tax on sugar was considered here. I then said:

Gentlemen have been pleased to say that they were in favor of this reduction on sugar so much below the reduction on other necessaries because it was an article of "prime necessity common to all classes of people." Let it be so—it is so, Mr. Chairman. It is also conceded we must have revenue—quite three hundred millions of dollars. Our friends over the way, some of them, and some—too many, I fear—on this side, insist on repealing the internal-revenue tax, or most of it, so we are not to have much help to the Treasury from that source in the future should the policy of internal-revenue repeal prevail.

The gentleman from Indiana [Governor BROWNE] says we are paying about $6 to protect $10 worth of sugar—I forget the exact quantity and the exact sum. But, having stated this, substantially in principle at least, he wanted to know if that was right. It is right for me in laying taxes for revenue to impose them in that mode which will do the people the least harm and be least burdensome to them. If in paying $6 on $10 worth of sugar I get $5—all but one dollar of the six—into the Treasury, and I can not do so well on any other article, it is entirely consistent with my notions of public duty to pay $6 to protect $10 worth of sugar. Hence it is that while I favor a large reduction on sugar—much larger than is proposed on any other article—I will not vote for the lowest rate proposed until gentlemen are willing to give us fairer reductions on other highly protected articles alike essential to the comfort of our people. If the honorable gentleman from Indiana [Governor BROWNE] pays, as he does pay, $6 to protect $10 worth of woolen goods suitable to clothe his wife and children, and only one dollar of the six shall reach the Treasury—the other five going for bounty or protection—I confess I do not believe his investment in protecting women's and children's dress goods any the wiser or more patriotic than if he had invested his protective capital in sugar.

Looking only to this conference revision as it appears and overlooking the craftily placed protective advantages it contains, who can doubt that its purpose is not to substantially modify and reduce the existing tariff, but to hide its enormities that it may be perpetuated?

THE AGENCIES OF PROTECTION.

When the bill providing for the Tariff Commission was under consideration I called attention to the fact that before the scheme made its appearance in Congress it was urged by the American Iron and Steel Association as a means of perpetuating the present tariff. Its adoption was urged by some and supported by others here upon the assurance that the commission would be so fairly made up as to represent and do justice to all interests.

Some amiable old gentlemen were placed on the commission to give it the semblance of decency. But it is known to us all that the commission was packed and made up of men to be judges in their own cases; that upon their determinations depended how much money several of them might pocket from profits on iron or wool or sugar, industries in which they were engaged; that their conclusions were the result of dicker and a system of give and take—mostly take—among themselves; and that they made a falsely favorable report to Congress.

While making a statement before the Committee on Ways and Means the president of the commission, Mr. Hayes, was asked why a duty had been changed from a single to a double duty and a little increased. His answer was that it had been done on the recommendation and testimony of a gentleman in whom he had confidence. He was then asked if the gentleman upon whose recommendation he had acted was so interested that his profits depended on the rate of duty. Mr. Hayes answered, yes; that the gentleman was a manufacturer of the article on which the duty was so changed, and that no one else than the manufacturers understood the subject or knew what the duties ought to be. It is not unreasonable, therefore, to assume that what the Tariff Commission did not know when made up it afterward learned from those whose gains depended on the information revealed.

The Ways and Means Committee was regularly organized. Of its thirteen members the minority was given three and charged with five. And so organized, it readily granted to cotton manufacturers the rates of duty fixed by themselves, since for some reason their demands were not made known to the commission. Of the five members of this extraordinary conference the minority was given one and charged with two. The majority has added to this conference bill new puzzles and tangles containing increased duties and additional burdens, and has in disregard alike of the instructions and declared will of the House assumed disagreements which did not exist as a pretext for raising duties higher than those fixed by the House or Senate.

The Senate had fixed the duty on steel rails at $15.68 per ton, and the House had fixed it at $15 on my own motion. The conference reconciled this disagreement with the Senate by going above both House and Senate and placing the duty at $17 per ton, thereby adding a million dollars yearly to the profits of the rail-makers. In view of such facts, was I not justified in declaring, as I did when speaking upon another question but two days ago, that next to conference committees Congressional commissions as a rule are more prolific of personal and private jobbery and public plunder than any other legislative methods or instrumentalities yet discovered.

REDUCED PRICES NOT THE RESULT OF PROTECTION.

One of the many fallacies practiced in support of the present tariff is the assumption that it has reduced the price of goods to the consumer since its adoption. Prices of manufactured goods have lessened in all European countries in greater proportion than with us, and especially in England, where manufactures are unprotected. If this were not true the advocates of this bill would not be here demanding and defending prohibitory duties that we may take and keep our own market by law. To-day you reject 50 per cent. as insufficient and retain 60, 70, and 80 per cent. to protect iron, earthen, and glass ware and woolen goods in our own market. When this tariff was adopted you asked but 35 per cent. as all-sufficient. Under our system of bounties for manufacturing we have bribed capital to leave the sea, abandoned the foreign trade, and given it over to our chief commercial rival. Carrying across the sea is unprotected and free to all nations, and England, competing with herself, bears the surplus of our harvests to foreign markets at less than half the former cost. Railroads, unprotected except as they protect themselves, have made greater reductions in prices than any protected industry in the country.

There are members of this House not older than myself with scars in their hands made by shelling corn a third of a century ago. Then it required a whole day's work to shell five bushels of corn, and if wages were but 50 cents per day then it cost 10 cents per bushel, while now, with the use of machinery of little value, corn is shelled for 2 cents per bushel. What is true of the diminished cost of shelling corn is true of the cost of making cotton and woolen goods, manufactures of iron and steel, and all other fabrics in the production of which improved machinery is extensively used. A better knowledge of science and the arts and of mechanical appliances help us to do our work. The work being more efficient, the cost and the price is less, not because of protection, but in spite of it.

PRICES IN OTHER COUNTRIES REDUCED AND WAGES INCREASED.

Neither is it true, as is sometimes asserted, that prices have been reduced abroad by reducing wages and thereby lowering the cost of production. In Mr. Webster's time he advocated a duty on iron to compensate for the difference between wages here and in Sweden. He said that wages in Sweden were but 7 cents per day, and in this country five or six times as much, or about 40 cents per day. To-day there is no manufacturing country in Europe where wages are five or six times less than in the United States. Wages are higher in England than elsewhere in Europe, and poorly paid as laborers still are they receive there double the wages of forty years ago and more than ever received before. Have we more than doubled wages in the last forty years? I think not. I am not well advised of what has been the growth of wages for the past half century in France, Germany, and other nations of Europe, but we all do know that, like England as they are in all their conditions except that they have the protective system, laborers receive much lower wages there than are paid by their English neighbors. And since England has kept her own markets and maintained her commercial supremacy at home and abroad as against her German and French neighbors who have both protection and cheaper labor, it is fair to infer that whatever may be claimed for protection here it neither increases the wages of labor nor decreases the cost and price of manufactures on the other side of the Atlantic.

PROFESSIONS AND PRACTICES OF PROTECTION.

Not quite a century ago in the First Congress Mr. Hartley, of Pennsylvania, said:

We have been forced by necessity and various causes to increase our domestic manufactures to such a degree as to be able to furnish some in sufficient quantity to answer the consumption of the whole Union, while others are daily growing into importance. Our stock of materials is in many instances equal to the greatest demand and our artisans sufficient to work them up even for exportation. In these cases I take it to be the policy of every enlightened nation to give their manufactures that degree of encouragement necessary to perfect them without oppressing other parts of the country.

The degree of encouragement then deemed necessary to "perfect" manufactures was fixed by the First Congress on clothing and iron and other like articles at 7½ per cent.; and this conference committee proposes nearly a century later to go on perfecting manufactures with a duty six or seven times higher.

Mr. Clymer, of Pennsylvania, said that the manufacture of steel was "rather in its infancy," but "was already established and attended with considerable success," "and with a little further encouragement would supply enough for the consumption of the Union."

The Congress in 1789 laid a duty of half cent a pound on, and gave a little further encouragement to, steel "rather in its infancy," and now in 1883 Pennsylvania asks and is given five or six times as much as a little further encouragement to steel.

And Mr. Goodhue said that Pennsylvania and Massachusetts made more nails than they could use, and in a little time with, of course, a little encouragement enough might be made by them to supply the whole Union. Mr. Fitzsimmons said the people of Pennsylvania no longer imported beer, ale, and porter, and in two or three years, with the fostering aid of Government, would be able to furnish enough for the whole consumption of the United States. The First Congress gave the little encouragement and fostering aid asked for, and the Forty-seventh Congress continues the little encouragement and fostering care with several hundred per cent. increase.

Nearly fifty years later, now fifty years ago, Mr. Clay, the foremost advocate of his time, if not the first mover of the protective policy as then interpreted, urged his compromise tariff fixing rates of duty after nine years at 20 per cent., considered by him sufficient encouragement and fostering aid to maintain the system of which he was at the time the reputed father.

It thus appears that the advocates of this system in the earlier history of the country defended it on the alleged necessity for encouragement to new industries. They believed and conceded that as our establishments grew older and stronger the necessity for their encouragement would become less as to some and entirely cease as to others.

I think I do them no injustice in saying that the protectionists of to-day, as represented here, insist that the encouragement and fostering aid which the Government owes to manufacturers is the absolute control of the home market to be given by law. It is true that we have in theory advocates of protection, of incidental protection, of a tariff for revenue with discrimination that will give our own people the advantage, and of a tariff high enough to cover the "gap" or difference in rates of wages between us and our foreign competitors. But no one has undertaken to give us the incidental amount, the measure of the advantage or the length of the gap, and in practice these have proven to be unmeaning or avoiding phrases. Protectionists of whatever degree (if protection has degrees) have supported the commission scheme from the first, and did not scruple to do so after the flagrant manner of making up the commission. They have voted and will continue voting for duties of 60, 70, and 80 per cent. on goods for women and children's clothing, window-glass, articles of iron, and other articles of common use among our people. This can not be justified by an assumed apprehension that harm may come to any industry as the result of the reduction or removal of war taxes.

In the past half century, with a tariff sometimes for revenue, at others for protection, our people have made the great mass of the wares they used. They will continue to do so in the future with the advantages afforded by an equitable revenue system or with the disadvantages this bill will for a time continue. Sooner than gentlemen expect, justice will be done even here; when it is, we shall have a system of more equal taxation, and agitation of this question will then cease.

APPENDIX.

Memorandum.—Required the constant annual sum by payment of which the interest on the public debt of the United States will be met as it accrues and the principal extinguished during the period of twenty-four and one-half years, beginning January 1, 1883, and ending July 1, 1907; it being understood that the 3½ per cent. securities shall be first called in and paid; then so much of the debt bearing interest at 3 per cent. as can be called in and paid prior to September 1, 1891, when the 4½ per cent. securities become by law redeemable; then the securities last mentioned (namely, those bearing interest at 4½ per cent.), and then the portion of the 3 per cent. securities still outstanding; after which the 4 per cent. securities, which it is assumed can then be obtained at par, shall be purchased and canceled.

The interest-bearing indebtedness of the United States, not including the so-called Navy pension fund—a nominal debt of $14,000,000 bearing interest at the rate of 3 per cent. per annum—was on the 1st day of January, 1883, $1,378,245,450. The interest payable annually on this amount is $52,987,547.50, showing an aver-

age annual rate of interest of 3.84 per cent. Of the aggregate indebtedness just stated $99,326,200 bear interest at the rate of 3½ per cent. per annum, the annual payment for interest on this part of the debt being $3,476,417; $289,563,950 bear interest at the rate of 3 per cent. per annum, the annual payment for interest on this part of the debt being $8,686,918.50; $250,000,000 bear interest at the rate of 4½ per cent. per annum, the annual payment for interest on this part of the debt being $11,250,000; $739,355,300 bear interest at the rate of 4 per cent. per annum, the annual payment for interest on this part of the debt being $29,574,212; total interest-bearing debt, as stated above, $1,378,245,450, and the total annual interest $52,987,547.50. The constant annual sum required by the conditions of the problem for the payment, in the twenty-four and one-half years from January 1, 1883, to July 1, 1907, of the principal and interest, as above given, of the interest-bearing debt of the United States is found to be $88,832,547.50.

The $99,326,200 of debt bearing interest at 3½ per cent. will be extinguished in two and two-thirds years (more accurately 2.691 years) from January 1, 1883. Of the debt bearing interest at 3 per cent. $253,233,680 will be extinguished in a further period of about six years (more exactly 5.976 years), which added to the previous period of two and two-thirds years makes eight and two-thirds years (8.667) ending with the 1st day of September, 1891, when the securities bearing interest at 4½ per cent. become by law redeemable. The securities last mentioned, namely, those bearing interest at 4½ per cent., amounting to $250,000,000, will be extinguished in four and seven-eighths years (more exactly 4.883 years) from the date last named. The remainder of the debt bearing interest at 3 per cent., amounting to $36,330,270, will be extinguished in a further period of two-thirds of a year (more exactly 0.628 year), leaving ten and one-third years (more exactly 10.322 years) for the extinguishment by purchase (which purchase is assumed to be effected at par) of the $739,355,300 bearing interest at 4 per cent. The sum of these several periods is twenty-four and one-half years, embracing the interval from January 1, 1883, to July 1, 1907, the date at which the 4 per cent. securities become redeemable and by which, according to the conditions of the problem, the entire interest-bearing debt of the United States was to be extinguished.

Rates of interest.	Interest-bearing debt.	Annual interest payable.	Years to cancel the several classes.	Years to cancel the sum of the classes.
3½ per cent	$99,326,200	$3,476,417 00	2.691	2.691
3 per cent	253,233,680	7,597,010 40	5.976	8.667
4½ per cent	250,000,000	11,250,000 00	4.883	13.550
3 per cent	36,330,270	1,089,908 10	0.628	14.178
4 per cent	739,355,300	29,574,212 00	10.322	24.500
Average, 3.84 per cent	1,378,245,450	52,987,547 50	24.500	

Constant annual payment to extinguish—	
Principal	$35,845,000 00
Interest	52,987,547 50
Total	88,832,547 50

E. B. ELLIOTT, *Government Actuary.*
UNITED STATES TREASURY DEPARTMENT, *March* 3, 1883.

Education.

I trust more to the schoolmaster armed with his primer than I do to the soldier in full military array for upholding and extending the liberties of his country.—*Lord Brougham.*

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 24, 1883.

The House having under consideration the bill (H. R. 6158) to aid in the support of common schools—

The SPEAKER. The gentleman from Alabama [Mr. WHEELER] is recognized.

Mr. PAGE. Will not the gentleman yield for a motion to adjourn?

Mr. WHEELER. I will yield for that motion provided I have the floor when this bill is taken up next Monday.

Mr. PAGE. I move that the House adjourn.

Mr. WHEELER. Mr. Speaker——

The SPEAKER. The Chair understood the gentleman to yield for a motion that the House adjourn.

Mr. WHEELER. I did not yield for that purpose.

The SPEAKER. The Chair understood the gentleman to say distinctly that he yielded for a motion to adjourn.

Mr. WHEELER. I was willing to yield to the gentleman from California for that motion, provided I could have unanimous consent to occupy the floor on Monday when this bill is again taken up.

The SPEAKER. The Chair can only say that under the practice the gentleman would be entitled to the floor when the bill comes up again.

Mr. WILLIS. I hope the gentleman will go on now.

Mr. WHEELER. I decline to yield unless it is understood that I shall have the floor on Monday. [Cries of "Regular order!"]

The SPEAKER. The regular order is the bill to aid in the support of common schools, on which the gentleman from Alabama [Mr. WHEELER] is entitled to the floor.

Mr. WHEELER. Mr. Speaker, I feel that it requires no argument to impress upon this intelligent body the duty of ingrafting the human mind with knowledge. In the first chapter of Genesis, in the third and fourth verses, in the Bible, I read these words:

And God said, Let there be light: and there was light.
And God saw the light, that it was good.

Is it not possible that in these sublime words, the first recorded utterance of the Great First Cause, there is contained an indication to the beings for whose use He called a world from chaos, to enlighten the minds which He should implant in the human frame?

The Almighty is here represented as feeling a certain degree of pleasure as He contemplates the charming results of His high command, for "He saw the light" He had called out of darkness "that it was good." Though it is not in the power of any human tribunal by the mere force of words to spread the light of learning throughout the human family, yet God has graciously given us the capacity to enjoy the highest degree of gratification at the consummation of any good or beautiful work which we may perform. And though we have not the power to command the instantaneous spread of education, nevertheless we have the legislative power to put this good work in motion; and it may be our pleasing privilege in aftertimes, when we contemplate the results of this day's labors, as we see the light of learning spreading abroad in the human mind, to know and rejoice "that it is good."

That inimitable French writer, Mgr. Dupanloup, beautifully says:

The work of the educator bears a likeness to the work of the Creator. If he does not create from nothingness, he draws from slumber and lethargy the benumbed faculties; he gives life and movement and action to an existence yet imperfect.

In this light an intellectual, moral, and religious education is the highest possible human work. It is the continuation of the highest and noblest work of divinity: the creation of souls.

It is impossible for us to escape the responsibility which rests upon us individually and as a people.

With the present existing facilities placing education within the reach of every one, is it not a reflection upon us as a nation to see the appalling amount of ignorance with which we are surrounded?

Does not our conscience every day, yes, every hour, reproach us? Is there not something that asks:

Can ye, whose souls are lighted, the lamp of life deny?

A few moments ago my eye fell upon the date of the invention of printing, and a thought of the condition of the world prior to that time forced itself upon me. There were in those days few books, comparatively, and those mostly in the classic languages, known only to the small number of the educated; for to read necessitated an acquaintance with those languages, so that the

MASS OF THE PEOPLE

were debarred from this medium of learning.

In those days men with minds equal to or greater than Napoleon's, Cuvier's, Morse's, or Webster's, may have lived, contemplating great ideas, evolving wonderful inventions penetrating into the arcana of hidden science, and have died unknown, the grandeur of their conceptions buried in the grave with them. How frequently in the fragmentary manuscripts of the men who lived in those days do we find the first dawning of the ideas, the inchoate thoughts, the inception of inventions of which we now boast as the result of modern investigation, the development of progressive civilization.

Surrounding us to-day there may be just such minds of natural grandeur which cultured would equal any of the brilliant intellects that history has ever known, but which like the priceless gem hidden beneath the surface of the earth, while there remaining, performs no function more important than does the common pebble by its side.

I consider—

Said Addison—

a human soul without education like marble in the quarry, which shows none of its inherent beauties until the skill of the polisher fetches out the colors, makes the surface shine, and discovers every ornamental cloud, spot, and vein that runs through the body of it. * * * What sculpture is to a block of marble education is to a human soul. The philosopher, the saint, the hero, the wise, the good, or the great man very often lie hid and concealed in a plebeian, which a proper education might have disinterred and brought to light.

Leibnitz says:

The way to reform the human race is to reform the education of the young. The good education of youth is the first foundation of human happiness.

It is the

CHILDREN OF THE PRESENT DAY

who will be the legislators, the judges, the manufacturers, the agriculturists, and the busy working population of the country ere two decades of years have passed away. As we educate them, so will they be the counselors and patriots to save and defend the country and the Constitution, or a raging rabble ready and willing to overthrow the temple of liberty and to destroy forever the fair fabric of freedom. "Educate the people," were the warning words of Washington; "Educate the people," echoed Jefferson; and let us join in the refrain, "Educate the people," until the means of education are in the reach of every child in the Republic.

It will be observed that there is no provision in the bill of a sectarian character.

Schools will all be opened as is now the custom by religious exercises, which important feature would thus in a measure be incorporated into the system of instruction.

In this age of enlightenment we are daily more and more convinced that no education is worth having which does not crystallize around the principles of Christian virtue, and that the

HEART MUST NOT LIE FALLOW

while the mind is subjected to cultivation. And this was recognized by the men composing the Congress of the Confederation in these words:

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

We must not forget that learning did not avert the fall of the old nations, for it was when Rome had attained her highest point of intellectual grandeur that her scholars were among the most depraved and corrupt of men; so, too, if we believe the writings of Plato, the fall of the Persian nation was precipitated by the princes, who, though instructed highly in the arts and sciences, their hearts uninfluenced by any religious training, were monsters of vice, obeying only the brutal instincts of nature.

When the colonists landed on the shores of the American continent, seeking new homes wherein to rear their children far from the oppressions of the old governments, their first care was for the education of their children. In all the colonies

SCHOOLS WERE ESTABLISHED,

and the culture of mind kept pace with the cultivation of the soil and the opening of the country. With the development of the principles of popular government grew the idea of the necessity for popular education. If the people are to rule the people must not remain in ignorance. Knowledge is power; knowledge is freedom.

Ye shall know the truth, and the truth shall make you free.—*John*, viii, 32.

It is not surprising that our colonial fathers gave early attention to the education of their children. They were acquainted with some of the laws and customs of England, and were not unmindful of the great value of a little learning, for in the old country not many ages ago a man's life sometimes depended on his ability to read. Let us refresh ourselves a little by referring to these curious laws:

In Dyer's time, a man being convicted of a simple felony, as stealing any chattel of the value of twelve pence, if, when asked why he should not be sentenced, he prayed the benefit of clergy, the book containing the "neck verse" was put into his hand, and if he could read he was discharged, but if he could not he was hanged.

A question arose "whether if a man who may have his clergy granted in case of felony prays his book and, in fact, can not read, and it is recorded *non legit ut clericus*, and being respited for a time he learns to read before he is executed, he shall have his clergy, notwithstanding the record?" The matter was referred to all the justices of assize assembled at Sergeants' Inn, and it was resolved, *in favorem vitæ*, that he should have his clergy; "for," said Dyer, "he should have had it allowed under the gallows by the Year-Book, 34 H., 6. 49 a, b, pl. 16, if the judge passed by there, and much more here. And although he had been taught and schooled in the jail to know letters and read, that shall help him for his life, but the jailer shall be punished for it."—*Campbell's Lives of Chief-Justices*, volume 1, page 191.

Recognizing this necessity, it is not surprising that the earliest admonition of the patriots of those days was: "Educate the people." Early in the history of Massachusetts laws were made that each town of fifty families should maintain a primary school, and a grammar school should be opened in each town of a hundred families.

Penn's constant efforts in his colony of Pennsylvania tended toward the establishment of schools. And so, following out this idea of the necessity for popular education, and recognizing that one of the ends of government is to provide for a perpetuation of the principles of that government, the wise founders of the Republic, assembled in the Congress of the Confederation May 20, 1785, when considering the question of governmental aid for education, out of the means at their disposal made provision for that purpose.

There was then no revenue. There was an enormous public debt.

THERE WAS NO MONEY

to devote to school purposes; but there was land, billions of acres, and of this, their only abundance, they made a provision in the western territory (which included all west of the original thirteen States), of

SECTION NUMBER 16

"in every township for the maintenance of public schools within said township." Neither the manner of establishing these schools nor where the jurisdiction over them should reside was considered.

In the Continental Congress, July 23, 1787, it was enacted:

That the lot (section) 16 in each township or fractional part of a township be given perpetually for the purpose contained in such ordinance (the ordinance of May 20, 1785).

Also,

That not more than two complete townships be given perpetually for the purpose of an university, to be laid off by the purchaser or purchasers as near the center as may be, so that the same shall be of good land, to be applied to the intended object by the Legislature of the State.

April 30, 1802, Congress, in authorizing the formation of the State government of Ohio, ordered:

That the section number 16 in every township (and where such section has been sold, granted, or disposed of, other lands equivalent thereto and most contiguous to the same) shall be granted to the inhabitants of such townships for the use of schools.

In addition to this, March 3, 1803, Congress provided:

That the following several tracts of land in the State of Ohio be, and the same are hereby, appropriated for the use of schools in that State, and shall, together with all the tracts of land heretofore appropriated for that purpose, be vested in the Legislature of that State in trust for the use aforesaid, and for no other use, intent, or purpose whatever.

Until this date there had been discussion whether the United States should control the schools benefited by these donations, or whether they should be under State management, and there was much legislation upon the matter, the ablest and most learned men of those times always contending that the control and management of public education should be confined to the States.

This grant of the sixteenth section was made to all the States admitted into the Union, previous to the passage of the act for the organization of the Territory of Oregon, August 14, 1848, when, in addition to the sixteenth, the

THIRTY-SIXTH SECTION

in each township was also reserved and confirmed by grant in the act of admission of each State or Territory into the Union since that date.

It will be perceived that the States of Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Ohio, and Wisconsin have each received one section less in each township than their younger sisters in the Union.

Subsequent legislation in reference to the lands donated for public schools was confined chiefly to enactments regarding the location of such lands, until July 2, 1862, when a donation was made to each State, for the support of colleges for the cultivation of

AGRICULTURAL AND MECHANICAL SCIENCE AND ART,

of 30,000 acres for each Representative and Senator in Congress to which the State was entitled, of land "in place," where the State contained a sufficient quantity of public land, and of scrip when the State did not contain such land.

The land "in place" amounted to 1,770,000 acres; land scrip, 7,830,000; total, 9,600,000; the land grant to universities, under the law of 1787, amounted to 1,165,520; the sixteen sections and also the thirty-six sections amounted to 67,893,919; total lands granted for educational purposes, 78,659,439. In addition to these, large amounts of swamp lands have been appropriated, which would swell the amount to 130,000,000.

In order to comprehend the extent of this domain we must remember that all of New England, together with the States of New Jersey, Maryland, and Delaware, have an area of 56,665,600 acres of land, which is less than half the area already given to States for the purposes of education. All the distinguished founders of our Government were earnest advocates of a system of public education. Franklin urged the importance of such measures, and after the Constitution was formed, Washington and Hamilton, Adams and Jefferson, Madison and Clinton were particularly noted as supporters of the theory that government should see to it that education is placed within the reach of all its people.

We have seen that one of the first acts of the Congress of the Confederation was to provide liberal donations of land for educational purposes; and yet the articles of confederation do not give any direct authority for such an appropriation.

Two years afterward, with this law fresh upon their minds, the fathers met to frame the present Constitution, in the preamble of which we find these words:

We ordain and establish the Constitution to promote the general welfare and secure the blessings of liberty to ourselves and posterity.

I do not wish to be understood as asserting that the above words from the preamble is

AUTHORITY FOR GOVERNMENT APPROPRIATIONS

for education, but I will assert that the Constitution gives more authority to provide means for education than it gives for the support of an army in time of peace. I will read the provisions for that purpose:

SEC. 8. That Congress shall have power * * * to declare war; * * *
To raise and support armies, but no appropriation of money for that use shall be for a longer term than two years; * * *
To provide for organizing, arming, and disciplining the militia.

A strong argument might be made that this provision only contemplated supporting armies in time of war. Yet no one now contends that the maintenance of a regular army in time of peace is in violation of the Constitution.

The proceedings of our last session, page 417, January 16, 1882, contains the record which I will read:

COMMON SCHOOLS.

Mr. WHEELER also introduced a bill (H. R. 2817) to aid in the establishment and temporary support of common schools; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

I prepared the bill referred to with much care, incorporating what I regarded as an essential provision, and which would enable the States and Territories having school organizations to control the fund and not be subjected to the embarrassments of

TWO SEPARATE BUREAUS,

State and Federal, which, besides incurring the danger of conflict, had other more objectionable features.

My bill was the first measure introduced by a Democrat for such appropriation and certainly the first advocacy of this character from a Southern Democrat.

It was also the first bill prepared, placing the management of the system under State control.

The committee to whom the bill was referred, concurring with me in these views, reported a bill which contains most of the features which were incorporated in the bill that I had prepared.

In order that the House may better understand the character of this measure, I ask that the bill be read.

The bill was read, as follows:

Whereas it appears from the Tenth Census that one-eighth of the people of the United States are totally illiterate, and it seems that those States in which illiteracy exists to the greatest extent are not at present able to provide by local and State taxation for the adequate support of common schools to meet the emergency; and

Whereas the general welfare and perpetuity of our whole country depend upon the intelligence of all its citizens, and it is deemed to be the duty of the General Government to aid temporarily in the support of common schools: Therefore,

Be it enacted, &c., That for five years next after the passage of this act there shall be annually, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000,000 to aid in the support of free common schools, which amount shall be known as the common-school fund.

SEC. 2. That the Secretary of the Treasury shall annually apportion to the several States and Territories the said sum of $10,000,000, according to the number of their respective populations of ten years old and upward who can not read and write, as shown by the Tenth Census of the United States, which report shall be submitted to the Commissioner of Education.

SEC. 3. That before any State or Territory shall be entitled to receive its share of said fund it shall have provided by law for the free common-school education of all its children of school age, without distinction of color, for at least three months in each year, from the funds provided for schools under the laws of said State or Territory; and in no case shall any State or Territory be allowed out of said fund a greater sum than such State or Territory shall have expended during the previous year for the common-school education of the children of such State or Territory, exclusive of the amount received from the United States, and exclusive of the sums paid for grounds, school buildings, or repairs on the same: *Provided*, That separate schools for white and colored children shall not be considered a distinction of color.

SEC. 4. That an amount not exceeding 5 per cent. of the sum apportioned to each State and Territory, may be used by them for the education of teachers in normal schools, teachers' institutes, or otherwise.

SEC. 5. That it is hereby further provided that before any State or Territory shall be entitled to receive its share of said fund it shall have complied with the following conditions:

First. That it shall have applied all moneys by it previously received under the provisions of this act in accordance therewith.

Second. That it shall have caused to be made such reports to the Commissioner of Education concerning the condition of the schools in the same, on or before the 1st day of August of each year, as said Commissioner of Education, under the direction of the Secretary of the Interior, shall deem desirable; and shall especially report for each county as follows: The number of public schools of every grade; the whole number of days actually taught in each during the year preceding; the total amount received from State taxes and from local taxes and the total amount expended for educational purposes in the preceding year; the total amount expended for white and colored schools separately; the number of public-school buildings owned and hired, and the character, condition, and value of the same; the number of children, white and colored, male and female, in attendance on the public schools, and the length of attendance; the number of male and female teachers, white and colored, employed at the same time and at different times in the same year, with particulars as to qualifications of same; the number of school libraries and the number of volumes therein; the branches taught and the text-books used; the total wages paid teachers, male and female, white and colored.

SEC. 6. That the Commissioner of Education shall prepare forms of such blanks as shall facilitate the making of the reports herein provided for, and transmit the same to the State and Territorial authorities.

SEC. 7. That in such States and Territories as shall maintain separate schools for white and colored children the money so apportioned shall be divided according to the respective number of such white and colored children in such State or Territory.

SEC. 8. That no part of the money so received from the United States shall be expended in the purchase of real estate, the construction or repair of school buildings, or in paying the salary of any public officer not engaged in teaching.

SEC 9. That in case any State or Territory shall misapply or misappropriate the money, or any part thereof received under this act, or shall fail to comply with the conditions thereof, or to report as herein prescribed, such State or Territory shall forfeit its right to any subsequent apportionment by virtue hereof until the amount so misapplied or misappropriated shall have been replaced by such State or Territory and applied as herein required; and until such report shall have been made, all money so retained and not paid to such State or Territory shall be kept separate in the Treasury until disposed of by Congress.

SEC. 10. That on or before the 1st day of September of each year the Commissioner of Education, under the direction of the Secretary of the Interior, shall certify to the governor of each State and Territory whether it is entitled to receive its apportionment under this act, and if so entitled, the amount of such apportionment; and it thereupon shall be entitled to receive the same; but such certificate shall not be issued until all the requirements of this act referring to the duties of the officers of such State or Territory shall have been complied with.

SEC. 11. That the amount apportioned to any State or Territory, and certified as herein provided, shall be paid on or before October 1 of each year, upon the warrant of the Commissioner of Education, countersigned by the Secretary of the Interior, out of the Treasury of the United States, to such officer as shall be, by the laws of such State or Territory, entitled to receive the same.

SEC. 12. That the Commissioner of Education shall annually report to Congress the information received by him from the reports of the school officers of the several States and Territories provided for herein, together with such recommendations as will in the judgment of the Commissioner subserve the purposes of this act.

SEC. 13. That there is hereby appropriated the sum of $10,000,000 for the year commencing September 1, 1882, which shall be apportioned as directed herein; and those States and Territories which have provided by law for the free common-school education of their children of school age, without distinction of color, shall be entitled to their apportionment of said sum, all other requirements precedent to the right to receive such apportionment being hereby waived for the year 1882.

SEC. 14. That any State signifying its desire that the amount allotted to it under the provisions of this act shall be appropriated in any other way for the promotion of common-school education, in its own borders or elsewhere, its allotment shall be paid to such State to be thus appropriated: *Provided*, That its Legislature shall have first considered the question of its appropriation to the general fund for use under the provisions of this act in States and Territories where the proportion of illiterate persons is more than 5 per cent. of the whole population.

Mr. WHEELER. It is true that at first there were persons who severely criticised and condemned the measure, but in a few weeks I was overwhelmed with petitions urging me to press the bill to a passage. Most of the petitions came from my own State, and some of them from the district I have the honor to represent.

This question was to some degree considered in our State canvass preceding the election for State legislators in August, 1882; and on the 11th day of December, 1882, this measure was unanimously indorsed by the Legislature of Alabama, which was an almost solid Democratic body.

The joint memorial of that body, transmitted to our Senators and Representatives, I will read:

Joint memorial.

That the Senators and Representatives in Congress from this State be requested to secure the passage of a bill granting aid to education in the several States on the basis of illiteracy, the amounts so appropriated to be applied by the several States through their superintendents of education.

WILBUR F. FOSTER,
Speaker of the House of Representatives.
GEO. P. HARRISON, JR.,
President of the Senate.

Approved December 11, 1882.

E. A. O'NEAL, *Governor.*

HON. JOSEPH WHEELER, *House of Representatives.*

I now wish, Mr. Speaker, to call attention to the action of this session regarding apppropriations, to which I will add the sums appropriated during the last three years for the ordinary expenses of the Government, which of course does not include interest or any other expenditure pertaining to the public debt:

Title.	Date.	As reported.	Date.	As passed House.
Pension	Jan. 6...	$81,575,000 00	Jan. 13.	$86,575,000 00
Military Academy	Dec. 12..	305,657 50	.....	305,657 50
Fortifications	Jan. 6...	325,000 00	.....	325,000 00
Consular and diplomatic	Dec. 8...	1,258,255 00	Dec. 9...	1,258,255 00
Navy	Jan. 16..	15,209,100 23	Jan. 25..	15,208,800 23
Post-Office	Dec. 11..	43,948,520 00	Dec. 20..	44,229,520 00
Indian	Dec. 4...	5,208,955 91	Dec. 7...	5,208,955 91
Army	Dec. 19..	24,681,500 00	Jan. 14..	24,696,500 00
Legislative, &c	Feb. 2..	20,367,463 05	Feb. 16.	20,383,730 05
Sundry civil	Feb. 19..	22,325,720 67	Feb. 24.	23,119,232 50
District of Columbia	Jan. 4...	1,682,772 23	Jan. 5...	1,667,402 23
River and harbor	Feb. 20..	7,987,000 00	Mar. 2...	8,047,000 00
Deficiency	Feb. 26..	2,037,989 09	Mar. 1...	2,285,334 41
Agricultural	Dec. 12..	406,820 00	Dec. 13..	406,820 00
Miscellaneous	.....	750,000 00	.....	750,000 00
Total	.....	228,069,753 68	.....	234,467,207 53

Title.	Date.	Passed Senate.	Law, 1884.	Law, 1883.	Law, 1882.
Pension	Feb. 10..	$86,575,000 00	$86,575,000 00	$100,000,000 00	$66,000,000 00
Military Academy	Jan. 4...	319,507 50	318,657 50	335,557 04	322,435 37
Fortifications	Feb. 21..	740,000 00	670,000 00	375,000 00	575,000 00
Consular and diplomatic	Dec. 20..	1,321,755 00	1,296,755 00	1,256,655 00	1,229,435 00
Navy	.....	15,891,434 23	15,894,434 23	14,819,976 80	14,991,444 59
Post-Office	Jan. 20..	44,514,520 00	44,489,520 00	44,643,900 00	43,350,783 23
Indian	Dec. 19..	5,376,255 91	5,362,655 91	5,229,374 01	5,628,648 47
Army	.....	24,949,900 00	24,681,350 00	27,258,000 00	27,207,800 00
Legislative, &c	Feb. 24..	20,639,329 55	20,464,296 22	20,038,000 65	18,565,554 16
Sundry civil	Mar. —.	24,565,347 47	23,906,147 47	25,589,358 06	24,715,492 75
District of Columbia	.....	1,666,514 73	1,699,867 23	1,695,098 04	1,724,166 22
River and harbor	.....	.....	.....	18,738,875 00	11,441,309 00
Deficiency	Mar. 3...	2,944,336 50	2,813,187 80	25,689,951 10	.....
Agricultural	Dec. 21..	404,640 00	405,640 00	427,280 00	345,500 00
Miscellaneous	.....	750,000 00	750,000 00	9,413,614 16	3,280,426 59
Total	.....	230,662,540 89	229,327,511 36	295,510,639 86	219,367,983 38

NOTE.—Since the delivery of this speech I have added the exact figures appropriated in the sundry civil and the deficiency bills as they finally passed, and have also added the figures of the river and harbor bill as it passed the House.

Does it not seem that a Government which is spending money at the rate above indicated could give something to the important cause of education? Suppose we deduct 4 per cent. of the appropriations and apply the sum to education. This would give all we ask; and would any department of the Government feel the 4 per cent. deducted?

I will now read a table showing the amount expended in 1880 for

school purposes as reported by the Commissioner of Education; also the portion each State would receive of the proposed consideration:

States and Territories.	Expenditure in 1880.	Share of each in $10,000,000.
Alabama	$375,465	$694,631 40
Arkansas	238,056	323,744 14
California	2,864,571	85,625 56
Colorado	395,527	16,785 37
Connecticut	1,408,375	45,551 59
Delaware	207,281	31,112 39
Florida	114,895	128,499 27
Georgia	471,029	834,005 54
Illinois	7,531,942	233,009 57
Indiana	4,491,850	177,502 76
Iowa	4,921,248	74,694 42
Kansas	1,818,387	63,263 23
Kentucky	803,490	558,324 28
Louisiana	480,320	510,227 73
Maine	1,047,681	35,529 08
Maryland	1,544,367	215,527 09
Massachusetts	5,156,731	149,007 40
Michigan	3,109,915	102,120 87
Minnesota	1,706,114	55,362 55
Mississippi	830,704	598,082 58
Missouri	3,152,178	334,543 89
Nebraska	1,137,995	18,474 49
Nevada	144,245	6,520 88
New Hampshire	565,339	22,920 03
New Jersey	1,928,374	85,335 50
New York	10,412,378	351,925 45
North Carolina	352,882	743,554 70
Ohio	7,166,963	211,294 71
Oregon	314,017	11,895 91
Pennsylvania	7,449,013	365,409 53
Rhode Island	544,200	39,732 64
South Carolina	324,629	592,709 00
Tennessee	724,862	668,212 81
Texas	753,346	507,105 99
Vermont	454,285	25,379 98
Virginia	946,109	689,671 41
West Virginia	716,864	136,821 42
Wisconsin	2,230,772	89,035 85
Arizona	61,172	9,362 42
Dakota	124,483	7,726 01
District of Columbia	438,567	41,311 17
Idaho	38,812	2,849 38
Montana	59,463	2,735 59
New Mexico	18,890	91,596 77
Utah	132,194	14,144 32
Washington	114,379	6,232 41
Wyoming	22,120	891 03

This report does not give the full amounts appropriated for school purposes in 1880 in some of the Southern States. They are continually increasing their donations of money for this purpose. This year, I am informed, Florida has at least two hundred thousand made available for educational purposes. And Alabama, besides largely increasing the general appropriation, has taken measures more effectually to collect the poll-tax, all of which the law provides shall be used for public education. If the present effort succeeds in collecting the poll-tax of one dollar and a half per head, from only two-thirds of those who should pay it, the fund this year for school purposes will exceed the $694,000, the pro rata of Alabama under the bill now being considered.

To illustrate what has been done by the States themselves, and also to give an idea of their relative ability to cope with this question, I have prepared a table showing the expenditure for educational purposes in each State and Territory as reported by the Commissioner of Education; also the assessed value of property as shown by the census of 1880:

Expenditure for educational purposes.

States and Territories.	Expenditure in 1880.	Assessed valuation.
Alabama	$375,465	$122,867,228
Arkansas	238,056	86,409,364
California	2,864,571	584,578,036
Colorado	395,527	74,471,693
Connecticut	1,408,375	327,177,385
Delaware	207,281	59,951,643
Florida	114,895	30,938,309
Georgia	471,029	239,472,599
Illinois	7,531,942	786,616,394
Indiana	4,491,850	727,815,131
Iowa	4,921,248	398,671,251
Kansas	1,818,387	160,891,689
Kentucky	803,490	350,563,971
Louisiana	480,320	160,162,439
Maine	1,047,681	235,978,716
Maryland	1,544,367	497,307,675
Massachusetts	5,156,731	1,584,756,802
Michigan	3,109,915	517,884,359
Minnesota	1,706,114	258,028,687
Mississippi	830,704	110,628,129
Missouri	3,152,178	532,705,801
Nebraska	1,137,995	90,585,782
Nevada	144,245	29,291,459
New Hampshire	565,339	164,299,531
New Jersey	1,928,374	572,518,361
New York	10,412,378	2,651,940,006
North Carolina	352,882	156,100,202
Ohio	7,166,963	1,534,360,508
Oregon	314,017	52,522,084

Expenditure for educational purposes, &c.—Continued.

States and Territories.	Expenditure in 1880.	Assessed valuation.
Pennsylvania	$7,449,013	$1,683,459,016
Rhode Island	544,200	252,536,673
South Carolina	324,629	133,560,135
Tennessee	724,862	211,778,538
Texas	753,346	320,364,515
Vermont	454,285	86,806,775
Virginia	946,109	308,455,135
West Virginia	716,864	139,622,705
Wisconsin	2,230,772	438,971,751
Arizona	61,172	9,270,214
Dakota	124,483	20,321,530
District of Columbia	438,567	99,401,787
Idaho	38,812	6,440,876
Montana	59,463	18,609,802
New Mexico	18,890	11,363,406
Utah	132,194	24,775,279
Washington	114,379	23,810,693
Wyoming	22,120	13,621,829
Total		16,902,755,893

We therefore see by this table that Florida, Mississippi, and Missouri spend largely more than four-tenths of 1 per cent. on the valuation of property for school purposes; that Alabama, Delaware, Louisiana, Maryland, and Virginia, spend more than three-tenths of 1 per cent. of the valuation of their property, for the same purpose; that Arkansas, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Texas, and West Virginia spend nearly three-tenths of 1 per cent.

To show how favorably this compares with the States of the North, I call attention to the fact that Massachusetts and New Jersey and New Hampshire only spend about three-tenths of 1 per cent. on the value of their property, Rhode Island but about two-tenths of 1 per cent., and New York less than four-tenths of 1 per cent.

This statement of figures refutes the charge made against the Southern States of being neglectful of the educational interests of their people, and shows that in proportion to the assessed value of their property their expenditures equal those of the most cultured of the Northern States; while it further reveals that in proportion to wealth the generosity of expenditure of Florida, Mississippi, and Missouri exceeds that of the State of Massachusetts, famed as is that State for the learning of her people.

I insist, Mr. Speaker, that there is no investment of money that can be made by any sovereignty that brings so large a percentage of profit as money invested in education.

I have used the word investment not in the sense alone of money at interest, yielding a per centum in cash, to be added year by year to the original amount, in the production of dividends, and so to inspire speculations in stocks and ventures, as the capital swells in dollars and cents into fortunes. On the contrary, I mean here by investment, the food furnished by an enlightened government to nourish and develop the mind of an earnest and thriving generation of mortals who, outside of the use of money, are making themselves ready to produce it, and to use money in the most practical way.

In what way can we better develop the wealth of our country than by educating our people? Alabama to-day has an area of coal and mineral lands nearly equal in extent to those of England. With the opening up of this wealth is there any possible estimate we can put upon our prosperity? In reply to those who insist that this bill is an innovation of the principles of our Government, let me say that the system proposed, with proper restrictions and limitations, is no departure from the policy of the Government. Every State in the Union has its college and academies built out of the public domain munificently donated for that purpose. Unfortunately, however, though the acres of donation were originally equal, the States admitted into the Union at later dates have the advantage of the earlier States, both as to acreage of grant and the greater value of the lands resulting from the more rapidly filling up of the population.

This bill to a certain extent is intended to equalize the donation. If I had time I could illustrate this proposition satisfactorily, but I here merely throw it out as a thought for members. That country that has the best school facilities will attract to it the greatest number of the best class of emigrants. People who are willing to go to a country where they can not educate their children are not of the class who will make good citizens.

Can we invite the best of European labor to come and dwell among us unless we offer to them educational facilities superior to those they enjoyed in their European homes?

Last year France spent $22,717,880 for the purposes of education.

England last year spent £2,749,863; Scotland, £468,512; poor Ireland, £729,868; Belgium, with a population of 5,000,000, spent last year over $5,000,000 on education; Prussia, with 27,251,067 population, expended $11,458,856.

I will now ask leave to read a table, showing the number of persons who have the right to vote, who are reported by the Census Bureau as not being able to write. Those residing in the Northern States who

have had advantages denied to the Southern people I will classify in the first table:

States.	Total number of males of 21 years of age and upward.	Number of males 21 years of age and upward who can not write.		
		White.	Colored.	Total.
California	329,392	12,615	16,857	29,472
Colorado	93,608	3,627	289	3,916
Connecticut	177,291	9,501	696	10,197
Illinois	796,847	44,536	5,271	49,807
Indiana	498,437	33,757	4,345	38,102
Iowa	416,658	16,202	1,009	17,211
Kansas	265,714	7,998	5,623	13,621
Maine	187,323	8,420	144	8,564
Massachusetts	502,648	30,951	941	31,892
Michigan	467,687	26,330	1,852	28,182
Minnesota	213,485	12,372	364	12,736
Nebraska	129,042	3,836	256	4,092
Nevada	31,255	1,173	1,194	2,367
New Hampshire	105,138	5,264	42	5,306
New Jersey	300,635	15,902	3,560	19,462
New York	1,408,751	76,745	4,521	81,266
Ohio	826,577	40,373	7,041	47,414
Oregon	59,629	1,669	2,005	3,674
Pennsylvania	1,094,284	65,985	6,845	72,830
Rhode Island	76,898	7,157	467	7,624
Vermont	95,621	6,731	82	6,813
Wisconsin	340,482	21,221	474	21,695
Total	8,417,402	452,365	63,878	516,243

I will now ask leave to read a similar table regarding the sixteen States of the South, in which I particularly call attention to the great amount of illiteracy among the colored people. It is true that lack of education exists altogether too much among the whites, and I hope that this House will be impressed with the fact that a government, deriving all its power from the sovereign will of the people, has no right to leave so large a proportion of its voting population without advantages of education:

	Total number of voters.	Number of voters who are reported as not able to write.		
		White.	Colored.	Total.
Alabama	259,884	24,450	96,408	120,858
Arkansas	182,977	21,349	34,300	55,649
Delaware	38,208	2,955	3,787	6,742
Florida	61,699	4,706	19,110	23,816
Georgia	321,438	28,571	116,516	145,087
Kentucky	376,221	54,956	43,177	98,133
Louisiana	216,787	16,377	86,535	102,932
Maryland	232,106	15,152	30,873	46,025
Mississippi	238,532	12,473	99,068	111,541
Missouri	541,207	40,655	19,028	59,683
North Carolina	294,740	44,420	80,282	124,702
South Carolina	205,789	13,924	93,010	106,934
Tennessee	330,305	46,948	58,601	105,549
Texas	380,476	33,085	59,669	92,754
Virginia	334,505	31,474	100,210	131,684
West Virginia	139,161	19,055	3,830	22,885
Total	4,154,125	410,550	944,424	1,354,974

It is true that these tables present a very unsatisfactory exhibit, but in order to show what a large proportion of the money which would fall to the share of the Southern States would be used for the education of the colored people, I beg leave to present a table which shows the relative proportion of whites and blacks in sixteen Southern States and in the District of Columbia.

Relative proportion of whites and blacks.

States.	White population.	Colored population.
Alabama	662,185	600,103
Arkansas	591,531	210,666
Delaware	120,160	26,442
Florida	142,605	126,690
Georgia	816,906	725,133
Kentucky	1,377,179	271,451
Louisiana	454,954	483,655
Maryland	724,693	210,230
Mississippi	479,398	650,291
Missouri	2,022,826	145,350
North Carolina	867,242	531,277
South Carolina	391,105	604,332
Tennessee	1,138,831	403,151
Texas	1,197,237	393,384
Virginia	880,858	631,616
West Virginia	592,537	25,886
District of Columbia	118,006	59,596
Total	12,578,253	6,099,253

And now, Mr. Speaker, I desire to say that the Southern States, particularly those under Democratic rule, and more especially those which have been longest under Democratic rule, have done full justice to the colored people. They have given them advantages equal to those which have been accorded to their white population. In my State every dollar collected from colored people as poll-tax is donated to schools for the colored race, and in addition they are accorded a full share of the general appropriation for school purposes. We have given them normal schools for the purpose of educating colored teachers, to maintain which involves very large expenditures. Notwithstanding what has been done, the table which I will now read, which refers to schools exclusively for colored children, shows that the enrollment is not by any means what it would be if Congress should pass this bill:

Class of institutions.	Schools.	Enrollment.
Public schools	16,669	784,709
Normal schools	44	7,408
Institutions for secondary instruction	36	5,237
Universities and colleges	15	1,717
Schools of theology	22	800
Schools of law	3	33
Schools of medicine	2	87
Schools for the deaf, dumb, and blind	2	109
Total	16,793	800,100

I will now, Mr. Speaker, present a valuable table prepared by Hon. Mr. Waite, agent statistics of education. The table is taken from the report of the census of 1880.

Population and percentage of illiteracy.

States and Territories.	Total population.	Total population who can not read, 10 years of age and over.	Percentage of total population who can not read.	Total population who can not write, 10 years of age and over.	Percentage of total population who can not write.
Alabama	1,262,505	370,279	29.33	433,447	34.33
Arizona	40,440	5,496	13.59	5,842	14.45
Arkansas	802,535	153,229	19.09	202,015	25.17
California	864,694	48,583	5.62	53,430	6.18
Colorado	194,327	9,321	4.80	10,474	5.39
Connecticut	622,700	20,986	3.37	28,424	4.56
Dakota	135,177	3,094	2.29	4,821	3.57
Delaware	146,608	16,912	11.54	19,414	13.24
District of Columbia	177,624	21,541	12.13	25,778	14.51
Florida	269,493	70,219	26.06	80,183	29.75
Georgia	1,542,180	446,683	28.96	520,416	33.75
Idaho	32,610	1,384	4.24	1,778	5.45
Illinois	3,077,871	96,809	3.15	145,397	4.72
Indiana	1,978,301	70,008	3.54	110,761	5.60
Iowa	1,624,615	28,117	1.73	46,609	2.87
Kansas	996,096	25,503	2.56	39,476	3.96
Kentucky	1,648,690	258,186	15.66	348,392	21.13
Louisiana	939,946	297,312	31.63	318,380	33.87
Maine	648,936	18,181	2.80	22,170	3.42
Maryland	934,943	111,387	11.91	134,488	14.48
Massachusetts	1,783,085	75,635	4.24	92,980	5.21
Michigan	1,636,937	47,112	2.88	63,723	3.89
Minnesota	780,773	20,551	2.63	34,546	4.42
Mississippi	1,131,597	315,612	27.89	373,201	32.98
Missouri	2,168,380	138,818	6.40	208,754	9.63
Montana	39,159	1,530	3.91	1,707	4.36
Nebraska	452,402	7,830	1.73	11,528	2.55
Nevada	62,266	3,703	5.95	4,069	6.53
New Hampshire	346,991	11,982	3.45	14,302	4.12
New Jersey	1,131,116	39,136	3.46	53,249	4.71
New Mexico	119,565	52,994	44.32	57,156	47.80
New York	5,082,871	166,625	3.28	219,600	4.32
North Carolina	1,399,750	367,800	26.28	463,977	33.15
Ohio	3,198,062	86,754	2.71	131,847	4.12
Oregon	174,768	5,376	3.08	7,423	4.25
Pennsylvania	4,282,891	146,138	3.41	228,014	5.32
Rhode Island	276,531	17,456	6.31	24,793	8.97
South Carolina	995,577	321,780	32.32	369,848	37.15
Tennessee	1,542,359	394,385	19.09	410,722	26.63
Texas	1,591,749	256,223	16.10	316,432	19.88
Utah	143,963	4,851	3.37	8,826	6.13
Vermont	332,286	12,993	3.91	15,837	4.77
Virginia	1,512,565	360,495	23.83	430,352	28.45
Washington	75,116	3,191	4.25	3,889	5.18
West Virginia	618,457	52,041	8.41	85,376	13.80
Wisconsin	1,315,497	38,693	2.94	55,558	4.22
Wyoming	20,789	427	2.05	556	2.67
The United States	50,155,783	4,923,451	9.82	6,239,958	12.44

I will now present a table stating substantially the same facts, but showing the relative illiteracy of the white and black. It will be seen that, while less than 7 per cent. of the white population are unable to read and write, 48 per cent., nearly one-half, of the colored people are reported as illiterate and unable to read and write.

Relative illiteracy of whites and blacks.

States and Territories.	Total white population.	Total white population who can not write, 10 years of age and over.	Percentage of total white population who can not write.	Total colored population.	Total colored population who can not write, 10 years of age and over.	Percentage of total colored population who can not write.
Alabama	662,185	111,767	16.88	600,320	321,680	53.58
Arizona	35,160	4,824	13.72	5,280	1,018	19.28
Arkansas	591,531	98,542	16.66	210,994	103,473	49.04
California	767,181	26,090	3.40	97,513	27,340	28.04
Colorado	191,126	9,906	5.18	3,201	568	17.74
Connecticut	610,769	26,763	4.38	11,931	1,661	13.92
Dakota	133,147	4,157	3.13	2,030	664	32.71
Delaware	120,160	8,346	6.95	26,448	11,068	41.85
District of Columbia	118,006	3,988	3.38	59,618	21,790	36.55
Florida	142,605	19,763	13.86	126,888	60,420	47.62
Georgia	816,906	128,934	15.78	725,274	391,482	53.98
Idaho	29,013	784	2.70	3,597	994	27.63
Illinois	3,031,151	132,426	4.37	46,720	12,971	27.76
Indiana	1,938,798	100,398	5.18	39,503	10,363	26.23
Iowa	1,614,600	44,337	2.75	10,015	2,271	22.69
Kansas	952,155	24,888	2.61	43,941	14,588	33.20
Kentucky	1,377,179	214,497	15.58	271,511	133,895	49.31
Louisiana	454,954	58,951	12.96	484,992	259,429	53.49
Maine	646,852	21,758	3.36	2,084	412	19.77
Maryland	724,693	44,316	6.12	210,250	90,172	42.89
Massachusetts	1,763,782	90,658	5.14	19,303	2,322	12.03
Michigan	1,614,560	58,932	3.65	22,377	4,791	31.41
Minnesota	776,884	33,506	4.31	3,889	1,040	26.74
Mississippi	479,398	53,448	11.15	652,199	319,753	49.02
Missouri	2,022,826	152,510	7.54	145,554	56,244	38.64
Montana	35,385	631	1.78	3,774	1,076	28.51
Nebraska	449,764	10,926	2.43	2,638	602	22.82
Nevada	52,556	1,915	3.58	8,710	2,154	24.73
New Hampshire	346,229	14,208	4.10	762	94	12.34
New Jersey	1,092,017	44,049	4.03	39,099	9,200	23.53
New Mexico	108,721	49,597	45.62	10,844	7,559	69.71
New York	5,016,022	208,175	4.15	66,849	11,425	17.09
North Carolina	867,242	192,032	22.14	532,508	271,943	51.07
Ohio	3,117,920	115,491	3.70	80,142	16,356	20.41
Oregon	163,075	4,343	2.66	11,693	3,080	26.34
Pennsylvania	4,197,016	209,981	5.00	85,875	18,033	21.00
Rhode Island	269,939	23,544	8.72	6,592	1,249	18.95
South Carolina	391,105	59,777	15.28	604,472	310,071	51.30
Tennessee	1,138,831	216,237	18.99	403,528	194,495	48.20
Texas	1,107,237	123,912	10.35	394,512	192,520	48.80
Utah	142,423	8,137	5.71	1,540	689	44.74
Vermont	331,218	15,681	4.73	1,068	156	14.61
Virginia	880,858	114,692	13.02	631,707	315,660	49.97
Washington	67,199	1,429	2.13	7,917	2,460	31.07
West Virginia	592,537	75,237	12.70	25,920	10,139	39.12
Wisconsin	1,309,618	54,233	4.14	5,879	1,325	22.54
Wyoming	19,437	374	1.92	1,352	182	13.46
Total	43,402,970	3,019,080	6.96	6,752,813	3,220,878	47.70

I will now, Mr. Speaker, add a tabular statement, which I take from the report of the Commissioner of Education, which shows the grants of land by Congress for school and university purposes from 1792 to the present time. The table also gives the date of each act and the number of acres donated by said act.

Statement of grants to States and reservations to Territories for school purposes.

States and Territories.	Total area.	Dates of grants.
SECTION 16.	*Acres.*	
Ohio	704,488	March 3, 1803.
Indiana	650,317	April 19, 1816.
Illinois	985,066	April 18, 1818.
Missouri	1,199,139	March 6, 1820.
Alabama	902,744	March 2, 1819.
Mississippi	837,584	March 3, 1803; May 19, 1852; March 3, 1857.
Louisiana	786,044	April 21, 1806; February 15, 1843.
Michigan	1,067,097	June 23, 1836.
Arkansas	886,460	Do.
Florida	908,503	March 3, 1845.
Iowa	905,144	Do.
Wisconsin	958,649	August 6, 1846.
SECTIONS 16 AND 36.		
California	6,719,324	March 3, 1853.
Minnesota	2,969,990	February 26, 1857.
Oregon	3,329,706	February 14, 1859.
Kansas	2,801,306	January 29, 1861.
Nevada	3,985,428	March 21, 1864.
Nebraska	2,702,044	April 19, 1864.
Colorado	3,715,535	March 3, 1875.
Washington Territory	2,488,675	March 2, 1853.
New Mexico Territory	4,309,368	September 9, 1850; July 22, 1854.
Utah Territory	3,003,613	September 9, 1850.
Dakota Territory	5,998,451	March 2, 1861.
Montana Territory	5,112,035	February 28, 1861.
Arizona Territory	4,050,347	May 26, 1864.
Idaho Territory	3,068,231	March 3, 1863.
Wyoming Territory	3,480,281	July 25, 1868.
Total	67,893,919	

No grants to Indian and Alaska Territories. Lands in sixteenth and thirty-sixth sections in Territories not granted, but reserved. Lands in place and indemnity for deficiencies in sections and townships, under acts of May 20, 1826, and February 26, 1859, included in above statement.

UNIVERSITY GRANTS.

I will now read a table which states the number of acres granted to the States and reserved in the Territories of Washington, New Mexico, and Utah for university purposes by acts of Congress, the dates of which are given in proper column:

States and Territories.	Total area.	Under what acts.
	Acres.	
Ohio	69,120	April 21, 1792; March 3, 1803.
Indiana	46,080	April 19, 1816; March 26, 1804.
Illinois	46,080	March 26, 1804; April 18, 1818.
Missouri	46,080	February 17, 1818; March 6, 1820.
Alabama	46,080	April 20, 1818; March 2, 1819.
Mississippi	46,080	March 3, 1803; February 20, 1819.
Louisiana	46,080	April 21, 1806; March 3, 1811; March 3, 1827.
Michigan	46,080	June 23, 1836.
Arkansas	46,080	Do.
Florida	92,160	March 3, 1845.
Iowa	46,080	Do.
Wisconsin	92,160	August 6, 1846; December 15, 1854.
California	46,080	March 3, 1853.
Minnesota	82,640	March 2, 1861; February 26, 1857; July 8, 1870.
Oregon	46,080	February 14, 1859; March 2, 1861.
Kansas	46,080	January 29, 1861.
Nevada	46,080	July 4, 1866.
Nebraska	46,080	April 19, 1864.
Colorado	46,080	March 3, 1875.
Washington Territory	46,080	July 17, 1854; March 14, 1864.
New Mexico Territory	46,080	July 22, 1854.
Utah Territory	46,080	February 21, 1855.
Total	1,165,520	

Lands in the Territories not granted, but *reserved*.

I will now present a table of statistics which explains itself. The data is taken from the census reports and from Mr. Spofford's almanac. Where the figures differ from statements in other tables it is accounted for by the fact that the tables refer to different years:

States.	School population, 1880.	Estimated population, between 6 and 16 years of age, 1879.	Enrollment in public schools, 1880.	Number of normal students, 1880.	Students in agricultural colleges.	State normal appropriations, 1880.
Alabama	388,003	269,320	179,490	330	279	$13,500
Arkansas	247,547	157,734	70,972	139	473	12,000
California	215,978	180,337	158,765	577	337	33,300
Colorado	35,566	19,825	22,119	9	26	.....
Connecticut	140,235	115,000	119,694	132	177	12,000
Delaware	35,459	22,290	27,823	.....	59	.....
Florida	88,677	42,932	39,315	39	.....	.....
Georgia	433,444	381,203	236,533	78	.....	.....
Illinois	1,010,851	667,130	704,041	805	433	$42,784
Indiana	703,558	530,839	511,283	481	195	17,000
Iowa	586,556	369,447	426,057	368	284	6,750
Kansas	340,647	197,342	231,434	60	175	.....
Kentucky	545,161	385,602	265,581	.....	182	.....
Louisiana	273,845	220,620	68,440	.....	.....	.....
Maine	214,656	126,826	149,827	447	102	20,200
Maryland	276,120	184,080	162,431	301	75	10,500
Massachusetts	307,321	303,836	306,777	1,273	131	58,229
Michigan	506,221	324,662	362,556	69	144	17,500
Minnesota	271,428	182,080	180,248	434	386	33,000
Mississippi	426,689	226,481	236,704	251	240	5,000
Missouri	723,484	501,538	476,376	1,388	48	30,000
Nebraska	142,348	77,126	92,549	276	9	15,000
Nevada	10,592	8,549	9,045	.....	.....	.....
New Hampshire	71,132	45,064	64,341	30	.....	5,000
New Jersey	330,685	278,646	204,961	191	44	15,000
New York	1,641,173	1,019,204	1,031,593	4,113	.....	143,471
North Carolina	459,324	284,126	225,606	288	171	4,000
Ohio	1,043,320	770,070	747,138	164	60	.....
Oregon	59,615	35,290	37,533	.....	163	.....
Pennsylvania	1,200,000	800,000	937,310	3,791	152	52,860
Rhode Island	52,273	49,562	44,780	145	.....	10,500
South Carolina	228,128	228,128	134,072	.....	.....	600
Tennessee	544,862	343,095	290,141	142	243	.....
Texas	230,527	347,206	186,786	156	143	21,107
Vermont	92,231	61,887	75,238	396	.....	7,278
Virginia	555,807	307,742	220,736	.....	.....	.....
West Virginia	210,113	137,415	142,850	346	.....	.....
Wisconsin	483,229	302,158	299,258	1,052	481	51,628
Total	15,127,405	10,504,362	9,680,403	.....	.....	.....
District of Columbia	43,558	35,948	26,439	.....	.....	.....
	15,170,963	10,540,330	9,706,842	18,271	5,212	638,297
Territories (1879)	136,146	.....	80,310	.....	.....	.....

I also append the following table showing school income and school

expenditure of 1880; also the amount of taxable property as assessed, and the State tax collected during the same year:

States.	School income, 1880.	School expenditure, 1880.	Income of agricultural colleges, 1880.	From Spofford's American Almanac, 1881.	
				Amount of taxable property as assessed, 1880.	Amount of State tax, 1880.
Alabama	$388,013	$375,465	$22,500	$120,000,000	$763,735
Arkansas	256,190	238,056	17,500	86,892,441	613,957
California	3,573,108	2,864,571	.....	469,645,068	3,153,022
Colorado	522,580	395,527	12,500	43,072,648	155,506
Connecticut	1,481,701	1,408,375	44,007	324,388,923	1,466,263
Delaware	183,313	207,281	5,420	.....	134,400
Florida	139,710	114,895	.....	29,471,227	250,473
Georgia	471,029	471,029	.....	238,934,126	1,092,822
Illinois	7,836,952	7,531,942	28,298	786,616,394	3,300,000
Indiana	4,402,850	4,491,850	24,790	717,796,102	1,670,292
Iowa	5,254,268	5,621,248	41,000	405,541,397	843,964
Kansas	2,160,507	1,818,387	18,000	160,570,761	883,139
Kentucky	1,031,565	803,490	28,400	345,037,875	1,430,957
Louisiana	480,320	480,320	.....	149,635,805	2,432,188
Maine	1,047,715	1,047,681	8,224	224,579,569	900,000
Maryland	1,483,862	1,544,367	7,950	459,187,408	938,463
Massachusetts	4,622,609	5,156,731	16,200	1,584,356,802	4,950,000
Michigan	3,002,032	3,109,915	33,080	630,000,000	1,153,096
Minnesota	1,582,011	1,706,114	44,892	258,055,543	380,906
Mississippi	740,036	830,704	.....	106,198,670	444,327
Missouri	4,020,860	3,152,178	13,237	529,216,000	2,129,518
Nebraska	1,121,795	1,137,995	.....	90,499,618	907,468
Nevada	158,947	144,245	.....	29,564,673	252,404
New Hampshire	562,116	565,339	7,800	206,959,014	400,000
New Jersey	1,928,374	1,928,374	.....	606,415,561	820,000
New York	10,412,363	10,412,378	.....	2,686,139,133	7,690,416
North Carolina	399,290	352,882	17,000	142,918,186	533,635
Ohio	7,185,420	7,166,963	52,224	1,558,185,965	4,411,725
Oregon	303,162	314,017	5,500	46,422,817	324,959
Pennsylvania	$3,046,116	$7,449,013	.....	.....	$5,392,261
Rhode Island	558,451	544,200	.....	$328,530,559	388,552
South Carolina	440,116	324,629	.....	120,851,124	715,982
Tennessee	799,217	724,862	$20,766	213,117,680	626,529
Texas	891,235	753,346	19,280	300,525,407	1,396,170
Vermont	417,491	454,285	.....	86,392,534	292,228
Virginia	1,290,288	945,109	.....	319,393,559	2,067,678
West Virginia	791,083	716,864	53,500	128,559,927	515,241
Wisconsin	2,697,295	2,230,772	80,000	498,971,801	557,003
Total	82,684,489	79,436,399	622,068	15,101,534,830	56,379,679

We gather from these tables the following condensed statistics, which I will read:

School population	15,170,963
Estimated population between 6 and 16 years	10,540,330
Enrollment in public schools in 1880	9,706,842
Number of normal students	18,271
Students in agricultural colleges	5,212
State normal appropriations in 1880	$638,267
School income, 1880	$83,161,446
School expenditure, 1880	$79,874,966
Income of agricultural colleges	$622,068

As members of this House have suggested that the Peabody fund makes it unnecessary to enact this law, I desire to say that while the donation of Mr. Peabody was a most generous gift to come from one man, yet it is scarcely anything when distributed through several States. I beg to exhibit, Mr. Speaker, a

Table showing the amount and disposition of the sums disbursed from the Peabody fund from 1868 *to* 1880, *inclusive.*

	1868.	1869.	1870.	1871.	1872.	1873.	1874.	1875.	1876.	1877.	1878.	1879.	1880.	Total.
Virginia	$4,750	$12,700	$10,300	$15,950	$29,700	$36,700	$31,750	$23,350	$17,800	$18,250	$15,350	$9,850	$6,800	$233,250
North Carolina	2,700	6,350	7,650	8,750	8,250	9,750	14,300	16,900	8,050	4,900	4,500	6,700	3,050	101,850
South Carolina	3,550	7,800	3,050	2,500	500	1,500	200	100	4,150	4,300	3,600	4,250	2,700	38,200
Georgia	8,562	9,000	6,000	3,800	6,000	13,750	6,500	9,750	3,700	4,000	6,000	6,500	5,800	89,362
Florida	.....	1,850	6,950	6,550	6,200	7,700	9,900	1,800	1,000	6,500	3,900	3,000	2,600	57,950
Alabama	1,000	5,700	5,950	5,800	9,900	6,000	9,700	2,200	5,500	3,700	1,100	3,600	1,200	61,350
Mississippi	1,338	9,000	5,600	3,250	4,550	6,800	6,700	5,400	9,950	5,990	600	4,000	4,200	67,378
Louisiana	8,700	10,500	5,000	12,400	11,500	.....	2,750	1,000	2,000	2,000	8,000	7,650	4,200	75,700
Texas	.....	.....	1,000	.....	.....	.....	1,000	1,350	4,450	10,800	8,550	7,700	16,000	50,850
Arkansas	.....	4,300	11,050	9,200	12,250	11,400	3,600	1,500	1,000	6,300	6,000	5,600	1,700	76,900
Tennessee	4,800	11,900	15,050	22,650	23,250	27,800	33,100	27,150	10,100	15,850	14,600	12,000	4,900	220,150
West Virginia	.....	10,900	13,000	9,150	17,900	15,750	15,100	10,500	8,600	6,810	5,050	4,000	2,000	118,760
Total	35,400	90,000	90,600	100,000	130,000	137,150	134,600	101,000	76,300	89,400	77,250	74,850	55,150	1,191,700

In addition to all that has been said upon this subject there are other reasons, Mr. Speaker, which impel me to advocate this measure with all the earnestness in my power. Circumstances have thrown me in very intimate relations with the people from many parts of the South, and particularly close for several years has been my intimacy with the people of that section known as North Alabama.

There is something in the character of these people which, in spite of one's self, will draw forth feelings of love and admiration. They were brave soldiers in war, are exemplary citizens in peace, and faithful and true to all the social relations of life. In the language of Edmund Burke, "They were a people proud and jealous of their freedom." Freedom to them is not only an enjoyment, but a kind of rank and privilege. They resemble the people of our ancient commonwealths. Such were our Gothic ancestors; such in our days were the Poles, and such will be all men and all nationalities who in their youth have imbibed the sublime principles of justice, virtue, and liberty. In such a people the consciousness of domination combines with the spirit of freedom, fortifies it, and renders it invincible.

A vast number of these people were never slaveholders; they were people of moderate means and shunned the rich, alluvial lands of the valleys. They or their fathers selected more humble abodes on the lofty plateaus, sometimes called the mountains of North Alabama.

It is the jealousy with which these people cherished the spirit of liberty and local independence which causes them to so tenaciously claim the rights accorded them by the Constitution of their country. The native energy of the minds of these people is shown from the fact that from them arose most of the great leaders among the Southern people.

From this class of men came such leaders as Andrew Jackson, of Tennessee, and Stonewall Jackson, of Virginia. They furnished the greater part of the rank and file of the armies of the confederacy, and concluded with glorious honor a contest which they entered into with unanimity, prosecuted with unparalleled devotion, exhibiting in all times an endurance and gallantry which commanded for them universal admiration. The ancestors of these men fought in the war of 1812, the war with Mexico, and the war of the Revolution. From this class of the people came such men as Patrick Henry, Calhoun, Clay, Andrew Johnson, Jefferson Davis, Alexander H. Stephens, and we might add most of the prominent political leaders of the last half century. Their attachment to home influences disinclined them to emigration, and as a consequence the best energy and talent of that section of country has not been drained, as is the case in New England, which has furnished so many distinguished men to every State of the Union.

It is this class of people for whom I appeal when I ask that they may have the same opportunities which have been accorded to the other sections of our land. You can not travel in the mountains of North Alabama without being impressed with the honest principle and intensity of religious feeling which prevails. You will receive in their humble homes the most cordial hospitality. You are invited to partake of the best their means afford; you are welcomed to the family circle, and before you retire the family is assembled in religious devotions. These people yearn for the advantages of education. They appreciate its blessings, and they lavish honors upon persons of culture and education from whatever section they come.

The most distinguished men of Georgia, Mississippi, Louisiana, and Texas are from the far North. I recall at this moment Goldthwaite and Manning of our supreme court bench. Quitman, the gallant soldier, the distinguished governor, and a chancellor of the supreme court, who received all his honors from the people of Mississippi, came from the Knickerbocker country of New York. Prentiss, who was idolized by the entire Southern people, came from Maine. He commenced his career in the South as an humble school teacher. Robert J. Walker, John D. Freeman, Montgomery, Boyd, and many others came from the cold regions of the North and settled among us of the South, and won by their talents and culture the respect and esteem of all our people.

There is much more, Mr. Speaker, that I would like to say. There is much more that I feel I ought to say upon a subject which in importance is not surpassed by any question which has claimed the consideration of this American Congress, but having already trespassed upon the indulgence of this House, I will close my remarks with these eloquent words of Daniel Webster:

If we work upon marble it will perish; if we work upon brass time will efface it; if we rear temples they will crumble into dust; but if we work upon immortal minds, if we imbue them with principles, with the just fear of God and love of our fellow-men, we engrave on those tablets something that will brighten to all eternity.

Rivers and Harbors.

SPEECH

OF

HON. ADDISON S. McCLURE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 1, 1883,

On the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. McCLURE said:

Mr. SPEAKER: To vote for a river and harbor appropriation bill, however just its provisions, however impartial its allotments, however obvious its benefits, after the storm of misrepresentation that recently swept over the country, will require the serene courage of honest convictions of public duty. The reproach heaped on the river and harbor measure of last session in some of the seaboard cities of the Atlantic, especially in New York, was so coarse, so wanting in every element of just and sober criticism, as to almost warrant the conclusion that there were unfair motives behind it. That measure was stigmatized, not simply as a lavish expenditure, not simply as wasteful profusion, but as a naked steal, as a bold robbery of the national Treasury, more flagrant and odious than the salary-grab of 1873. Nor did the denunciation and uproar stop here.

The motives of the members who voted for it were openly challenged, their official probity impugned, and their names covered with undeserved obloquy. And now when the storm signals are down, when the public passions have subsided, what fair-minded man in the United States will affirm that any member who voted for that measure was instigated by corrupt designs on the public moneys, or was enriched by a single dollar of illicit emolument?

This scheme of indecent villification had its origin on Manhattan Island. It was bottomed on commercial jealousies and fomented by the extortion of railway monopolies. It was organized to throttle, in its beginning, the beneficent national policy of improving the Mississippi River, with its navigable tributaries, as the great national avenue of commerce. It was contrived to protect the transportation interests of the mammoth trunk lines of railways that stretch from the North Atlantic, across the Mississippi Valley, almost to the Pacific Ocean. It was cultivated with hot energy by the railway organs in the name of public economy and good government. By artful misrepresentation they succeeded in provoking the popular displeasure against the men who supported the measure of last session, but their success will prove to be ephemeral.

That a commanding interest, an interest treated by the National Government with princely liberality, an interest endowed with millions of acres of the public domain, subsidized with $64,000,000 of Government bonds and $40,000,000 of unreimbursed interest, equipped with franchises of incalculable value, should, through its open and secret organs, make war on two-thirds of the members of Congress, because, in the interest of cheap transportation in all sections of the Union, they had aimed to establish, enlarge, and develop competing water routes, is somewhat singular. In citing these facts I do not propose to impeach the original policy of land grants and subsidies to railway corporations, but to emphasize the old story, that avarice, ingratitude, and injustice will, in the end, always overreach themselves.

Another circumstance attending the roar of abuse that pursued the men who voted for the river and harbor bill of the last session of this House deserves to be noticed. At the same time the New York press scourged with virulence the members who voted four millions of dollars to improve the navigation of the Mississippi, from Cairo to New Orleans, it espoused with vehemence the dedication of the Erie Canal to free commerce. To construct, enlarge, and repair this canal cost the people of New York State sixty millions of dollars, and its aggregate tolls, since its inauguration in 1825, aggrandized the revenues of the State to the extent of eighty millions of dollars. By a majority of over 200,000 votes the people of the State yielded it up to free commerce. That splendid gift to the transportation facilities of the country justly evokes applause and should be, as it doubtless is, highly appreciated by the beneficiaries, especially the people of the West.

But why should this burden be put on the shoulders of the people of New York? There is unquestionably a motive behind it other than pure benevolence. That motive is founded on commercial rivalry and has for its chief purpose the retention of dominion over the commerce of the great West. It is an oily scheme to seduce the commerce of the Northwest from its nuptial contract with the Mississippi River and to cause it to elope to the seaboard through the Erie Canal.

Sandy Hook against the South Pass, New York against Saint Louis and New Orleans is the true solution of this transaction.

Since the success of the jetties, since the evident purpose of Congress to take care of the Mississippi as an "arm of the sea," as the great central tonnage artery of the continent, commercial jealousy has been excited in some of the seaboard cities of the North Atlantic, likely to be affected by these measures of internal improvement. Hence any member who votes for the improvement of the Mississippi River, or its navigable tributaries, incurs the disadvantage, if not the odium, of being proscribed as the sworn enemy of the commercial metropolis of the country.

This is a capital mistake. What member on the floor of this House who hails from the Mississippi Basin, where the unselfish spirit of exalted nationality has attained its most vigorous growth, would hesitate for a moment to vote every dollar needful to make the harbor of New York easy of access to the deepest keel that ploughs the ocean? What man who hails from the Mississippi Valley could see the shadow of a single cloud fall on the prosperity of New York city without feeling that it affected the whole country? I profess, for myself, to cherish a patriotic pride in that hive of human industry that fills Manhattan Island and overflows into the adjacent municipalities. I hope it may grow from year to year in arts, commerce, civilization; in law, local modesty, and orthodox theology; that its merchant princes may glory in affluence of fortune, may pile up the wealth of quarried marble in palatial residences, and be renowned throughout the world for commercial probity.

I would rejoice to see Broadway, from the Battery to Spuyten Duyvel Creek, paved with solid silver and Fifth avenue blaze with the diamonds and rich attire of fair women. I would like to see the city overspread Long Island; fill up the gap between Amboy and Dobbs Ferry; rival London in populousness; Paris in splendor; combine the culture of Athens with the dominion of Rome; be crowned queen of commerce, embellished with the transplanted monuments of antiquity and enriched with the pacific spoils of all profitable latitudes.

The transportation problem in the country is a weighty problem. The restoration of our mercantile marine, the stable readjustment of the tariff, the reduction of the burdens of internal taxation, are justly regarded as matters of vital national concern, but not more so than that of cheap transportation.

Our agricultural products for 1880 reached the enormous aggregate of $7,000,000,000; our exports and imports, $1,600,000,000; and the products of our manufacturing industries, $5,369,000,000. We paid for railway transportation in 1881 over $700,000,000. Add to this sum the amount paid for transportation in the coastwise and ocean trade, on lakes, rivers, canals, and for inland transportation other than by railway, and it is safe to affirm that the American people in the year named paid for transportation alone a sum equal to the public debt at the present time. Much of our raw material and manufactured products are transported over vast distances, and to cheapen transportation by rail, steam, or sail is a matter of incalculable importance to the public.

The giant growth of the railway interest of this country is one of the marvels of modern times. It leaped from 2,818 miles in 1840 to 104,000 in 1881, almost equaling the total mileage in all other countries in the world. These roads cost in their construction and equipment $5,557,996,991; their gross earnings were $725,325,000; their employés numbered 1,200,000; and the value of the tonnage moved, $12,000,000,000. Mathematics is too cold to compute this prodigious growth or to measure these gigantic operations.

One of the most significant features in the history of this country perhaps since the close of the civil war is the rapid accumulation of great masses of property in the hands of a few men who control the principal trunk lines of our railway system. The current tendency to consolidation is almost portentous.

Road after road has been absorbed by the principal lines until powerful corporations dominate the continent from ocean to ocean, and aspire, not only to control public opinion, but to dictate the legislation of the country. They have strangled in many instances beneficial competition, and in many other instances rendered all competition impracticable. These great trunk lines in their interstate traffic are wholly uncontrolled by law. By their pooling of issues, by their wars, by their discriminations against localities, by their rebates and drawbacks, a pernicious system which enables them to take the strong shipper by the hand and the weak by the throat, they have perplexed business, robbed communities, inflicted incalculable injury on localities, and utterly destroyed every element of stability in freight tariffs.

In the matter of winter tariffs alone their action descends to the turpitude of rapacity. They coin into gold the first breath of winter that seals navigation, husband the vicissitudes of climate, harvest opulence from the rigors of the Northern latitudes, by pooling issues with the thermometer. That they take an unfair advantage of the interruption of the water transportation in the North and Northwest by the dominion of winter will hardly be denied. Now, I do not propose to engage in a mere agrarian clamor against the railway enterprises of the country or to advocate dangerous aggressions on corporate franchises or vested rights. The interests of railways are bound up with the public prosperity, and they should be brought into more harmonious relations with the public. They are auxiliaries of civilization, and have marched step by step and hand in hand with the growing tide of immigration that has poured into the West erecting mighty States in the wilderness. But that there are wrongs connected with their management to be righted, grievances to be redressed, glaring evils to be eradicated is indisputable.

Congress, by a judicious system of internal improvements, by fostering competing water routes, holds in its hand the power to mitigate in a large degree the evil complained of. There is an exuberance of material. Nature has been lavish in her gifts of water transportation to the United States of America. The Atlantic seacoast, from the Bay of Fundy to the Florida reefs, rejoices in the affluence of its rivers, bays, and harbors, which constitute a paradise of commercial energy, thrift, and adventure. On the south, the Gulf of Mexico speads out its ample bosom to the navigator. The Pacific, on the west, is full of soft attractions to commerce. On the north, the great mediterranean lakes extend over seventeen degrees of longitude, spacious avenues of commerce, filled with a floating forest of masts; the home of marine freedom, the nurseries of sailors as handy as ever contended with storm and wave, forever dedicated to the unfettered democracy of free navigation. No sceptered monopoly fixes its yoke on their boundless waves, nor does any aggregation of capital bridle their wild liberty. They obey no syndicate except that of the Almighty. Any member on this floor who has traversed those inland seas, from Buffalo to Duluth, a city commemorated by the forensic gayety of the distinguished gentleman from Kentucky, will readily understand the signal advantages that have accrued to their commerce and navigation by reason of the wise superintendence and liberal policy of the National Government.

Take the basin of the Mississippi, the noblest valley in the world, nobler far than the Amazon, the Nile, the Ganges, the Danube, or the Rhine. It stretches in unmatched amplitude from mountain to mountain, from the lakes to the Gulf. It contains 20,000 miles of navigable waters, unrivaled resources of cheap transportation. The fertility of its soil coaxes man to industry, and the exhilaration of its climate fills his veins with constitutional vigor. An omnipotent power fashioned it to be the home of a great people, and it is destined to become before many generations the center of civilization as well as the proudest monument of the blessings of free government.

When the nation was young and poor and weak we acquired Louisiana, and with it the immense expanse of territory extending from the mouth of the Mississippi to Vancouver's Island, and even beyond, for, in the Oregon boundary question the muniments of title acquired by the purchase of Louisiana were the foundation of our claim to all the region up to "fifty-four forty." We acquired it when the constitutional power of the National Government to acquire territory by purchase was hotly disputed. We acquired it when its acquisition meant, perhaps, the expenditure of the national blood as well as the national treasure. We acquired it not simply to enlarge our territorial area, but to hold forever the Mississippi River and its outlets as an unblockaded highway of commerce to the sea.

Eighty years of experience ratifies and applauds that acquisition as one of the noblest efforts of American statesmanship.

When the English veterans, trained in the Peninsula under the greatest of English soldiers, unfurled a foreign flag on the banks of the Mississippi, they met a valor as resolute, if not as disciplined, as that of the soldiers of Marengo and Austerlitz. When in the civil war a flag representing the principles of rebellious violence to the Union was displayed from New Orleans to Cairo, the nation marshaled 500,000 soldiers, as brave as ever pulled a trigger, to tear it down. In that valley was first unfolded the solid genius of the greatest captain now living on earth, Ulysses S. Grant. There the inimitable strategy of Sherman found an ample theater of operation. There the brilliant qualities of Phil Sheridan flashed in the smoke of the struggle. There the heroic Thomas stood like the throned hills against the red, surging fury of a desperate enemy. There Rosecrans put forth patriotic efforts in behalf of the national cause. There, too, the young and ambitious Garfield moved untouched amidst the volleyed missiles of war, to fall in the end under the more cruel missile of the assassin.

When, after Fort Donaldson, and Shiloh, and Stone River, Chickamauga, Lookout Mountain, Vicksburgh, and Port Hudson, the Mississippi River was recovered to the nation, the doom of the confederacy was sealed. He who lays the hand of intestine violence on the Mississippi River combats the ordinance of nature and incenses Omnipotence by rebelling against His wise provision. Every drop in its mighty volume of water from its source to its mouth is chivalric in loyalty to the Union. Its floods are terrible engines of war and its uncut levees perpetual pledges of domestic peace. Diked, circumscribed, harnessed, deepened, improved, it becomes an indissoluble bond of union more valuable than standing armies or steel-clad navies.

I believe that it is entirely practicable to so wed Wisconsin and Minnesota to Louisiana and Mississippi, to so yoke Saint Paul to New Orleans by national civility to the Mississippi River that no human power, nothing but the convulsions of nature, can tear them asunder. Congress has the constitutional power to solemnize this marriage of the centuries by appropriate legislation. I would like to have a hand in it. I would like to be the officiating clergyman. But there are gentlemen here, as well as elsewhere, who believe that the mastery of the Mississippi River offers a problem incapable of solution; that our engineering skill, splendid as are the monuments of its achievments, will be futile to control it and that we will be obliged, out of sheer powerlessness, to commit the river to the uncontrollable caprice of nature. That is an old story, old as the first human endeavors to surmount the obstacles of nature and to appropriate its forces to the economy of human happiness. Substantially the same predictions were ventured as to the Suez Canal.

The First Napoleon, measuring the magnitude, grasping the utility of such a commercial highway, caused a route to be surveyed. The engineers by a gross miscalculation elevated the level of the Red Sea thirty feet above the level of the Mediterranean. For fifty years that delusion imposed on the world. When it was finally dissipated other obstacles were conjured up by the wise men. They said that the siroccos of the deserts, hot hurricanes of whirling sands, the blizzards of the Sahara, would fill up the channel as fast as it was excavated; that the Nile, pouring down its oozy sediment along the Mediterranean shore, would choke up the canal at its mouth, and that the sandy bed of the desert would let the water through like a sieve. All these forecasts of complex difficulties were signally disappointed. The canal was built, one hundred miles long, three hundred feet wide, twenty-six feet deep, a monument of civilization that degrades the Pyramids.

The Mediterranean kissed the Red Sea, the oceans embraced after centuries of alienation, everybody applauded except the apostles of the Cape of Good Hope, who still hug their old delusions in spite of the fact that the stock of the canal is worth five times its par value. So when the jetties of the Mississippi were projected, the wise men affirmed with sad emphasis that they would prove a failure and a blunder; that the 3,000,000,000 tons of sedimentary matter transported in a state of suspension each year to the Gulf by the enormous energies of the river would mock at and baffle the efforts of the engineers by depositing a new bar at the mouth of the jetties. This forecast of insuperable difficulties proved to be groundless. Gibbon, in commenting upon the devastating floods of the Tiber, was led to observe that the "servitude of rivers is the noblest and most important victory which man has obtained over the licentiousness of nature."

The South Pass is a happy illustration of the wisdom of this observation. Engineering skill achieved a marvelous triumph there by literally enslaving the energies of the river and compelling them to do its bidding. Where commerce was obstructed by eight or nine feet of water, it is now facilitated by twenty-six feet of water. The South Pass rivals the Narrows. The jetties have augmented the ocean commerce of the Mississippi River a hundred-fold. Captain Eads fulfilled his contract literally as it was nominated in the bond or the engineer officers of the Government, the whole city of New Orleans, the entire population dwelling on the Lower Mississippi are engaged in a conspiracy to perpetrate a fraud on the American people.

When the bill to provide for the appointment of the Mississippi River Commission was under consideration in the House General Garfield, in referring to the work in the South Pass, said in substance "that if the jetty system proved a permanent success, all our calculations and indeed all our theories concerning the improvement and management of other portions of the river need to be reconsidered in view of the new light the jetty system will throw upon the question." In speaking of the Mississippi itself, he said:

> This great river which our fathers made such sacrifices to acquire, and which the present generation made such costlier sacrifices to redeem from disunion and to hold in the grasp of the nation, we have held, not in obedience to sentiment alone, not with a view of keeping it as a vast and worthless waste of waters, but to utilize it by making it the servant of all the people of the country. How shall we utilize it, unless at some time and in some wise way we bridle it by the skill of man and make it subservient to the interests of commerce?

The Mississippi River Commission was appointed in 1879. The engineering genius, skill, and experience of the country is grouped in its composition. It has bestowed elaborate investigation on the river problems. Why discard its plans? The outlet system would only force the river to retrograde in geology. Do you want to go back to the glacial period? The engineer who would invite the river out of its bed would only confirm its intemperate habits. For uncounted years the Mississippi has been damming up outlets, fighting to perfect its bed, to curb its own lawlessness, to establish a system of civil-service reform, to do precisely what the jetties propose to help it to do—finish itself. It will do this itself in time. But it will take ten centuries of floods, of shifting bars, of interrupted navigation, of the wasted fruits of human industry, aggravated by human woe.

There is no study, Mr. Speaker, so full of interest and grandeur as the study of the efforts of man to overcome the obstacles and to utilize the forces of nature.

If I were called on to name a special glory of Roman civilization, I would not name the baths of Caracalla, or the stupendous aqueducts that supplied them. I would not name the amphitheater of Titus, colossal as it is in its ruins. I would not name the Forum, with its wealth of historic associations, but I would name those solid and massive public highways, which, issuing from Rome, traversed the empire in all directions; works so solid in construction that "their firmness has not entirely yielded to the efforts of fifteen centuries." Little Holland choked back the ocean, expelled him, expatriated him, dismembered and occupied his bed. For a hundred miles along the North Sea she barricaded the dispossessed waters, and for centuries has collected the landlord rent from a part, at least, of the ocean's ancient homestead, reclaimed by the herculean toil of her laborious people.

The Danube has been conducted into a new channel at Vienna, and

its flood-fangs drawn at a cost of $12,000,000. The bar at its Silurian mouth has been reduced from eight to fifteen feet by two enormous wing-dams, and its commerce thereby vastly enhanced. The project is on foot to extirpate the Zuyder-Zee, and to reclaim its immense area, at a cost of $45,000,000, an hydraulic enterprise bold and audacious beyond example, for it means the lifting of a sea from its foundation. Germany is now expending 30,000,000 marks in the improvement of the Weiser River from Bremerhaven to Bremen. Most costly works have recently been commenced on the harbor of Genoa.

We live in an epoch of engineering skill and glory. The enormous structure that spans the East River, a thing of massive beauty in the sky, is infinitely more creditable to the people of New York than Central Park, though populous with Egyptian obelisks.

In the beginning of this century Alexander von Humboldt visited South America to study the secrets of nature in her wildest solitudes. From his investigation of both commercial and scientific subjects he was enabled to point out five practicable routes for an interoceanic ship-canal across the American Isthmus, at points where the hand of nature dissociated the Cordilleras range, estranged the hoary mountains, to incite man to energy by half doing the job. He discoursed in noble and vigorous language on the advantages that would flow to the commerce of the United States and of the world by the construction of an interoceanic highway on some one of the routes he described. For ages the Gulf of Mexico and Carribean Sea have courted the Pacific Ocean through the gaps in the Cordilleras range, burning to leap into its arms, but needing the active co-operation of man to smooth away some minor obstacles to the gigantic junction of the seas.

If it could be demonstrated to a mathematical certainty that an interoceanic ship-canal could be constructed by private capital on the Nicaragua route at a cost of $70,000,000, that it would pay for itself in ten years; that it would produce a revolution in commerce; that it would contribute largely to resuscitate our commercial marine; that it would bring New York and Hong Kong in juxtaposition, or at least abridge the distance between them 8,000 miles; that it would give us a decisive advantage in the struggle for the trade of China, Japan, and the East India Islands; that it would obviate the necessity of circumnavigating the South American continent, I say that if all these could be demonstrated to a mathematical certainty, how many votes could be secured in this House, in the present condition of public opinion, to lend the countenance of the National Government to such an enterprise, if it involved a pecuniary liability however slight? England would fight at the rustle of a leaf to maintain her empire over the Suez Canal, but if the American Isthmus is to be pierced by an interoceanic highway it will be done by foreign engineers, with foreign capital, under foreign auspices.

If the acquisition of Louisiana as now bounded, embracing within her jurisdiction, as she does, the outlets of the Mississippi, was an original question and we were called upon to appropriate $150,000,000, as purchase-money, which would be relatively about what we paid for it in 1804, I doubt very much whether a measure of that kind would go through, because it would interfere with the profits of the pools of the railway kings.

I believe in the practicability of solving the problem of cheap transportation in this country by a wise and liberal policy of internal improvement. I know it is claimed that, since 1872, the railways have enormously reduced the cost of transportation on through freights, in some instances to the extent of 300 per cent. If this be true, it furnishes a most unanswerable vindication of the policy I advocate, for, since 1872, the appropriations for river and harbor improvements nearly equal in the aggregate all other appropriations for that purpose since the foundation of the Government in 1789.

If it be true, and the statistics seem to warrant the allegation, that the tariff on through freights from the Mississippi Valley to the Atlantic seaboard have been reduced over 300 per cent. in eleven years through the operation of competition in water routes, then what man need cower before the journalistic thunderbolts for having voted for the river and harbor bill of 1882?

One of the principal arguments adduced by the railway corporations against the passage of an interstate commerce bill is the fact that they are now brought into competition with the "great and growing tonnage upon the long mileage of the combined Western rivers as, notably, the great growth of the grain movement from Saint Louis and the Northwest via the Mississippi River and New Orleans."

The Republican party when it commenced its proud career in 1856, a career of which I, as a Republican, am justly proud, a career of which every Republican has just cause to be proud, announced its belief in the constitutional duty of the National Government to make appropriations for river and harbor improvements as one of its cardinal creeds. We should stand by that original creed. It is true the hurricane swept over the party last fall, but the fury of the storm is spent. Courageous devotion to a great and beneficent system of public policy will win in the end. When gentlemen on the other side of this Chamber taunt us with being the representatives of a dying party, they misinterpret the signs of the times. The Republican party will live in the good-will of the American people, and command their intelligent support as long as patriotism, public honesty, obedience to law, and the protection of home industry are national virtues.

Justice to Mexican-War Heroes.

Tarde beneficere nolle est; vel tarde velle nolentis est.—*Seneca.*

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, January 15, 1883.

The House having under consideration the resolution to make a special order of the bill (H. R. 7135) granting pensions to the survivors of the Mexican and Indian wars—

Mr. WHEELER said:

Mr. SPEAKER: Although I was a very little boy at the time, I remember, as though it were but yesterday, hearing the first dispatches read which announced that Taylor had crossed the Rio Grande and fought the battles of Palo Alto and Resaca de la Palma. You, Mr. Speaker, and all but the very young members in this Hall recollect the enthusiastic pride felt by our country at these victories.

We all recall how from week to week and month to month we read of Taylor's steady advance into the heart of Mexico—of the battle and capture of Monterey and General Taylor's final battle and victory over Santa Anna at Buena Vista. Is there any one here who has forgotten the landing of General Scott at Vera Cruz and his triumphant and

VICTORIOUS MARCH TO THE CITY OF MEXICO,

the siege and capture of Vera Cruz, the victories of Cerro Gordo, Churubusco, and other less severe engagements, the terrible onslaught at Molina del Rey, the storming of Chapultepec, and the final capture and entrance into the city of the Montezumas? Would any one at this time, Mr. Speaker, have believed that after the lapse of thirty-six years the American Congress would stand here hesitating, yes, even refusing, to give the

MOST MEAGER RECOGNITION

of the services of the few remaining of that band of heroes?

It is true that the people by their suffrages have honored and rewarded the generals and leaders of these armies.

The campaign in Northern Mexico has made

TWO AMERICAN PRESIDENTS,

a father and son, one of whom died in the first blush of richly earned honor, and the other, by the fifth section of this bill, is proscribed from its benefits.

The campaign in the valley elevated another of these leaders to the high dignity of Chief Magistrate, and the commander of all the forces, General Scott, only failed in becoming our President because he was opposed in the election by a general who claimed equally with himself that he too fought under our banner in the victorious march which gave such luster and renown to the American people.

The men whom we now ask you to place upon the pension-roll are

THE ONLY AMERICAN SOLDIERS

who under the Stars and Stripes fought a successful campaign on a foreign soil; they are the only soldiers who bore the flag which floats over this Dome in the conquest of a foreign enemy, living upon its territory and dictating terms of peace in the capital of its country.

These men, Mr. Speaker, are the victors whose intrepidity and courage won for us a territory larger in extent than the original thirteen States. Yes, Mr. Speaker, more than equal to the area of all the land east of the Mississippi River, and including the untold wealth of the silver mountains of Colorado and Nevada and the golden sands washed by the placid waters of the Pacific Ocean. And equally cherished and valued by us is that glory and honor given by them to American arms which has made this people

RESPECTED AND FEARED BY ALL NATIONS.

The few whom God spared from the carnage of battle, the few left after encountering, unacclimated and unprepared, the poisoned valleys and swamps of an unknown land, the few who, after waiting thirty-six years, old, grey, and decrepit, ask in the name of their dead comrades the same consideration which you have promptly awarded to all

OTHER SOLDIERS OF OTHER CONFLICTS.

It is true many of the soldiers in that war were from the southern half of our country, but in all other wars that section of our land has been most prompt and liberal in her quota of men to battle for their country.

One hundred and thirty years ago, when the settlers beyond the Alleghanies were attacked by Indians,

FOUR HUNDRED BRAVE MEN FROM VIRGINIA,

led by a very brave young man named George Washington, were the first to fly to the rescue.

When the sound of battle was heard at Lexington and Concord,

Captain Morgan with a hardy Southern band was the first to march for the defense of the people of Massachusetts. When the second war with England came upon us, the entire South rushed to the flag of our country and fought and won an honorable, lasting peace. The last battle of that war was fought by a Southern general, by Southern soldiers, upon Southern soil.

In the Indian wars

THE SOUTH FURNISHED HER ABUNDANT SHARE;

and naturally when the call to arms was heard in 1846 she sent her best blood to fight under the folds of the Stars and Stripes.

Even in the war of 1861–'65 the South furnished to the Union 358,729 white and 186,017 colored troops, a total of 544,746, more than double the number which in 1863 were enrolled under the banner of the confederacy. That

YOU MAY EXPECT MUCH

from her in case of need her record is abundant proof.

THE COST.

The estimate made by the gentleman from Indiana as to the amount this bill would take from the Treasury is, I think, clearly erroneous.

Of the soldiers who served in the campaigns in Mexico fully 15,000 fell victims to the climate and other casualties of war, and very many contracted diseases which materially shortened their lives. These considerations seem not to have been regarded by those who calculated the probable increase of the pension-roll.

I fear, Mr. Speaker, the list will be much shorter than we should hope. I fear

TOO FEW OF THESE HEROES

remain to enjoy this testimonial from their country. It is true the battles in Mexico were not as bloody as some with which we are familiar, but for years they were the pride and glory of all our people.

These battles were almost instantaneous flashes of victory, and to point to the disparity in casualties between their battles and the struggle from 1861 to 1865 for many reasons is an unfair comparison. We must bear in mind that in these battles it was Americans contending with each other.

The battles of Mexico in extent and severity may well be compared with all those in America which preceded them.

DURING THE REVOLUTION

the largest enrollment was during a short period of 1776, reaching 89,761, and the entire loss during the seven years' war was about 2,200 killed and about 6,500 wounded. After 1776 the average enrolled force of Continental troops was 38,263, while the returns of the British war office show the number of regulars with whom we had to contend were, as I will read:

August, 1776	24,000
November, 1776	26,600
December, 1776	27,700
March, 1777	27,000
June, 1777	30,000
March 26, 1778	33,556
December 1, 1779	38,569
May 1, 1778	38,002
August 1, 1780	33,020
December 1, 1780	33,766
September 1, 1781	42,075

This did not include their American adherents by them called Tories, but by us designated as traitors.

Troops of this character, I see in one report, numbered 8,954.

IN THE WAR OF 1812

the largest force was 38,186, while the available militia was reported at 471,622.

The entire loss in all the battles from July, 1812, to January, 1815, was 1,877 killed and died of wounds, and 3,737 who were wounded and recovered.

In the war with Mexico 1,049 were killed or died from wounds, and 3,928 were wounded and recovered.

It will not do to make any comparisons with the war of 1861–'65, where the reported killed of the Federal armies were 61,362, and the wounded estimated at nearly 300,000; but to show how favorably the battles of the Mexican war compared with those which preceded, I will read the list of engagements from Lexington, in 1775, to the triumphant entry in the city of the Montezumas by the soldiers whose service this law recognizes and honors.

Table showing losses in battle from 1775 *to* 1847.

Date.	Name of battle.	Commander.	Force.	Killed.	Wounded.	Prisoners or missing.
1775.						
April 19	Lexington	Parker	70	6	11	.....
April 19	Concord	Barrett	1,000	20	66	.....
June 17	Bunker Hill	Prescott	1,500	88	362	.....
Nov. 13 to Dec. 31	Quebec	Montgomery	1,200	40	200	.....
1776.						
August 27	Long Island	Sullivan	5,500	100	570	697
	*British	Clinton	17,500	63	337	.....
October 28	White Plains	Washington	10,000	30	150	120
November 16	Fort Washington		2,500	25	105	2,000
	*British		6,000	80	378	.....
December 26	Trenton	Washington	4,000	2	3	.....
	*Hessians	Rall	1,500	10	30	918
1777.						
January 3	Princeton	Washington	5,000	12	70	.....
July 7	Hubbardtown	Warner	1,200	20	100	.....
August 6	Oriskarry	Herkimer	.....	3	20	.....
August 16	Bennington	Stark	.....	10	50	.....
September 11	Brandywine	Washington	11,000	90	470	600
September 19	Bemis Heights	Gates	.....	50	220	.....
	*British	Burgoyne	.....	100	500	.....
September 20	Paoli	Wayne	1,500	150	100	.....
October 4	Germantown	Washington	.....	73	600	400
	*British	Howe	.....	100	435	.....
October 6	Fort Clinton, }		.....	40	150	.....
October 6	Fort Montgomery }		.....			
October 7	Saratoga	Gates	9,000	30	120	.....
	*British		.....	80	320	300
October 17	Burgoyne's surrender	Gates	13,216	.....	.....	.....
	*British	Burgoyne	6,000	.....	.....	5,762
October 22	Fort Mercer	Green	400	14	21	.....
	*British	Donap	1,200	75	325	.....
November 16	Fort Mifflin		.....	50	200	.....
	*British		.....	13	21	.....
1778.						
June 28	Monmouth	Washington	.....	69	161	.....
	*British		.....	75	170	.....
July 3	Wyoming	Butler	400	225	.....	.....
August 29	Quaker Hill	Sullivan	6,000	30	150	.....
December 29	Savannah	Howe	600	23	60	353
	*British	Campbell	2,000	4	19	.....

* Forces opposing the American armies.

Table showing losses in battle from 1775 *to* 1847—Continued.

Date.	Name of battle.	Commander.	Force.	Killed.	Wounded.	Prisoners or missing.
1779.						
February 14	Kettle Creek	Pickins		7	31	
March 3	Brier Creek			200		202
June 20	Stone Ferry	Lincoln	1,200	25	121	155
July 15	Stony Point			15	83	
August 19	Paulus Hook			20		
	*British			50		158
October 9	Savannah	Lincoln	4,500	160	800	
1780.						
April 14	Monk's Corner	Huger	300	14	24	
May 12	Charleston			75	175	
	*British			76	189	
June 23	Springfield, New Jersey			13	61	
	*British			150		
July 30	Rocky Mount	Sumter	500	3	15	
August 6	Hanging Rock			5	26	
	*British				60	
August 16	Saunders' Creek	Gates	3,000	100	400	450
August 18	Fishing Creek	Sumter		50		300
October 7	King's Mountain			28	63	
1781.						
January 17	Cowpens			12	60	
	*British			84	200	500
January 21	Morrisania	Hull	600	14	42	
	*British		450	20	85	112
March 15	Guilford Court House	Greene	4,404	72	220	385
	*British	Cornwallis	5,000	88	396	60
April 25	Hobkink's Hill	Greene	1,446	20	115	139
	*British			39	200	
September 6	Fort Griswold	Ledyard	150	79	25	71
September 8	Eutaw Springs	Greene	2,300	114	262	
	*British	Stewart		85		268
October 19	Yorktown	Washington	12,000	75	205	
	*British	Cornwallis	8,459	156	330	7,973
1790.						
October 19 and 22	Miami River	General Harmar	500	83	31	
1791.						
November 4	Maumee	General St. Clair	1,400	332	264	
	*Indians		1,500			
1792.						
November 6	Fort Saint Clair	Major John Adair	50	6	5	
	*Indians					
1793.						
October 17	Fort Saint Clair	Lieutenant John Lowry	90	15		
	*Indians					
1794.						
June 30	Fort Recovery	Major W. McMahon		22	30	
	*Indians		2,000			
August 20	Maumee Rapids	Major-General Wayne		33	100	
1811.						
November 7	Tippecanoe	Harrison	450	62	126	
	*"The Prophet" Indians		600	150		
1812.						
August 4	Brownstone, Michigan	Major T. B. Van Horn	200	17	8	
	*Indians					
August 9	Maguago	Lieutenant-Colonel James Miller	600	18	64	
	*British and Indians			55		
August 15	Chicago	Captain N. Heald	66	53	1	
	*Indians		450	15		
August 16	Detroit	Brigadier-General William Hull	640	5	18	
	*British and Indians		3,300	4	15	
September 4 and 5	Fort Harrison	Captain Z. Taylor	15	2	2	
	*Indians					
September 5–8	Fort Madison	Lieutenant Thomas Hamilton		1	1	
	*Indians					
September 11	Davis Creek	Captain John Williams		2	5	
	*Indians		50			
September 21	Gananoque	Captain Benjamin Forsyth	100	1	1	
	*British		125	10		
Sept. 27, Oct. 5	Lotchaway and Alligator	Colonel Daniel Newnan	50	8	8	
	*Indians		200			
October 10	Detroit and Caledonia	Captain N. Towson and Lieutenant J. D. Elliott	100	3	5	
	*British					50
October 13	Queenstown Heights	Major-General Van Rensselaer	920	90	160	
	*British		160			

* Forces opposing the American armies.

Table showing losses in battle from 1775 to 1847—Continued.

Date.	Name of battle.	Commander.	Force.	Killed.	Wounded.	Prisoners or missing.
1812.						
October 13	Pimartam's Town	Colonel William Russell	360	.....	4	.....
	*Indians.		.....	20	.....	.....
October 23	Saint Regis	Colonel G. D. Young	.....	.....	.....	.....
	*British		.....	4	1	49
November 21	Fort Niagara	Lieutenant-Colonel George McFeeley	.....	4	7	.....
	*British		.....	.....	.....	.....
Nov. 21 and 22	Affair at Ponce Paseu	Lieutenant-Colonels Miller and Wilcox	60	5	14	.....
	*Indians.		.....	.....	.....	.....
November 28	Black Rock	Colonel Winder, Lieutenant-Colonel Boerstler and Captain W. King.	70	6	22	.....
	*British.		.....	.....	.....	53
December 17 and 18	Mississinewa River	Lieutenant-Colonel J. B. Campbell	590	8	48	.....
	*Indians		.....	8	.....	48
1813.						
January 18	Frenchtown	Lieutenant-Colonel William Lewis	600	13	54	.....
	*British and Indians		500	38	50	.....
January 22	River Raisin	Brigadier-General Winchester	800	197	27	522
	*British		1,000	24	158	.....
February 7	Elizabethtown	Captain Benjamin Forsyth	200	.....	.....	.....
	*British		.....	.....	.....	52
February 22	Ogdensburgh, New York	Captain Forsyth	300	3	17	.....
	*British		1,200	7	48	.....
April 27	York, Upper Canada	Brigadier-General Pike	1,700	52	228	.....
	*British and Indians		850	100	300	290
April 28 to May 9	Fort Meigs	Major-General Harrison	2,000	80	190	.....
	*British		2,860	15	46	43
May 5	Fort Meigs	Colonel William Dudley and Captain S. Price	800	40	.....	490
	*British and Indians		.....	.....	.....	.....
May 27	Fort George	Major-General Dearborn	4,000	33	88	.....
	*British		3,000	108	163	622
May 29	Sackett's Harbor, New York	Brigadier-General Brown	1,000	22	84	.....
	*British		750	29	22	.....
June 6	Stony Creek, Upper Canada	Brigadier-General John Chandler	1,300	17	38	.....
	*British		750	30	120	100
June 22	Craney Island	Lieutenant-Colonel Beatty	737	.....	.....	.....
	*British		2,500	20	160	.....
June 23	Beaver Dams	Lieutenant Charles G. Boerstler	540	25	50	.....
	*Indians		475	30	35	.....
June 13	Hampton, Virginia	Major S. Crutchfield	436	.....	.....	1
	*British		2,500	20	160	.....
July 8	Fort George	Adjutant Joseph Eldridge	39	13	2	14
	*British and Indians		.....	.....	.....	.....
July 11	Black Rock	General P. B. Porter	260	3	6	.....
	*British		340	8	15	.....
July 17	Fort George	Colonel Winfield Scott	.....	4	4	.....
	*British and Indians		200	.....	.....	.....
August 2	Fort Stephenson	Major George Crogan	150	1	7	.....
	*British and Indians		1,275	20	90	.....
August 9, 10, and 11	Stonington	General Isham and Colonel Randall	.....	.....	6	.....
	*British		.....	21	50	.....
August 24	Fort George	Captain William Davenport	.....	2	.....	.....
	*British		.....	15	.....	10
August 30	Fort Mimms, Alabama	Major Daniel Beasley	160	.....	.....	.....
	*Indians		1,500	200	400	.....
October 4	Chatham, Upper Canada	Lieutenant-Colonel Wood	.....	2	4	.....
	*Indians		.....	.....	.....	.....
October 5	The Thames, Upper Canada	General Harrison	2,500	7	22	.....
	*British and Indians		2,000	12	22	601
October 6	Fort George	Lieutenant Cynenius Chapin	650	1	3	.....
	*British		.....	7	.....	4
October 26	Chateaugay River, Lower Canada	Major-General Hampton	4,000	15	19	.....
	*British		2,000	5	16	.....
November 1 and 2	French Creek	General Jacob Brown	.....	4	6	.....
	*British		.....	.....	.....	.....
November 3	Tallusahatchee, Alabama	Brigadier-General Coffee	900	5	41	.....
	*Indians		.....	200	.....	84
November 9	Talladega	Major-General Jackson	2,200	15	86	.....
	*Indians		1,000	200	.....	.....
November 11	Chrystler's Fields, Upper Canada	Brigadier-General J. P. Boyd	1,600	102	236	.....
	*British		1,500	22	147	12
November 18	Hillabee Towns, Alabama	Brigadier-General James White	260	.....	.....	.....
	*Indians		360	62	.....	256
November 29	Autossee Towns	Brigadier-General John Floyd	950	11	51	.....
	*Indians		.....	200	.....	.....
December 19	Fort Niagara	Captain Nathaniel Leonard	.....	65	14	344
	*British		.....	5	3	.....
December 23	Eccanachaco	Brigadier-General F. L. Claiborne	.....	1	6	.....
	*Indians		.....	30	.....	.....
December 19, 20	Schlosser, New York	Major Ben. Mallory	.....	9	9	.....
	*British Indians		.....	.....	.....	.....

* Forces opposing the American armies.

Table showing losses in battle from 1775 *to* 1847—Continued.

Date.	Name of battle.	Commander.	Force.	Killed.	Wounded.	Prisoners or missing.
1813.						
December 30	Black Rock, New York	Major-General Amos Hall	1,200	50	52	
	*British and Indians		1,000	25	50	
1814.						
January 22, 24	Emuckfa and Enotochopco Creek, Alabama	Major-General Jackson	1,150	20	75	
	*Indians		900	189		
January 27	Camp Defiance, Alabama	Brigadier-General John Floyd		20	125	
	*Indians			37		
March 4	Longwood, Upper Canada	Captain A. H. Holmes	150	4	3	
	*British		240	10	66	
March 27	Horse Shoe, Alabama	Major-General Jackson	2,400	26	111	
	*Indians		1,000	23	47	
March 30	La Cole Mill, Lower Canada	Major-General Wilkinson	3,000	16	122	
	*British		200	10	46	
May 5, 6	Fort Oswego	Lieutenant-Colonel George E. Mitchell	290	6	38	
	*British		1,750	19	75	
May 30	Sandy Creek	Major Daniel Appling	120	1	1	
	*British			14	30	143
June 28	Odelltown, Lower Canada	Lieutenant-Colonel Benjamin Forsyth	60	1	2	
	*British		200	7	10	
July 3	Fort Erie, Upper Canada	Major-General Brown			4	
	*British		135			135
July 5	Chippewa Plains, Upper Canada	Major-General Reall	1,100	60	249	
	*British		1,700	138	220	403
July 16	Point au Play, Upper Canada	Second Lieutenant Carlisle Harrison		9	4	
	*Canadians					
July 18 and 19	Champlain, New York	Third Lieutenant C. F. Sherburne	20	3	4	
	*British		70	15	3	
July 19	Mouth of Rock River	Captain John Campbell	99	12	24	
	*Indians		600			
July 25	Niagara Falls, Lundy's Lane, Upper Canada	Major-General Jacob Brown	3,000	175	573	
	*British		5,000	178	700	160
August 3	Scajocada Creek	Major Lodowick Morgan	240	2	8	
	*British		1,200	50		6
August 4	Fort Mackinac	Lieutenant Geo. Groghan	900	13	61	
	*British		900			
August 13 to 15	Fort Erie	Major-General Gaines		9	35	
	*British					
August 15	Fort Erie	Major Gaines	2,500	17	51	
	*British		5,352	222	174	
August 24	Bladensburgh, Maryland	Brigadier-General Winder		30	40	120
	*British					
August 30	Moore's Fields, Maryland	Colonel Philip Reed	170		3	
	*British			9	9	
September 1 to 6	White House	Commodore David Porter		11	18	
	*British					
September 11	Plattsburgh, New York	Brigadier-General Macomb	4,500	36	63	
	*British		14,000	200	500	
September 12	North Point, Maryland	Brigadier-General John Stricker	3,185	24	139	
	*British		8,000	39	251	
September 13	Fort McHenry, Maryland	Major George Armistead	1,000	4	24	
	*British					
September 15	Fort Bowyer	Major William Lawrence	134	4	5	
	*British and Indians		930	162	70	
September 17	Fort Erie	Major-General Brown	3,000	79	216	10
	*British		5,000			384
October 15	Chippewa	Major-General Izard		4	2	
	*British					
October 19	Lyon's Creek	Brigadier-General Bissell	900	12	54	
	*British		1,200			
November 7	Pensacola, Florida	Major-General Jackson	3,000		11	
	*Spanish force and British			4	6	
December 23	New Orleans	Major-General Jackson	2,000	24	105	
	*British		2,400	46	167	64
December 28	New Orleans	Major-General Jackson	3,282	7	8	
	*British		4,800	16	41	
1815.						
January 1	New Orleans	Major-General Jackson		11	23	
	*British			30	44	
January 8	New Orleans	Major-General Jackson	5,698	14	39	
	*British		8,400	291	1,262	500
January 9 to 18	Fort St. Philip, Louisiana	Major W. H. Overton	366	2	7	
	*British					
January 13	Point Peter, Georgia	Captain A. A. Massias	90	1	4	
	*British		1,250			
1817.						
November 23	Fowlstown, Georgia	Lieutenant-Colonel Matthew Arbuckle	300	1	2	
	*Indians			7		
November 30	Apalachicola River	First Lieutenant Richard W. Scott	40	34	4	1
	*Indians					

* Forces opposing the American armies.

Table showing losses in battle from 1775 to 1847—Continued.

Date.	Name of battle.	Commander.	Force.	Killed.	Wounded.	Prisoners or missing.
1817.						
December 15–16	Apalachicola River	Major Peter Muhlenberg	120	2	13	
	*Indians		1,200			
1818.						
April 1	King Hajo's Town, Florida	Major-General Jackson		1	4	
	*Indians			14		4
1823.						
August 9–11	Arickaree towns	Colonel Leavenworth	900		2	
	*Indians		700	50		
1832.						
May 14	Odd Battalion of Spies	Major I. Stillman	200	12	5	
	*Indians			3		
June 15	Pickatolica River	Colonel Henry Dodge	29		3	
	*Indians		13	13		
June 16	Kellogg's Grove	Captain A. M. Snyder	43	3	5	
	*Indians		55	5		
June 18	Galena, Illinois	Captain J. W. Stephenson	12	4	1	
	*Indians			2		
June 24	Kellogg's Grove, Illinois	Major John Dement	148		3	
	*Indians		120	9		
July 21	Blue Mounds	Brigadier-General J. D. Henry	800	1	8	
	*Indians		300	68		
August 1	Steamer Warrior	First Lieutenant J. W. Kingsbury	41		1	
	*Indians			23		
August 2	Bad Axe	Brigadier-General Atkinson	1,300	5	20	
	*Indians,		500	150		40
1835.						
December 19	Alachua, Florida	Colonel John Warren	250	3	6	
	*Indians					
December 20	Micanopy, Florida	Colonel Leah Reed			4	
	*Indians			4		
December 28	Dade's Battle Ground	Major Francis L. Dade		104	3	
	*Indians		180	3	5	
December 31	Withlacoochee River	Brigadier-General D. L. Clinch	227	4	56	
	*Indians		250	10	60	
1836.						
January 18	Dunlawton, Florida	Major Benjamin A. Putnam			17	
	*Indians.			9		
February 27, 28, 29, and March 5.	Withlacoochee	Major-General Gaines	1,025	4	50	
	*Indians			30		
March 31	Oloklikaha	Lieutenant-Colonel W. S. Foster	250	4	10	
	*Indians					
April 5 to 17	Cooper's Post	Major Mark A. Cooper		1	5	
	*Indians		250			
April 27	Thlonoto-sassa Creek	Colonel William Chisholm	600	5	24	
	*Indians		700			
June 9	Micanopy, Florida	Major J. F. Heilman	69		7	
	*Indians		175			
July 9	Welika Pond, Florida	Captain James A. Ashby	62		11	
	*Indians		250			
July 27	Ridgely's Mill, Florida	Second Lieutenant Alfred Herbert			6	
	*Indians		40	2	4	
August 21	Fort Drane	Major Benjamin K. Pierce	110	1	16	
	*Indians		300	10		
September 18	San Velasco	Colonel John Warren	125		7	
	*Indians		300			
November 17	Wahoo Swamp	General Robert Armstrong		1	9	
	*Indians			20		
November 18	Wahoo Swamp	Governor R. K. Call		3	12	
	*Indians		800	25		
November 21	Wahoo Swamp	Governor R. K. Call	1,830	8	19	
	*Indians			50		
1837.						
January 27	Hatcheeluskie Creek	Colonel Archibald Henderson		2	4	
	*Indians		50			
February 8	Camp Monroe, Florida	Lieutenant-Colonel A. C. W. Fanning		1	15	
	*Indians		400	16		
February 9	Clear River, Florida	Captain George W. Allen		1		
	*Indians		50			
September 10	Mosquito Inlet, Florida	Brigadier-General J. M. Hernandez		1		
	*Indians		21	1	3	17
December 25	Okeechobee Lake	Colonel Zachary Taylor	803	26	112	
	*Indians		380	14		
December 26	Waccassassa River	Brigadier-General Charles H. Nelson		1	2	
	*Indians			4		2
1838.						
January 15	Jupiter Creek	Lieutenant L. M. Powell	80	5	22	
	*Indians		100	4		
January 24	Jupiter Inlet, Florida	Major-General Thomas S. Jesup	1,200	7	31	
	*Indians		300			

* Forces opposing the American armies.

Table showing losses in battle from 1775 *to* 1847—Continued.

Date.	Name of battle.	Commander.	Force.	Killed.	Wounded.	Prisoners or missing.
1838.						
June 17	Newnansville, Florida	Captain L. J. Beall	30	1	6	
	*Indians		55	2		
1839.						
July 23	Caloosahatchie	Lieutenant-Colonel William S. Harney	26	16	2	
	*Indians		250			
1840.						
April 28	Fort King	Captain G. R. Rains	16	2	5	
	*Indians		97	4		
May 19	Levy's Prairie	Second Lieutenant James S. Sanderson	17	6	1	
	*Indians		90			
September 6	Waccahoota, Florida	First Lieutenant W. K. Hanson	35	1	4	
	*Indians		80			
December 3 to 24	Everglades	Lieutenant-Colonel William S. Harney	90			
	*Indians			6		30
December 28	Micanopy	Second Lieutenant Walter Sherwood	11	5		
	*Indians		30			
1841.						
March 2	Fort Brooke	First Lieutenant William Alburtis		3	6	
	*Indians		65	4	2	
1842.						
January 25	Hawe Creek, Florida	Major Joseph Plimpton	100	1	2	
	*Indians		45	1	1	2
April 19	Rilikikaha, Florida	Colonel William J. Worth	400	1	4	
	*Indians		40	2	3	1
1846.						
May 8	Palo Alto	Taylor	3,000	4	40	
May 9	Resaca de la Palma	do	4,000	29	83	
September 21, 22, 23	Monterey	do	6,000	122	388	
1847.						
February 22, 23	Buena Vista	do	4,759	167	556	23
February 25	Brazito	Doniphan			7	
February 28	Sacramento	do		1	8	
March 9–29	Vera Cruz	Scott		10	55	
April 17–18	Cerro Gordo	Scott		63	367	1
August 10	Paso de Ovejas				11	
August 12	National Bridge			4	47	
August 13	Mira Flores					
August 15	Cerro Gordo			3	14	
August 16	Oka Lake					
August 19	Los Animas			2	7	
August 19	Contreras	Scott	5,000	137	879	40
August 20	Churubusco					
August 20	San Antonio					
September 8	Molino del Rey	Scott	3,447	116	653	18
September 13	Chapultepec	Scott	7,500	130	704	29
September 13, 14	City of Mexico					
Sept. 13, and Oct. 12	Puebla			19	51	2
October 9	Huamantla			13	11	

*Forces opposing the American armies.

There were sentiments expressed on this floor which I regretted to hear, and which I still hope and trust may

GIVE WAY TO THE BETTER FEELINGS

of the gentlemen from whom they came.

When this bill was called up this morning, the gentleman from Vermont, Mr. JOYCE, held the Revised Statutes of the United States high in air, and asked if the bill repeals section 4716 of the Revised Statutes. He then, in loud and emphatic tone, read to the House these words:

SEC. 4716. No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

The gentleman was promptly informed that section 4 did repeal that section, so far as it related to pensions under this act.

Mr. JOYCE then said with great emphasis:

Then I can not vote for it.

I think Mr. JOYCE knew before he asked the question that this limited repeal of section 4716 was a prominent feature of the bill we are considering.

I think his object was to recall to the minds of the Representatives of this House that many of the beneficiaries of this act will be

FROM THE SOUTHERN STATES.

His object, I think, was, Mr. Speaker, to remind the House that this bill would give $8 a month to a few men who, after fighting bravely a score of battles on the plains of Mexico, drew their swords to fight for their own homes and firesides. Rather than give these men $8 a month the gentleman from Vermont appears to be willing to deprive of their just rights the brave men from Massachusetts, Indiana, Iowa, Illinois, Michigan, Pennsylvania, Wisconsin, New Jersey, Ohio, New York, and California; not only these but also

BRAVE SOLDIERS OF EVERY NORTHERN STATE

who fought in the various regiments of regulars under Generals Scott and Taylor.

It would also give $8 a month to a score or more who resigned from the Army in 1861 in obedience to the calls from the States of their nativity.

As the speech of the gentleman showed that the

ONLY OPPOSITION TO THE BILL

arose from the fact that Southern people would be recipients of its bounty, and as the remarks heretofore made in this House, as well as elsewhere, reveal that this is the sole ground of opposition to the measure, I will beg permission to ask a calm consideration of this view by all the people without regard to prejudice of locality, prejudice of party, or prejudice of sentiment, and in doing this, Mr. Speaker, my purpose will be, in the most respectful and kind manner, to remind the gentlemen who make this the basis of their opposition, of facts which for the moment may have escaped their memories.

Does the gentleman from Vermont remember

ALL THE CIRCUMSTANCES

which influenced men in their actions at that time—the period from the election of Mr. Lincoln to the establishment of the confederate government? Does he recall all the causes which brought about the sad condition of our country at that period?

I am not, Mr. Speaker, a beneficiary under this bill. I am glad that I am not, because it gives me an opportunity to speak in the interest of brave men to whom the Government owes a debt of gratitude they can never pay.

And let me say to the gentleman from Vermont and to others who entertain the sentiments he has expressed that he must not forget the

circumstances which surrounded and the sentiments which actuated the men who marched to battle in 1861.

It was a period in the history of our country which to be understood must be

VIEWED FROM THE PINNACLE OF THAT TIME.

If we look back from the standpoint of to-day we see nothing of the picture which was presented to the American people twenty-two years ago.

The sentiments which actuated myself and others with whom I was associated were probably similar to the sentiments of all the beneficiaries of this bill whom you seek to proscribe.

I ask the gentlemen to look back and

EXAMINE THE INFLUENCES

that determined the action of the brave veterans of the war with Mexico, when they were called upon after the election of Mr. Lincoln to take their stand either for or against the country to which they owed their birth.

I ask them to recall the advice these heroes of the country's battles received from

TRUSTED LEADERS OF YOUR PARTY;

and I ask you to study the character and sentiments of these men who will receive pensions under this bill. It was their love for country which carried them to hardships and privation and dangers of the conflict which thirty-five years ago made so glorious a chapter in the history of their country.

Yes, Mr. Speaker, they

LOVED THEIR COUNTRY AS MUCH AS ANY

of the thirty millions who enjoyed and took pride in American progress and liberty, Christianity and civilization.

When the clouds began to lower, and gathering storms seemed threatening, they did not look alone for counsel to the utterances of our great Southern statesmen, for it was possible that they, stung by the wrongs our section had suffered, might in the moment of passion give vent to hastily formed and ill-considered expressions, but they looked to New England, the land of our Puritan fathers, to learn their path of duty, and for wisdom to guide their footsteps, for they thought "certainly there they would find good reasons to justify them in adhering to the Union they so much loved." They looked not alone to the press of the Southern States, for with all its ability and conservative grandeur they feared it might be swayed by the mighty interests involved, but they sought counsel from the most extreme anti-slavery, anti-Southern, and sectional of

THE NORTHERN PAPERS,

and in every issue they saw emblazoned on their columns,

Erring sisters, go in peace!

The New York Herald, Harper's Weekly, and other

REPUBLICAN PAPERS WERE FILLED WITH ARTICLES

which expressed and reiterated substantially the words, "Let the South go."

They read such leaders and articles as these from the great Republican papers and revolved them in their minds while pursuing their various avocations.

In Mr. Greeley's New York Tribune of November 9, 1860, he said:

GOING TO GO.

If the cotton States shall become satisfied that they can do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless.

And again in the same issue of his widely circulated and influential paper, Mr. Greeley said:

We must ever resist the asserted right of any State to remain in the Union and nullify or defy the laws thereof. To withdraw from the Union is quite another matter; and whenever a considerable section of our Union shall deliberately resolve to go out, we shall resist all coercive measures designed to keep it in. We hope never to live in a Republic whereof one section is pinned to the residue by bayonets. Let them have both sides of the question fully presented; let them reflect, deliberate, then vote; and let the action of secession be the echo of an unmistakable popular fiat. A judgment thus rendered, a demand for separation so backed would either be acquiesced in without the effusion of blood, or those who rushed upon carnage to defy and defeat it would place themselves clearly in the wrong.

The New York Tribune of November 16, 1860, again announced their views to the Southern people in an article headed

SECESSION IN PRACTICE.

in which the paper used the following words:

Still we say in all earnestness and good faith, whenever a whole section of this Republic, whether a half, a third, or only a fourth, shall truly desire and demand a separation from the residue, we shall earnestly favor such separation. If the fifteen slave States, or even the eight cotton States alone, shall quietly, decisively say to the rest, "We prefer to be henceforth separated from you," we shall insist that they be permitted to go in peace. War is a hideous necessity at best, and a civil conflict, a war of estranged and embittered fellow-countrymen, is the most hideous of all wars. Whenever the people of the cotton States shall have definitively and decisively made up their minds to separate from the rest of us we shall urge that the proper steps be taken to give full effect to their decision.

Three days afterward, on the 19th, the same paper uses these words:

Now, we believe and maintain that the Union is to be preserved only so long as it is beneficial and satisfactory to all parties concerned.

We do not believe that any man, any neighborhood, town, county, or even State may break up the Union in any transient gust of passion; we fully comprehend that secession is an extreme, an ultimate resort—not a constitutional but a revolutionary remedy. But we insist that this Union shall not be held together by force whenever it shall have ceased to cohere by the mutual attraction of its parts; and whenever the slave States or the cotton States only shall unitedly and coolly say to the rest, "We want to get out of the Union," we shall urge that their request be acceded to.

The New York Herald of Friday, November 23, 1860, said:

THE DISUNION QUESTION—A CONSERVATIVE REACTION IN THE SOUTH.

We publish this morning a significant letter from Governor Letcher, of Virginia, on the subject of the present disunion excitement in the South, Southern constitutional rights, Northern State acts of nullification, and the position of Virginia in this crisis. * * * To this end would it not be well for the conservative Union men of the city of New York to make a demonstration—a Northern movement of conciliation, concession, and harmony?

Coercion in any event is out of the question. A union held together by the bayonet would be nothing better than a military despotism. Conciliation and harmony, through mutual concessions, in a reconstruction of the fundamental law, between the North and South, will restore and perpetuate the Union contemplated by the fathers. So now that the conservative men of the South are moving let the Union men of the North second their endeavors, and let New York, as in the matter of the compromises of 1850, lead the way.

And on the following day, November 24, the Tribune says:

FEDERAL COERCION.

Some of the Washington correspondents telegraph that Mr. Buchanan is attempting to map out a middle course in which to steer his bark during the tempest which now howls about him. He is to condemn the asserted right of secession, but to assert in the same breath that he is opposed to keeping a State in the Union by what he calls Federal coercion. Now, we have no desire to prevent secession by coercion, but we hold this position to be utterly unsupported by law or reason.

They very probably read the article from the New York Daily Tribune, Friday, November 30, 1860:

ARE WE GOING TO FIGHT?

But if the cotton States generally unite with her in seceding, we insist that they can not be prevented and that the attempt must not be made. Five millions of people, more than half of them of the dominant race of whom at least half a million are able and willing to shoulder muskets, can never be subdued while fighting around and over their own hearthstones. If they could be, they would no longer be equal members of the Union, but conquered dependencies. * * * We propose to wrest this potent engine from the disunionists by saying frankly to the slave States:

"If you choose to leave the Union, leave it, but let us have no quarrel about it. If you think it a curse to you and an unfair advantage to us, repudiate it and see if you are not mistaken. If you are better by yourselves, go and God speed you. For our part we have done very well with you and are quite willing to keep along with you, but if the association is irksome to you, we have too much self-respect to insist on its continuance. We have lived by our industry thus far and hope to do so still, even though you leave us."

We repeat, that only the sheen of Northern bayonets can bind the South wholly to the evils of secession, but that may do it. Let us be patient, neither speaking daggers nor using them, standing to our principles but not to our arms, and all will yet be well.

I will read an extract from an editorial in the New York Times of December 3, 1860:

By common consent, moreover, the most prominent and tangible point of offense seems to be the legislation growing out of the fugitive-slave law. Several of the Northern States have passed personal-liberty bills, with the alleged intent to prevent the return of fugitive slaves to their masters.

From Union men in every quarter of the South come up the most earnest appeals to the Northern States to repeal these laws. Such an act, we are assured, would have a powerful effect in disarming the disunion clamor in nearly all the Southern States and in promoting the prospects of a peaceful adjustment of all pending differences.

The next day, December 4, the New York Times publishes another article, in which it says:

Mr. Weed has stated his opinion of the crisis thus:

1. There is imminent danger of a dissolution of the Union.

(2.) The danger originated in the ambition and cupidity of men who desire a Southern despotism, and in the fanatic zeal of the Northern Abolitionists who seek the emancipation of slaves regardless of consequences.

(3.) The danger can only be averted by such moderation and forbearance as will draw out, strengthen, and combine the Union sentiment of the whole country.

Each of these statements will command general assent.

The only question likely to arise relates to the practical measures by which the "moderation and forbearance" can be displayed.

And while the South Carolina convention was in session, as if fearing it might not carry that State from the Union, and as it appeared to the Southern people to encourage a prompt passage of the ordinance of secession, Mr. Greeley again says:

If it [the Declaration of Independence] justifies the secession from the British Empire of three millions of colonists in 1776, we do not see why it would not justify the secession of five millions of Southrons from the Federal Union in 1861. If we are mistaken on this point, why does not some one attempt to show wherein and why? For our own part, while we deny the right of slaveholders to hold slaves against the will of the latter, we can not see how twenty millions of people can rightfully hold ten, or even five, in a detested Union with them by military force.

In the same issue of Mr. Greeley's paper we read the following:

If seven or eight contiguous States shall present themselves authentically at Washington, saying: "We hate the Federal Union; we have withdrawn from it; we give you the choice between acquiescing in our secession and arranging amicably all incidental questions on the one hand and attempting to subdue us on the other," we could not stand up for coercion, for subjugation, for we do not think it would be just. We hold the right of self-government even when invoked in behalf of those who deny it to others. So much for the question of principle.

This pledge, given by Mr. Greeley with such emphasis, was reiterated for months with the characteristic persistence of that able leader. Among other articles occurs the following:

Any attempt to compel them by force to remain would be contrary to the principles enunciated in the immortal Declaration of Independence, contrary to the fundamental ideas on which human liberty is based.

After the people of the South had adopted a constitution and organized their new confederate government; after they had raised and equipped an army, appointed embassadors to foreign courts and convened a congress; after they had taken possession of three-fourths of the arsenals and forts within her territory, and enrolled her as one of the nations of the earth, Mr. Greeley's paper indorsed the action of the Southern people as fully as it was possible for language to enable it to do so. Mr. Greeley said:

We have repeatedly said, and we once more insist, that the great principle embodied by Jefferson in the Declaration of American Independence, that governments derive their just powers from consent of the governed is sound and just; and that if the slave States, the cotton States, or the Gulf States only, choose to form an independent nation they have a clear, moral right to do so. Whenever it shall be clear that the great body of Southern people have become conclusively alienated from the Union and anxious to escape from it, we will do our best to forward their views.

Mr. Greeley was earnestly and ably supported in his views by the most prominent men and able editors of Republican papers all over the North.

I cite the following from The Commercial, which was certainly the leading Republican paper of Ohio. After Mr. Lincoln was inaugurated The Commercial said:

We are not in favor of blockading the Southern coast. We are not in favor of retaking by force the property of the United States now in possession of the seceders. We would recognize the existence of a government formed of all the slaveholding States and attempt to cultivate amicable relations with it.

Having, with the aid of his own and other papers, proven that

SECESSION WAS A LEGAL AND PROPER REMEDY,

Mr. Greeley now proceeded to show the South that no concession would be made by the dominant party which was about to assume control of the Government, and also that the rights of the South in the Union would not be regarded and that secession was the only remedy. To do this effectively Mr. Lincoln is called to his aid. In the issue of his paper of January 30, 1861, he says:

We do not hesitate to say that these statements are false and calumnious. We have the best authority for saying that Mr. Lincoln is opposed to all concessions of the sort. We know that his views are fully expressed in his own language, as follows: "I will suffer death before I will consent or advise my friends to consent to any concession or compromise which looks like buying the privilege of taking possession of the Government to which we have a constitutional right."

Mr. Lincoln does not say that the

CONCESSIONS ASKED FOR WERE NOT RIGHT,

He does not say that they were concessions which as a matter of right ought not to be granted. He speaks of the matters then pending before Congress, all of which were efforts to uphold the Constitution, as a concession or compromise. His language virtually admits that the demand for the concessions referred to were right, but he puts his refusal to grant them on entirely different grounds. In giving his reasons for not being willing to entertain the asked-for concessions, he uses these words:

Because whatever I might think of the merit of the various propositions before Congress, I should regard any concession in the face of menace as the destruction of the Government itself and a consent on all hands that our system shall be brought down to a level with the existing disorganized state of affairs in Mexico.

On the 6th of February, 1861, Judge Chase made a speech before the peace congress, in which he, with great emphasis, said that the Northern States would not and ought not to comply with the obligation of the Constitution. Mr. Chase said:

The result of the national canvass which recently terminated in the election of Mr. Lincoln has been spoken of by some as the effect of a sudden impulse or of some irregular excitement of the popular mind; and it has been somewhat confidently asserted that, upon reflection and consideration, the hastily-formed opinions which brought about that election will be changed.

* * * * * * *

I can not take this view of the result of the Presidential election. I believe, and the belief amounts to absolute conviction, that the election must be regarded as a triumph of principles cherished in the hearts of the people of the free States.

* * * * * * *

We have elected him (Mr. Lincoln). After many years of earnest advocacy and of severe trial we have achieved the triumph of that principle. By a fair and unquestioned majority we have secured that triumph. Do you think we, who represent this majority, will throw it away? Do you think the people will sustain us if we undertake to throw it away? I must speak to you plainly, gentlemen of the South. It is not in my heart to deceive you. I therefore tell you explicitly that if we of the North and West would consent to throw away all that has been gained in the recent triumph of our principles the people would not sustain us, and so the consent would avail you nothing.

Mr. Chase in that speech, with great force, gave the South to understand that the Northern States would not and ought not to comply with the obligations of the Federal Constitution. The people of the South did not look alone to the utterances of our great

MILITARY CHIEFTAINS OF THE SOUTH,

who, it is possible, feared they might allow their great love for our land of sun and flowers, and their admiration for so grand and brave a people to bias their views upon this question; but they listened to the voice of that chief who led them to victory on the plains of Mexico, and who for forty-seven years had been a distinguished general in our Army, and for twenty of those years had been its commander, and for whom 1,386,578 American citizens cast their votes for the highest office of honor and power within the gift of the people, a greater vote than had ever before been given to any of our greatest and most admired leaders and statesmen; and the only sound that came from his trusted lips was—

Wayward sisters, depart in peace!

While these statements were so general as to fill the air, they learned that the recognized leader of all, Mr. Chase, said:

The South is not worth fighting for; let them alone.

In Mr. Seward's speech of December 22, 1860, he substantially said that "succession was a mere political threat, unworthy of notice."

Mr. Chase in a letter to the peace congress said the party ought "to use the power while they had it and prevent a settlement." He also said "don't yield an inch." And when the

SOUTH AND THOSE WHO LOVED THE UNION

in that great congress plead on bended knee for the preservation of the Constitution, there fell from the lips of this man an utterance which, though not so intended, was the first installment of those expressions which finally denounced the Constitution of Washington, Franklin, and Hamilton as—

A league with hell and a covenant with the devil.

The people of the South read over and over the great speech of Mr. Webster at Buffalo, delivered on May 22, 1851, when he said:

Then there was the other matter, and that was the fugitive slave law. Let me say a word about that. Under the provisions of the Constitution, during Washington's administration, in the year 1793, there was passed by general consent a law for the restoration of fugitive slaves. Hardly any one opposed it at that period; it was thought to be necessary in order to carry the Constitution into effect, the great men of New England and New York all concurred in it. It passed and answered all the purposes expected from it till about the year 1841 or 1842, when the State interfered to make enactments in opposition to it. * * * Now I undertake as a lawyer and on my professional character to say to you and to all, that the law of 1850 is decidedly more favorable to the fugitive than General Washington's law of 1793. * * * Such is the present law, and, much opposed and maligned as it is, it is more favorable to the fugitive slave than the law enacted during Washington's administration in 1793, which was sanctioned by the North as well as by the South. The present violent opposition has sprung up in modern times. From whom does this clamor come? Why, look at the proceedings of the anti-slavery conventions; look at their resolutions. Do you find among those persons who oppose this fugitive-slave law any admission whatever that any law ought to be passed to carry into effect the solemn stipulations of the Constitution? Tell me any such case; tell me if any resolution was adopted by the convention at Syracuse favorable to carrying out of the Constitution. Not one. The fact is, gentlemen, they oppose the constitutional provision; they oppose the whole. Not a man of them admits that there ought to be any law on the subject. They deny altogether that the provisions of the Constitution ought to be carried into effect. Look at the proceedings of the anti-slavery conventions in Ohio, Massachusetts, and at Syracuse in the State of New York. What do they say? That so help them God no colored man shall be sent from the State of New York back to his master in Virginia. Do not they say that? And to the fulfillment of that they pledge their lives, their fortunes, and their sacred honor. Their sacred honor! They pledge their sacred honor to violate the Constitution; they pledge their sacred honor to commit treason against the laws of their country.

Mr. Webster, in his speech at Capon Springs, also said:

The leading sentiment in the toast from the chair is the Union of the States. The Union of the States. What mind can comprehend the consequences of that union, past, present, and to come? The Union of these States is the all-absorbing topic of the day; on it all men write, speak, think, and dilate from the rising of the sun to the going down thereof. And yet, gentlemen, I fear its importance has been but insufficiently appreciated.

Again Mr. Webster says:

How absurd it is to suppose that when different parties enter into a compact for certain purposes either can disregard any one provision, and expect, nevertheless, the other to observe the rest! I intend for one to regard and maintain and carry out to the fullest extent the Constitution of the United States, which I have sworn to support in all its parts and all its provisions. It is written in the Constitution—

"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

That is as much a part of the Constitution as any other, and as equally binding and obligatory as any other on all men, public or private. And who denies this? None but the abolitionists of the North. And pray what is it they will not deny? They have but the one idea; and it would seem that these fanatics at the North and the secessionists at the South are putting their heads together to devise means to defeat the good designs of honest, patriotic men. They act to the same end and the same object, and the Constitution has to take the fire from both sides.

I have not hesitated to say, and I repeat, that if the Northern States refuse willfully and deliberately to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound to observe the compact. A bargain can not be broken on one side and still bind the other side. I say to you gentlemen in Virginia as I said on the shores of Lake Erie and in the city of Boston, as I may say again in that city or elsewhere in the North, that you of the South have as much right to receive your fugitive slaves as the North has to any of its rights and privileges of navigation and commerce.

Mr. Webster also said:

I am as ready to fight and to fall for the constitutional rights of Virginia as I am for those of Massachusetts.

Mr. Webster was a constitutional lawyer, and he had read the proceedings of the convention which had adopted this Constitution. He knew that the provision of the Constitution which he was discussing was unanimously adopted by the New England States. And the fundamental law which they created in 1787 Mr. Webster felt they

HAD NO RIGHT TO TRAMPLE UNDER FOOT

in 1861. I will read the proceedings of August 29, page 306, of the constitutional convention of the United States:

It was moved and seconded to agree to the following proposition, to be inserted after the fifteenth article:

"If any person bound to service or labor in any of the United States shall es-

cape into another State, he or she shall not be discharged from such service or labor in consequence of any regulations subsisting in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor."

Which passed unanimously in the affirmative.

I will read from page 222 of the journal of the convention which formed the Constitution. The fourth section of the seventh article, as reported by the committee of five on August 6, 1787, is in these words:

SEC. 4. No tax or duty shall be laid by the Legislature on articles exported from any State, nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited.

On page 276 I find that on August 21, 1787, a motion was made to amend this section, which I will read:

It was moved and seconded to insert the word "free" before the word "persons" in the fourth section of the seventh article.

The journal also states that—

Before the question was taken on the last motion the House adjourned.

I read from the journal, page 276, these words:

AUGUST 22.

The motion made yesterday, to insert the word "free" before the word "persons" in the fourth section of the seventh article, being withdrawn, it is moved and seconded to commit the two remaining clauses of the fourth section and the fifth section of the seventh article;

Which passed in the affirmative,

Yeas—Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia—7.

Nays—New Hampshire, Pennsylvania, Delaware—3.

I read this to call the attention to the fact that New Hampshire and Pennsylvania were so anxious to have slaves imported free of tax that they voted against recommitting the section.

From page 285 of the journal of the convention I read these words:

AUGUST 24.

The honorable Mr. Livingston, from the committee of eleven, to whom were referred the two remaining clauses of the fourth section, and the fifth and sixth sections of the seventh article, informed the house that the committee were prepared to report.

The report was then delivered in at the secretary's table, was once read, and is as follows:

Strike out so much of the fourth section of the seventh article as was referred to the committee, and insert "the migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1800; but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imposts."

When the motion was made to recommit the two last clauses of section 4 the purpose was to change this section so as to restrict the importation of slaves. The vote on this question may be regarded as a test vote, and I call attention to the fact that while New Hampshire and Pennsylvania voted against recommitting, Georgia, South Carolina, North Carolina, Virginia, Maryland, and New Jersey voted in favor of recommitting the clauses, so as to restrict by constitutional provision the importation of human beings for slavery. It will be seen that as the committee reported the clause, slave traffic was prohibited after the year 1800. I have looked carefully through the Journal and I can find no record of these clauses being changed so as to contain the words "finally adopted." The Constitution, as it now stands, varies but little from the clauses as reported by Mr. Livingston. Some influence, possibly from New England, induced the change so as to continue the slave trade until 1808, and decreased the duty from what would have been about 15 per cent. ad valorem to a specific duty of $10 per head.

I want specially to call attention to the fact that the vote of the slave States you will find on this subject was to restrict the importation of slaves, so as to prohibit it altogether after the year 1800, and also that the Southern States by their votes expressed a further desire to limit the importation of slaves during this period by their advocacy of an import duty equal to 15 per cent. ad valorem upon such importations. Mr. Webster was familiar with all these facts, and no doubt they were on his mind when he made his Capon Springs and Buffalo speeches.

In passing, may I not ask if there are not gentlemen still in New England who by way of diversity might cease for a while to pick motes from the eyes of their Southern brethren and devote a little time in extracting some of the huge beams which for more than twenty years have incumbered their orbits and so seriously affected their political vision?

It would seem that the facts I have recited were enough to teach the people of the South what they ought to do; but to strengthen their convictions of duty they recalled

THE GREAT SPEECH OF JOHN QUINCY ADAMS,

delivered, I believe, April 30, 1839, half a century after Washington was inaugurated, the occasion being the celebration of the fiftieth anniversary of the commencement of our Government under the Constitution. Mr. Adams said:

But the indissoluble union between the several States of this confederated nation is, after all, not in the right but in the heart. If the day should ever come (may Heaven avert it!) when the affections of the people of these States shall be alienated from each other; when the fraternal spirit shall give way to cold indifference, or collision of interest shall fester into hatred, the bands of political asseveration will not long hold together parties no longer attracted by the magnetism of conciliated interests and kindly sympathies; and far better will it be for the people of the disunited States to part in friendship from each other than to be held together by constraint. Then will be the time for reverting to the precedents which occurred at the formation and adoption of the Constitution to form again a more perfect Union by dissolving that which could no longer bind, and to leave the separated parts to be reunited by the law of political gravitation to the center.

And they remembered also that the distinguished son of this illustrious gentleman nine years later received 291,267 votes as candidate for

VICE-PRESIDENT OF THE FREE SOIL PARTY.

They remembered the Hartford convention in Connecticut, the Dorr rebellion in Rhode Island, the whisky rebellion in Pennsylvania; and they also remembered that only so far back as 1844 Massachusetts proclaimed the right of secession not only by unanimously enacting secession resolutions, but in addition thereto by distributing copies of these resolutions throughout the land.

I will read from page 319, "Acts and resolutions passed by the Legislature of Massachusetts in the year 1844:"

1. *Resolved*, That the power to unite an independent foreign state with the United States is not among the powers delegated to the General Government by the Constitution of the United States.

2. *Resolved*, * * * That the project of the annexation of Texas, unless arrested on the threshold, may drive these States into a dissolution of the Union.

3. *Resolved*, That his excellency the governor be requested to transmit a copy of the foregoing resolves to each of the Senators and members of the House of Representatives of this Commonwealth in the Congress of the United States.

4. *Resolved*, That his excellency the governor be requested to transmit a copy of the same resolves to the Executive of the United States and of the several States.

Approved by the governor March 15, 1844.

Our people also recalled that the Legislature of Massachusetts, as if apparently to

EMPHASIZE THEIR VIEWS,

selected the one hundred and thirteenth anniversary of the birth of the father of our country to pass another secession resolution which I read from pages 598 and 599 of the same volume. I call especial attention to the second resolution:

Resolved, That Massachusetts has never delegated the power to admit into the Union States or Territories without or beyond the original territory of the States and Territories belonging to the Union at the adoption of the Constitution of the United States.

Resolved, * * * and as the powers of legislation granted in the Constitution of the United States to Congress do not embrace the case of the admission of a foreign state or foreign territory by legislation into the Union, such an act of admission would have no binding force whatever on the people of Massachusetts.

Resolved, That his excellency the governor be requested to transmit copies of the preceding report and resolves to the President of the United States, the several Senators and Representatives in Congress from this Commonwealth, and the governors of the several States.

Approved by the governor February 22, 1845.

And while I can not point to the record I have often heard it asserted and have never heard the assertion questioned that eighty years ago the same Legislature passed a resolution containing the following words:

That the annexation of Louisiana to the Union transcends the constitutional power of the Government of the United States. It formed a new confederacy to which the States united by the former compact are not bound to adhere.

I admit, Mr. Speaker, that, judging from what I have read, it did seem that the prominent Republican leaders desired very much to drive us from the Union.

I have read extracts from the most influential and extreme Republican papers, commencing from the moment Mr. Lincoln's election was announced up to the period when the southern confederacy was an established nation of the earth; I have read speeches from your greatest statesmen and sentiments from the trusted commander of your Army, and utterances from the man whom you had chosen as your Chief Magistrate.

I admit there was but little encouragement extended to the great mass of the Union people of the South, but, notwithstanding this, had it not been that I was afar off among the mountains and cañons of New Mexico, engaged against the hostile Indians, I should have urged my people to proceed with deliberation and caution; had I been where I could have expressed my views I should have combated the arguments and advice given by these men; I should have opposed the secession theory of Mr. Greeley and of the Legislature of Massachusetts; I would have spoken with all my power against not only the expediency but the propriety of secession; I should have reminded the people that the

FATHERS OF THE NEW ENGLAND MEN WHO SENT THE SECESSION RESOLUTIONS

to us were the same who, two-thirds of a century before, contended with equal force in favor of maintaining the African slave trade, and that they voted in the constitutional convention for the clause of the Constitution which secured the slave trade to New England slave-traders for a period of twenty years.

I would also have informed them that New England unanimously voted for the clause of the Constitution known as the fugitive-slave law clause, which Mr. Webster quoted in his speech from which I have read. It was to their interest to vote for that clause, for they knew it would increase the value of the slaves brought in their ships from Africa and sold to the planters of the South.

I should have told the people of Georgia, Alabama, and Mississippi how, when that entire territory was governed by Oglethorpe, for twenty years there

EXISTED A LAW AGAINST SLAVERY,

and that the law would no doubt have continued in force had it not

been for New England slave-traders, who sought its repeal for the purpose of creating a new market for the slaves they imported. I should have warned the Southern people against the secession teachings of Mr. Greeley, Mr. Chase, and Mr. Seward. I would have told our people that, though the Republican party had trampled the law of Congress and the Constitution of our country under foot, as the House will observe was admitted by the New York Times in the article which I have read, and although Mr. Chase stated that the Republican party not only would not obey but would sustain the Northern States in nullifying the Constitution, yet with all that I would have said, let us seek our remedy,

UNDER THE STARS AND STRIPES,

and through the decrees of our courts.

Mr. Speaker, are not the facts I have placed before you sufficient to have convinced the Southern people of 1861 that if they would give up all the Federal offices and Federal official positions which their Northern brethren had so long coveted, and if in addition they surrendered all claim to the rights and privileges which were guaranteed by the Federal compact, and thus obeyed the orders of Scott and Chase and Greeley to "Depart in peace," that they would not only meet with no opposition in the execution of this purpose, but that it would have the cooperation and sympathy of these aggrandizers? After they had given up everything, was it not reasonable they should indulge the hope that they would not be further molested, and that after a little reflection the North would see its error, and that finally an

ASSURANCE OF JUSTICE

would be given such as would bring us back together on good and amicable terms?

And after reading Mr. Webster's speeches, were not the Southern people justified in their determination that, if the worst came to the worst, their duty was plain—that at every cost the constitutional rights of the States should be maintained?

If Mr. Webster, a native of Massachusetts, who owed to the people of that State every honor he had received, was right in battling for the preservation of the constitutional rights of Virginia, and in so doing performed what he regarded as a solemn duty, was it not equally just and right that the gallant men who fought in Mexico should draw their swords for the preservation of the constitutional rights of their own dear native States—Alabama, Georgia, Mississippi, and other sovereign States of the Union?

I ask the gentleman from Vermont if, with all this, he will adhere to his determination to deny these brave soldiers this meager pension because they acted pursuant to views so earnestly urged upon them by the ablest leaders of your party?

I have suggested these facts in reply to the emphatic declaration of the gentleman from Vermont [Mr. JOYCE] in the hope that he will withdraw his hastily uttered expression.

Remove this objection, and the bill will certainly become a law; and let me ask you, gentlemen of the opposition, if this objection is worthy of you or your party?

I know, gentlemen, it is hard to overcome prejudice, but to subdue that subtle enemy is the

NOBLEST CONQUEST

of the human heart; prejudice, that invisible foe, invades and poisons the reason as the malaria from the deadly swamp invades and destroys the physical system. You struggle against it, but still it abides with you every hour of your lives. This prejudice for and against locality, clings to and controls your actions, like an irresistible temptation with which it requires all the strength of your manhood to contend.

You can master this spirit; great men can master every inclination, and every rooted error however deeply seated, though it sometimes requires a supreme effort to effect the victory.

Ulysses, the warrior of old, conquered prejudice for the sake of self; Ulysses, the warrior of to-day, achieves the same conquest for the sake of another.

Let me recall to your minds the story of how Ulysses of old escaped the sirens' toils, and how the gentle Orpheus evaded the snares of the tempter:

When Ulysses sailed past the isle of the sirens, who had the power of charming by their songs all who listened to them, he heard the sorcerous music on the shore, and to prevent himself and his crew from landing he filled their ears with wax and bound himself to the mast with knotted thongs. Thus, according to the subtle Grecian story, he passed safely the fatal strand. But when Orpheus, in search of the golden fleece, went by this island, he—being, as you remember, a great musician—set up better music than that of the sirens, enchanted his crew with a melody superior to the alluring song of the sea-nymphs, and so, without needing to fill the Argonauts' ears with wax, or to bind himself to the mast with knotted thongs, he passed the sorcerous shore not only safely but with disdain.

Now, Mr. Speaker, were our people of the North and South to use the same effort in promoting harmony as is often used in kindling strife, would not the sweet influences thus aroused, like the music of Orpheus near the sirens' coast, close our ears to the clamors of sectional strife, and direct us safely in our search for the golden fleece, a prize to be realized only in a newly regenerated Union, happier and grander than before, more prosperous and more united, more Christian and more enlightened?

Tariff on Sugar.

SPEECH

OF

HON. OSSIAN RAY,

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 15, 1883.

The House in Committee of the Whole on the state of the Union having under consideration the bill (H. R. 7313) to impose duties upon foreign imports, and for other purposes—

Mr. RAY said:

Mr. CHAIRMAN: I rise to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RAY. I would like to inquire whether an amendment striking out lines 1042 to 1052, inclusive, of the original bill, and proposing a substitute for the amendment offered by the gentleman from Louisiana [Mr. GIBSON], is in order at this time? At the proper time I want to offer a substitute both for the pending paragraph and the amendment, in substance making all unrefined sugars free and at the same time affording proper protection to our friends from Louisiana and elsewhere who are interested in this industry, by providing for the payment of a bounty of 2 cents per pound on all raw or unrefined sugars produced in the United States.

The CHAIRMAN. The pending proposition is the motion of the gentleman from Louisiana [Mr. GIBSON] to strike out from line 1042 to 1052, both inclusive, as follows:

SCHEDULE E.—*Sugar.*

All sugars not above No. 43 Dutch standard in color shall pay duty on their polariscopic test as follows, namely:

All sugars not above No. 13 Dutch standard in color, all tank-bottoms, sirups of cane-juice or of beet-juice, melada, concentrated melada, concrete, and concentrated molasses, testing by the polariscope not above 75°, shall pay a duty of 1.25 cents per pound, and for every additional degree or fraction of a degree shown by the polariscope test they shall pay four-hundredths of a cent per pound additional.

And insert the following:

All sugars not above 13 Dutch standard in color shall pay duty on their polariscope test as follows, namely:

All sugars not above No. 13 Dutch standard in color, all tank-bottoms, sirups of cane-juice or of beet-juice, melada, concentrated melada, concrete, and concentrated molasses, testing by the polariscope not above 75°, shall pay a duty of 1.50 cents per pound; and for every additional degree or fraction of a degree shown by the polariscope test they shall pay five-hundredths of a cent per pound additional.

Mr. RAY. If it is in order for me to do so now, I desire to offer my amendment as a substitute for the proposition of the gentleman from Louisiana, as well as for the pending clause.

The CHAIRMAN. A substitute for what the gentleman from Louisiana proposes to insert?

Mr. RAY. Yes.

The CHAIRMAN. The Clerk will read it.

The Clerk read as follows:

Strike out the pending clause of the bill and insert the following:

Any person who shall produce and make within the United States any raw or unrefined sugar to the amount of two hundred pounds or upward, and who shall sell the same in good faith for actual use or consumption within the United States, shall be entitled to and may receive from the Treasury a bounty of 2 cents per pound for all such sugar so produced, made, and sold as aforesaid; and the Secretary of the Treasury is authorized and required to make such suitable regulations in regard to proof of production and sale, and payment of bounty aforesaid, as will best accomplish the purpose hereof and prevent fraud.

Mr. KELLEY. I make the point of order on that proposition that it is not germane to the question before the committee—not a tariff proposition.

Mr. RAY. I want to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. RAY. Mr. Chairman, I submit that the amendment offered by me is not out of order, and that when carefully considered it will be found to be quite germane to the pending bill. This is a tariff act. None will dispute the parliamentary propriety of transferring sugar from the dutiable to the free list. Hence the only inquiry which remains is, does the proposition to pay a bounty from the Treasury of 2 cents per pound on domestic sugars contained in my amendment make the amendment foreign to the scope and purpose of the bill?

In several sections, having no relation to the schedules and duties levied, changes are made in existing laws, notably in sections 5 to 16, inclusive. In sections 11 and 12 money is appropriated out of the Treasury for purposes not so germane to the design of this act, it seems to me, as the bounty proposed in my amendment. The sections referred to authorize importers in case of controversy with the Government touching goods imported under the provisions of this act to go to the Court of Claims by appeal, and that court is given jurisdiction to hear and determine all questions arising therefrom.

This act appropriates money to pay stenographers, assessors, for court-

rooms, &c., and at the option of the importer changes the entire course of legal procedure in cases growing out of the importation of goods. Therefore I maintain this amendment ought not to be rejected on the point made by the chairman of the Committee on Ways and Means [Mr. KELLEY] that it is not germane to the bill because money is appropriated to pay the bounty, for I fail to see wherein the difference lies between an appropriation of money under this act for a purpose or object not recognized by existing law, such as is proposed in the sections referred to, and the appropriation of money provided for by my amendment.

Mr. Chairman, the majority of this House, and the majority of the Ways and Means Committee, in the establishment of a system of import duties religiously believe in the doctrine of protecting American industries in all cases when required to prevent ruinous foreign competition. The bounty of 2 cents per pound offered by my amendment is proposed for the express purpose of protecting the sugar industry of Louisiana and other sections of the United States where sugar is produced. Our friends upon the other side of the Chamber agree that we may legitimately in our tariff laws incidentally protect our own laborers, producers, and manufacturers.

The Republican doctrine is that we are authorized under the Constitution and the settled policy of the country for a hundred years to impose duties for protection alone or for revenue alone, or for both objects. In other words, that both the doctrine of protection and the purpose to obtain revenue from import duties are within the proper constitutional powers of Congress. Now, when sugar is put upon the free-list and our people engaged in its production are thrown into competition with the cheap labor of the West India Islands and other sugar-producing countries, the payment of a bounty to encourage them, to stimulate the production of an article of food at home, required by every family in the land, is the most direct and legitimate form of protection we can adopt. Therefore, taking a broad and general view of the subject, I believe the gentleman's point of order is not well founded, and that the amendment is strictly germane to the bill.

Now, sir, I desire to say a few words generally upon this subject. It is an axiom in political economy that no nation ought to levy a tax on the necessaries of life, on an article of food universally consumed by its people, unless required to do so by the public good, or without an imperative and controlling necessity exists to raise revenue thereby. Sugar is everywhere a necessity of life among our people. I hope none within our borders are so poor and destitute that they can not obtain sugar, as well as other articles of food, sufficient comfortably to maintain life, health, and strength. According to the last report of the Commissioner of Internal Revenue about 2,200,000,000 pounds of sugar are now annually consumed in the United States, of which only about one-tenth, or 200,000,000 pounds, are produced by ourselves. Upon the 2,000,000,000 pounds imported yearly the Government collects from the people duties amounting to more than $49,000,000.

Everybody admits there is no necessity for levying this enormous burden upon our inhabitants at the present time, and that the problem for us to solve by prudent legislation happily is, not how we shall provide for more revenue but how we may most wisely and largely reduce the amount now being collected. It is agreed on all hands that a reduction of seventy-five or a hundred million dollars can and ought to be made at once in our tariff and internal-revenue taxation. Should my amendment become a law it would insure an immediate reduction of forty millions of dollars and upward, and the best refined sugars, which are now sold at retail throughout the country at about 10 cents a pound could and would be sold as cheap as in England, at 6 or 7 cents a pound. This reduction would be sensibly felt by the head of every family in the country. The total reduction would be nearly one dollar for each man, woman, and child of our population.

The benefits resulting from the abolition of the sugar duty would be shared by everybody, and be more helpful to our people generally than any other reduction that could be made in our tariff laws. I have but little patience, Mr. Chairman, with gentlemen who clamor here and elsewhere for the abolition of the whisky and tobacco taxes, but are silent when we touch the duties on sugar. Many more people use sugar than use either whisky or tobacco, and I believe the tax on sugar should first be abolished or heavily reduced. Sugar is no longer a luxury but is a necessity in every home.

On every dollar's worth of imported sugar in the year ending June 30, 1882, the purchaser was compelled to pay an average duty to the Government of more than 50 per cent. ad valorem (52.05), while the average rate on all dutiable goods for the same year was only about 30 per cent. ad valorem (30.11). Why longer maintain the burden of this unjust and discriminating duty upon sugar? It is a conceded fact that in a family numbering four or five persons or upwards living no more generously than our farmers, mechanics, and other plain people commonly do, the cost of their sugar per annum considerably exceeds the cost of their flour or bread.

If we had any well-grounded hope or assurance that the average quantity of sugar annually produced in the United States would soon be subtantially increased, by reason of the continuance of the present high rate of duty on that article, we might have some reason for continuing the duty for the sake of protection and encouragement to that industry; but, sir, the statistics furnished by gentlemen in this debate unerringly show a gradual diminution of the domestic sugar product since the war. Indeed, the largest sugar crop ever produced was just before the rebellion begun in 1861-'62, when that of Louisiana amounted to 528,321,500 pounds, and when the rate of duty was only 24 per cent. ad valorem.

The truth is we have within the United States only a small area of land suitable for the production of sugar. Sugar-cane is a tropical plant, and its growth is mainly confined to portions of Louisiana, Florida, and Texas, and in those sections the crop is subject to the hazards of frosts and floods, so that a full crop cannot be relied upon more than half the time.

In this connection I desire to quote from the last annual report of General Raum, the able Commissioner of Internal Revenue, who says:

> I apprehend if sugar were not produced in this country Congress would not hesitate to remove the duty from imported sugar as the best means of reducing taxation. The present law gives to the sugar planters of this country, indirectly, about $4,000,000 or $5,000,000 per annum. My proposition would be to give them this amount directly and let the whole people have the benefit of the reduction of taxation of, say, $49,000,000, which would in this way be effected.
>
> The principle of paying a bounty for the encouragement and development of American industry is not new; it was adopted in the case of our fisheries as early as 1813, and was continued for more than fifty years. Millions of dollars have been paid out during this period to American fishermen for fish caught and exported, and we are still giving to this industry the bonus of allowing them to withdraw salt free of duty and of requiring from them no tonnage dues. As a matter of principle, a bounty to our sugar interests would, in my opinion, be no more objectionable than similar encouragement to our fisheries.

I am utterly opposed to the project which seems to be favored by some of our Pennsylvania, New Jersey, and Ohio friends, and the majority of the Democratic party South and West, to abolish our whole internal-revenue system of taxation, the effect of which would probably be to compel the Government to maintain a high rate of duty on imported sugar for a long time to come. It is my opinion sir, that any party, or combination of parties in this country which succeeds in effecting the abolition of the taxes on liquors and tobacco, and at the same time upholds the principle of levying a high duty upon sugar when we produce so little and consume so much, will go to the wall. Such a political party or combination of political parties in my judgment will meet with and deserve a crushing defeat at the polls.

I think this new tariff is in many respects an improvement on the old one, but the trouble with it is, it makes no such substantial reduction of our revenues as ought to be made, and which the settled judgment of the country demands. The place to make the chief reduction in this bill is clearly the sugar schedule. The gentlemen of the Committee on Ways and Means seem to think its adoption will effect a reduction on sugar of a little more than eleven millions of dollars ($11,249,625.62), according to the estimates prepared for the committee by the Bureau of Statistics. This is not half enough. In any event thirty millions in round numbers ought to come off the tariff on sugar. If the present bill should become a law the average rate of duty on sugars will be more than 40 per cent. (40.15). The sugar schedule now in force was adopted in 1864, and in July and December, 1870 (Revised Statutes, page 472), and then an additional 25 per cent. was imposed by the act of March 3, 1875. This bill hardly takes off the last increase.

I trust I shall be pardoned for suggesting that the report of the Tariff Commission, so far as their sugar schedule is concerned, is not entitled to the utmost confidence of Congress or the country. The commission rates are even higher than those in the bill before the House. I am advised that Mr. Duncan F. Kenner, the Louisiana member of the Commission, was and is a sugar planter—an officer of the Louisiana Sugar Planters' Association. The following letter written by him to Mr. D. A. Given, president of the same association, indicates quite clearly what a forlorn hope the advocates of free sugar had before him, or before the commission whereof he was a leading and influential member. This letter has been widely circulated in the newspapers without denial, so far as I can learn, and must be regarded as genuine and authentic.

> LONG BRANCH, N. J., *August* 10, 1882.
>
> DEAR SIR: Our friend has arrived and is busily engaged, under my direction, in seeing certain parties in New York and preparing for certain combinations in case of necessity. He will be of the greatest possible service to us in all these matters. I regret very much that you have succeeded so slightly in providing the sinews of war. I beg you will see all the parties and say to them that if his stay here terminates before the object is accomplished it will be a cause of regret to us all. There are certain things which I can't look after. Circumstances forbid me ostensibly appearing in the matter at all. Consequently, without some such assistance, I lose half my efficiency and chance of success. I beg you will see all of them again and urgently insist on the amount appropriated so far being increased. Use this letter with discretion, but do not hesitate to show it to any one who is equally interested in our success.
>
> Yours, truly,
>
> DUNCAN F. KENNER.

The "friend" above referred to is understood to be Mr. John Dymond, vice-president of the Louisiana Sugar Planters' Association.

But, Mr. Chairman, some people object to paying money out of the Treasury as a bounty for any purpose whatever, and different grounds are urged in support of the objection. Some say it is contrary to sound public policy, others suggest that it is unconstitutional to appropriate the public money for bounties, gratuities, or premiums under any circumstances. I do not care to enter upon the discussion of either class of these objections. That the United States and the several States, in the absence of constitutional inhibition, have the power to provide for the payment of bounties whenever the public exigencies require it can

not now, in my opinion, be successfully controverted. The Government has heretofore paid, as suggested by the Commissioner of Internal Revenue, large sums of money for the encouragement of our fisheries.

Almost every State in the Union from time immemorial has maintained laws providing for the payment of money bounties for the destruction of certain kinds of wild animals and birds, and nobody, to my belief or knowledge, has ever yet suggested that the States might not lawfully pay such bounties. If this may be done to get rid of noxious animals and birds on the ground that it is for the public benefit why not pay a bounty to promote the growth of a very necessary article of food?

During this session a provision for bounty, miscalled a "drawback" in the bill, to encourage American shipping, received strong support in this body and came near passing the House when the final vote was taken. The Government has granted millions of dollars, and millions of acres, in bounties to reward its brave defenders in time of war. Immense tracts of the public domain have been granted as subsidies to individuals and corporations for the purpose of aiding the construction of railways in our Western States and Territories. Indeed, duties levied upon imported merchandise, when similar articles are produced at home, may and often do, to the full extent of the duties paid, indirectly operate as a bounty or protection to the home producer or manufacturer. Of course, such is not the effect in all cases.

In regard to sugar, however, I think it is demonstrable that the market price, both of domestic and foreign sugars, in the United States is increased by the tariff to nearly or quite the amount of duty imposed on that article. So that the effect of our tariff legislation on sugar is, to enable the sugar planters to obtain 2, 3, or 4 cents a pound more for their sugar from consumers than they otherwise would, and so much more than their sugar is really worth. Hence I claim that the operation of our tariff laws on this article amounts practically to the same thing as giving the sugar planters of the South a bounty from the Treasury to nearly the amount of the duty. Now they exact the extra price for sugar, which the tariff adds, from purchasers and consumers. By adopting my substitute the sugar planters would still get 2 cents per pound over and above the market price throughout the country from the Treasury. In both cases the money will come from the people's pockets.

Why, sir, the value of the whole sugar crop of Louisiana last year—which was larger than any other since the rebellion—was only $20,000,000, giving it a liberal appraisal. Now, when the people of the United States are compelled to pay about $50,000,000 in duties on this article for a single year, or about two and a half times the worth of the whole quantity produced in the country, is it not the time for a change in our tariff legislation? The country had better buy out every sugar planter as a matter of business economy rather than continue to pay this enormous tax on such an article of universal consumption. The abolition of the sugar duty would be the most popular act this Congress can adopt. I trust we shall not disappoint the public expectation.

The CHAIRMAN. Does the gentleman from New Hampshire [Mr. RAY] insist upon his amendment?

Mr. RAY. I do.

The CHAIRMAN. As against the point of order?

Mr. RAY. I do; and I would like a vote on my proposition.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. KELLEY] insist upon his point of order?

Mr. KELLEY. I do.

The CHAIRMAN. The Chair thinks the amendment proposed by the gentleman from New Hampshire [Mr. RAY] is subject to the point of order. It does not propose a duty on any imported article, but it is a proposition that the Government of the United States shall pay a bounty on an article of domestic production, and therefore the Chair rules it out of order.

Rivers and Harbors.

SPEECH

OF

HON. HENRY S. HARRIS.

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, February 28, 1883.

The House having under consideration the bill (H. R. 7631) making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes—

Mr. HARRIS, of New Jersey, said:

Mr. CHAIRMAN: I move to strike out the last word for the purpose of adding something to what has just been so well said by the chairman of the Committee on Commerce in reference to the commerce of Cheesequake's Creek. I wish the House to know that three-fourths of the paper-clay used by the manufacturers of wall-paper in this country are mined from the beds on that creek, and go down the creek, and not only to the large cities of this country, but to Montreal and Quebec; so that its commerce is not only national but international in its character.

I wish to say further that prior to the formation of the bar across the mouth of the creek, which it is designed by this appropriation to remove, this creek was navigable to Jacksonville, and steamboats ran regularly to and from New York. The chairman of the Committee on Commerce has told you that five hundred and fifty vessels passed through the draw in one year. That is true, and they carried a variety of products, not only the unique fine white clay before mentioned, but other products of this region. There are situated on the creek three brick-yards, five clay-pits, ten docks, and one railway.

The gentleman has also moved to strike out the appropriation for Mattawan Creek, but I did not hear him state any reason for that motion. I desire to call his attention to the fact that while the Secretary of War in a letter to the House stated that he had caused a re-examination of the items of appropriation in the river and harbor bill, he makes no objection whatever to the appropriations for Elizabeth River and Mattawan Creek. The volume of exports from Keyport is $4,070,000 annually, and of imports $1,851,000, and the tonnage is 785,000 tons.

I can not understand why a representative from the State of New Jersey should ask to have the appropriations for these creeks stricken from this bill when the work of improvement is already more than half completed. I remember that the last river and harbor appropriation bill carried an appropriation of $50,000 for the Passaic River, in the gentleman's district, and the present bill carries for the same an appropriation of $15,000. I remember that he then wanted to navigate through solid ground between Jersey City and Newark, to have a ship-canal built at the cost of a million. [Laughter.] Evidently a change has come o'er the spirit of his dream.

Elizabeth River has a commerce of national importance. There are a number of works of importance along it; and the engineer in his report, page 698, says:

This improvement is of special interest to the city of Elizabeth, through which the stream flows. The shipping is carried principally by canal-boats and the smaller class of sailing vessels, engaged in carrying coal to the city gas-works and building material to the several lumber-yards situated on the banks of the stream. A pottery and an oil-cloth works are also located on the stream, and are dependent on the navigation of the river for the transportation of their heavy and bulky freights.

Half of that work has been done. All that is needed to complete it is $16,160. Mr. Chairman, we do not want to spend money where commercial facilities are perfect and abundant; we want to spend it where they are imperfect, where improvement is required. This is one of those cases, and so is Cheesequake's Creek, which is a navigable tide-water stream and not a "creek" in the upland meaning of the word, any more than Hampton Roads is a turnpike.

Mr. BUTTERWORTH. I would like to ask the gentleman a question before he sits down. It has been stated in the presence of the House and before the country that Elizabeth Creek or Elizabeth River, if you please to call it so, has no commerce; that a boat can not get more than fifteen rods up that stream; that it is worse than a farce, a fraud, to appropriate any money there. I want the gentleman from New Jersey to state what he knows about this matter, in order that the House may not be misled.

Mr. HARRIS, of New Jersey. The tonnage of Elizabeth River between July 1, 1881, and July 1, 1882, was 20,967 tons. It consisted of lumber, lime, coal, fire-brick, hides and leather, sand, brick, hemp, general merchandise, barytes, and potter's clay. The statement from which I read these figures will be found on page 698 of the engineer's report.

Mr. BUTTERWORTH. But I understand that this tonnage is all within fifteen rods of the mouth of the river. How is the fact?

Mr. HARRIS, of New Jersey. My information is that that is not so; that it is all the way up the river.

Mr. VAN VOORHIS. Do you know it personally?

Mr. HARRIS, of New Jersey. I do not, but I am so informed by my colleague [Mr. ROSS], in whose district the river in question is situated, and by other reputable gentlemen, as well as by the report which contains the names of the firms and the amount of business of each of them in tons, furnished, as I understand, by themselves.

Mr. Chairman, at the present session the House adopted a resolution requesting the Secretary of War to inform it whether any money appropriated by the act of August 2, 1882, "making appropriations for the construction, repair, and preservation of certain works on rivers and harbors, and for other purposes," was appropriated for works or objects that were not in the interest or for the benefit of commerce and navigation, and if so to name such works and objects and the respective amounts so appropriated, and whether any moneys appropriated by said act have been or are being used upon works or objects not in the interest or for the benefit of commerce or navigation, and if so to name such works or objects and the respective amounts so used or expended. In his reply to said resolution the Secretary says that he has made a "new and extended examination" of the subjects covered by the act, and he submits a list of works erected in accordance with that act, which he states are seemingly of this character, with such details of information concerning them as seem to him substantially to furnish the information called for by the resolution. In his list so submitted are three improvements in the State of New Jersey, namely, South

River, Woodbridge Creek, and Cheesequake's Creek. To his objections to these improvements and to the facts in answer to his objections I desire, as a Representative from that State, to ask the attention of the House. Having already discussed the proposed appropriation of $7,000 for the completion of the Cheesequake's improvement, I pass it, quoting merely that portion of the report of the Committee on Commerce which relates thereto:

IMPROVING CHEESEQUAKE'S CREEK, NEW JERSEY—OBJECTION OF THE SECRETARY OF WAR.

"Continuing improvement, $15,000.

"The purpose of this appropriation is to improve about three miles of creek by such dredging operations as will secure a navigable channel four feet deep and one hundred feet wide as far back as Whitehead.

"The report of the Chief of Engineers shows that the original condition of the channel from the bar or jetty at the mouth gives a depth of one foot at mean low water for about three-fourths of the length to be improved, and for the remaining portion a depth of from four feet to one and one-half feet at low water. The course of the creek is very crooked and requires to be straightened.

"The project is a change of the outlet into a direction at right angles to the beach, to sustain this direction by jetties of stone, and to straighten the course of the creek and increase its depth in the upper portions.

"The official reports furnish no definite information as to the amount of commerce to be benefited.

Balance in Treasury July 1, 1882	$24,000
Appropriated act August 2, 1882	15,000
Drawn on requisition, July 1 to December 31, 1882	15,000

THE FACTS.

The statement that "the official reports furnish no definite information as to the amount of commerce to be benefited" is not true. The local engineer, in reports for 1881, gives the following data:

Statistics of commerce for year ending June 30, 1881.

Class.	Number.	Tonnage.	Draught.
Sloops	152	50 to 80 each	4 to 6 feet.
Schooners	30	80 to 200 each	4 to 7 feet.
Barges	146	100 to 300 each	5 to 7 feet.
Steam-vessels	232	Not known	

"These vessels carry manure, gas-house lime, poudrette, &c., up the creek, and bring down fire and potter's clay, molding sand, cordwood, brick, and iron ore."

And in the reports of 1882 the local engineer, after giving an estimate of another as to the amount of commerce of Cheesequake's Creek and certain other commercial data, states that the "amount of commerce to be benefited by this improvement is about $110,000." He also intimates that when the navigation is improved the trade by water will be much increased. An additional appropriation of $7,000 has therefore been made in the present bill, and is justified by the commercial data given below:

APPROPRIATIONS HERETOFORE MADE.

1880	$20,000
1881	5,000
1882	15,000
Total	40,000

"[From Report of Chief of Engineers, U. S. A., through the Secretary of War, second session, Forty-seventh Congress.]

"18. *Cheesequake's Creek, New Jersey.*—The original condition of the channel over the bar or shoal at the mouth gives a depth of 1 foot at mean low-water for about three-fourths of the length to be improved, and for the remaining portion a depth from 4 feet to 1½ feet at low water. The course of the creek is very crooked and requires to be straightened.

"The originally adopted project for the improvement was the change of the outlet into a direction at right angles to the beach; to sustain this direction by parallel jetties of stone and to straighten the course of the creek and increase the depth in the upper portions thereof.

"The amount expended to the close of the fiscal year ending June 30, 1881, was $129.82.

"The condition of the creek and outlet at that date was unaltered.

"The amount expended during the fiscal year ending June 30, 1882, was $568.07, and no alteration was made in the original condition of the outlet and creek.

"The available funds can be profitably expended during the fiscal year ending June 30, 1883, in the prosecution of the work.

"The estimated amount required for the entire and permanent completion of the work of improvement, in accordance with the approved and adopted project, is $35,279."

Amount that can be profitably expended in fiscal year ending June 30, 1884, $20,000.

"[From accompanying report of local engineer.]

"IMPROVEMENT OF CHEESEQUAKE'S CREEK, NEW JERSEY.

"The survey of this work was directed by the act approved March 3, 1879, and the results of the survey, with a project of improvement, and estimate of cost, were reported December 23, 1879.

"On July, 13, 1881, proposals were received for the dredging of the new outlet, the closing of the present outlet, and the partial construction of the jetties, but the bids were too high, the price of the dredging alone being almost as much as the available amount for the work. A subsequent offer at lower and reasonable rates was afterward made, which I was authorized to accept, but unfortunately too close upon the approach of cold weather to safely undertake a series of operations, all of which should have been simultaneously finished to produce effect, or even preserve the work completed.

"It was decided then to await further appropriations, until a sum sufficient to commence work was available.

"The original condition of the channel over the bar or shoal at the mouth gives a depth of one foot at mean low water; the channel in the creek has a depth of four feet at mean low water for about three-fourths of the length to be improved, and for the remaining portion a depth from four feet to one and one-half feet at low water; the course of the creek is very crooked, and requires to be straightened.

"The balance, $24,302.11, is probably too little to undertake works a certain amount of which should be completed for their own preservation.

"A larger amount, $40,000, could be profitably expended during the fiscal year ending June 30, 1883.

"The amount of commerce of Cheesequake's Creek is estimated by one of the parties interested at $110,000 per annum. Among the exports are clay and molding sand, of the former 15,000 or 20,000 tons annually; and it is supposed by residents that the trade by water will be much increased after the navigation has been improved.

"This work is in the collection district of Amboy, New Jersey; nearest port of entry, Perth Amboy, New Jersey; nearest light-house, Princess Bay.

"Amount of revenue collected during the past fiscal year, $183,973.84; amount of commerce to be benefited by this improvement is about $110,000.

"COMMUNICATED MARCH 11, 1880, BY ASSISTANT ENGINEER.

"*Present commercial statistics of Cheesequake's Creek.*

Sand, 40,000 tons, at $2	$80,000
Pottery clay, 18,000 tons, $3	54,000
Hay, 4,000 tons, $12	48,000
Sage for the manufacture of paper, 1,500 tons, $3	4,500
Fertilizers, 37,500 tons, $2	75,000
Wood, 1,000 cords, $4	4,000
Ashes, 10,000 bushels, 12 cents	1,200
Lime, 5,000 bushels, 20 cents	1,000
Oysters, 2,300 bushels, $1	2,300
Farm products	300,000
General merchandise	100,000
	670,000

"There are on the creek 3 brick-yards, 5 clay-pits, 10 docks, and 1 railway.

"Five hundred and fifty-one sloops, schooners, &c., 44,000 tons, passed through the railroad draw at high tide during the past season.

"ACCOMPANYING STATEMENT.

"Three-quarters of the pottery clay used in the United States and Canada is taken from this creek, although it is now necessary to lighter a large portion of it at great expense.

"Not over one-quarter the beds are yet developed.

"Before the bar obstructed the navigation steamboats ran up to Jacksonville and the head of the creek, bringing out regularly full freights of produce, fruits, &c.

"Long lines of farm-wagons waited their turn to discharge at the docks.

"There are now five times as many truck-farms as then, the products of which are driven from six to twenty miles to Keyport, over often very bad roads, which very much reduces the profits.

* * * * * * *

"J. K. SCHERMERHORN, NOAH FAUMAN,
"ALEX. GASTON, T. B. MORGAN,
"THEO. BROWN, D. NOBLE ROWAN,
"ABIN JOHNSON, T. W. MOORE,
"WM. MENZHEIMER, W. STELWAGGONER,
"ISAAC BYRNE, OLIVER MENOKA."
"JOSEPH JOHNSON,

As to South River and Woodbridge Creek an examination of the official statement of the Engineer Corps, the evidence of the local engineers, and the testimony of the inhabitants and business men engaged in using these water ways for commercial purposes will answer the objections of the Secretary conclusively.

The local engineer states the commerce of South River to be 193,177 tons, valued at $3,415,300. Situated upon this river and its tributaries are two ship-yards, eight brick-works, eleven flour-mills, one licorice-mill, four snuff and tobacco manufactories, two shirt factories, and six saw-mills. Engaged in the commerce of the river are two steamers, sixty sailing vessels, and forty barges, in addition to forty-eight sailing vessels owned there. I quote from the report of the Chief of Engineers, United States Army, to the Secretary of War, Executive Document No. 1, Forty-seventh Congress, second session, and the accompanying report of the local engineers, and ask leave to insert their statements as a part of my remarks:

[From report of Chief of Engineers, United States Army, through the Secretary of War, second session Forty-seventh Congress.]

17. *South River, New Jersey.*—The original condition of the navigable channel is:

1. A false direction of the canal mouth, a depth there at mean low water of 3½ feet; thence up to Little Washington, depths varying from 3.1 to 11.6 feet at mean low water; thence to Bissett's brick-yard, depths varying from 2.8 to 10.1 feet at mean low water; and thence to Old Bridge, depths varying from 2.1 to 12.5 feet at mean low water. There are also several sharp bends above Little Washington where it will be expedient to strengthen the course occasionally by cuts.

2. The originally adopted project, which has not been modified, was: To change the outlet of the canal; to close the natural course of the river below Tetit's; to dike and to dredge in order to obtain eight feet at mean low water up to Little Washington; thence to straighten the course, dike and dredge up to Bissett's brick-yard in order to obtain six feet at mean low water; and, finally, to straighten the course, dike and dredge to Old Bridge in order to obtain four feet at mean low water.

3. The amount expended to the close of the fiscal year ending June 30, 1881, was $382.20.

No change in the work at that time. The amount expended during the fiscal year ending June 30, 1882, was $356.43, without change in the condition of the river.

The available funds, $55,261.37, can be profitably expended during the fiscal year ending June 30, 1883, upon diking and dredging in the canal and at its mouth.

The estimated amount for the entire and permanent completion of the work of improvement, in accordance with the approved and accepted project, is $138,695.

Amount that can be profitably expended in fiscal year ending June 30, 1884, $40,000.

[From accompanying report of local engineer.]

The survey of this river was directed by the act approved March 3, 1879, and the results, with a project of improvement and estimate of cost, were reported January 23, 1880.

South River is a tributary of the Raritan, which it enters by two courses, the one natural, the other artificial, one and one-fourth miles below the former.

After considerable delay the necessary papers for acquiring the title to the land needed to change the direction of the mouth of the canal were completed, and on June 29, 1882, proposals were advertised to be opened on July 20 for constructing dikes and dredging at the entrance of the canal into the Raritan River.

* * * * * * *

The amount of commerce to be benefited annually is represented to be 193,175 tons, of the value of $3,415,300, the principal articles of export being bricks, molding sand, and wood, fruit, and vegetables.

On South River and tributaries there are represented to be:

Eight brick-works.

Eleven flour-mills.

One licorice-mill.
Four snuff and tobacco manufactories.
Two shirt-works.
Six saw-mills.
Two ship-yards.
All of the above in active operation.
This work is in the collection district of Amboy. Nearest port of entry, Perth Amboy. Nearest light-house, Raritan Bay.
Amount of revenue collected during the year ending June 30, 1882, $83,973.84.
Amount of commerce to be benefited by the completion of this work, $3,000,000.

SAILING VESSELS, BARGES, AND STEAMBOATS.

Side-wheel steamboat	1
Propeller	1
Number of vessels owned (sailing)	48
Number of vessels transient (sailing)	60
Number of barges (transient)	50

Of Woodbridge Creek, the local engineer says:

This stream, although classified as a creek, has really a more important and extended bearing on commerce and industry than many smaller streams called rivers. Traversing as it does the richest fire-clay region of the State of New Jersey, it affords a direct outlet for the product of the numerous and valuable clay-pits of the adjacent country. The clay on being mined is drawn to the docks on the stream, and is shipped thence to all parts of the country. Numerous fire-brick and drain-pipe works, some of which are the oldest and most extensive works of this kind, are also located on the banks of the stream, and ship their constantly increasing products directly from their docks to various ports.

Woodbridge Creek is in the collection district of Perth Amboy, New Jersey. Nearest light-house, Prince's Bay, and nearest fort, fort at Sandy Hook.

Statement of the shipments of fire-brick, clay, &c., and receipts of coal, merchandise, &c., from July 1, 1881, to July 1, 1882, through Woodbridge Creek, New Jersey.

Names of firms.	Shipped.	Received.
	Tons.	*Tons.*
Birkett & Paterson	4,120	
H. N. Demarest		470
Watson Fire-brick Company	1,963	
Hampton Cutter & Son	4,562	
William H. Cutter	7,119	
William A. Osborn, for C. T. Inslee	2,906	
Samuel Dally	714	
Lewis C. Potter	910	
Warren Drummond	3,271	
Salamander Works	7,082	4,469
David A. Flood	2,334	
C. W. Boynton	376	513
Charles Anness & Sons	4,918	1,407
Augustine Flood	270	
Henry Maurer	6,434	2,110
M. D. Valentine & Brother	2,872	3,941
F. W. Meeker	8,162	
William H. Berry & Co	2,716	2,412
Charles Forbes, for R. C. Remmy	617	
Peter B. Melick	7,561	
John Powers & Co	5,405	
Albert Martin	1,435	
Henry Koch	2,756	
J. Mattison Melick	971	
Edward Valentine	2,643	
James Valentine	2,909	
B. Kreischer & Sons	8,711	
Wilson Loughridge	417	
George W. Ruddy	4,474	
Isaac Flood	935	
William P. Edgar	379	
Lumber		273
Red brick		617
	99,942	16,212

Total received and shipped, 116,154 gross tons.

These figures speak for themselves.

An attack has recently been made upon the appropriation for the improvement of the channel between Staten Island and New Jersey by a certain New York newspaper, whose editor evidently assuming to know more about everything than any one else knows about anything, has outstripped all others in the inconsiderate venom of his assaults upon New Jersey improvements.

How much truth and force there is in his abuse in this instance may be estimated by an examination of the report of Major Gillespie, the engineer officer in charge. He says of this improvement:

The channel forms an important link between the great highway of the West and the upper part of New York Harbor, connecting further the channel of the Kill von Kull with that of Arthur Kill, and extending thence by the Raritan Bay and River through the Delaware and Raritan Canal, forming an unbroken water communication with the Delaware River. The channel also has an important bearing on the trade and commerce of Elizabethport, which is one of the most important shipping points for coal and iron brought by rail from the rich fields of Pennsylvania to the extensive docks located adjacent to the channel, whence shipments are made direct to foreign as well as to home ports.

The appropriation for this improvement should be on the most liberal scale.

Compare this with the following statement taken from the paper referred to, the New York Sun of the 21st instant:

A correspondent is puzzled by the appropriation of $25,000 for the so-called Staten Island channel in the present river and harbor bill:

"What is this channel? It seems suspiciously near New Jersey. Is it one of Hon. Mr. Ross's 'tributaries?' It is something new, anyhow."

Oh, no; it is nothing new. By referring to The Sun of Friday last, our correspondent will find it duly credited to Hon. MILES ROSS. By referring to a map of New Jersey he will find that Staten Island is separated from Hon. MILES ROSS's district by a narrow sound. The improvements in question are at Elizabethport, which lies within the limits of Hon. MILES ROSS's district. Last summer $40,000 were appropriated for this work; at the end of the year the Secretary of War reported an unexpended balance of $30,000. According to that eminent authority on rivers and harbors, Colonel George Bliss, the work at Elizabethport was classed as "of local importance mainly" by certain engineers of the Army of high standing and entire familiarity with the subject, when they were consulted by the Administration just before the veto.

Consider, also, the statement of Hon. Henry S. Little, receiver and president of the Central Railroad of New Jersey, in his letter to Lieutenant-Colonel Gillespie on the commerce of Elizabethport, all of which goes through this so-called channel:

OFFICE OF THE RECEIVER,
CENTRAL RAILROAD COMPANY OF NEW JERSEY,
New York, July 5, 1882.

DEAR SIR: I send you the following memoranda showing the commercial business transacted at Elizabethport during the past year by the Central Railroad of New Jersey, and also the amount of business done by the commercial and manufacturing establishments of that place.

The Central Railroad of New Jersey shipped during the year 2,500,000 tons of coal, and the Philadelphia and Reading Railroad 725,000 tons. The miscellaneous freight amounted to 45,000 tons; native ores, 40,000 tons.

The amount of pig-iron received was 40,000 tons, and cast-iron pipes 16,000 tons.

Railroad and scrap iron amounted to 18,500 tons, and the shipments of slate to 3,000 tons.

The following are the principal manufacturing and commercial establishments and the number of operatives employed by each:

	Operatives.
Singer Manufacturing Company	2,500
Five founderies	650
One ropewalk	500
One car-wheel foundery	20
One rolling-mill	50
Ten other factories	700
Repair shops Central Railroad of New Jersey	550
Total	4,970

Elizabethport is, next to Jersey City, the chief commercial port in the eastern part of New Jersey; access, however, to its wharves and docks is only possible for vessels of light draught; with the impediments in the way of navigation removed, a very great degree of commercial prosperity will result to Elizabeth port and its vicinity.

Yours, truly,

H. S. LITTLE,
Receiver and President Central Railroad of New Jersey.

Brevet Lieutenant-Colonel G. L. GILLESPIE,
United States Engineer.

In addition to this the vast commerce of the Delaware and Raritan Canal goes through this "narrow sound." The freight moved on it in 1881 was 1,710,888 tons. (See Poor's Manual for 1882, page 208.)

Still further swelling this total, one-half of the commerce of the city of Newark seeking water routes goes also through this very channel. If this is a specimen of the information received by the President relative to so important a water route as this is demonstrated to be by the foregoing figures, within twenty miles of the city of New York, what can we say as to the reliability of such "eminent authority," of such "entire familiarity" as to works in progress all over the country. The consideration of the nature of this attack in this newspaper ought to be sufficient to show the people of the whole country how much reliance is to be placed in the malicious statements which for six months have been dinned into their ears by this very journal and how just and how fair it has been in its personal attacks upon representatives in Congress who were seeking only to legislate for the best interests of the country.

The impression produced to a very great extent in New Jersey by this publication and by other cheap imitators who followed barking in its train was that the Representatives in Congress who supported the last river and harbor bill had been personally corrupted and had received pecuniary rewards for their votes for it, an impression which every gentleman on this floor knows to be erroneous and cruelly unjust. It also sought to produce the impression among the Democrats of New Jersey that the policy of internal improvement was undemocratic, and that those Democrats who supported the last river and harbor bill had been false to their party and its principles, ignoring the fact that the representatives of ten Democratic States voted solidly in favor of that bill, and that but four Democratic Senators were found voting to sustain the veto of the President in the Senate. I desire also to place upon record the fact that the Representatives from New Jersey who supported that measure did so in obedience to the request of the Legislature of that State. The following resolutions were unanimously adopted by the senate and house of assembly of New Jersey and approved by its governor:

Whereas there are necessary improvements required in the Delaware River between the city of Trenton and the sea, to improve the navigation of said river, and the citizens of New Jersey and Pennsylvania are petitioning Congress to make an appropriation for the same: Therefore,

1. *Be it resolved by the senate and general assembly of the State of New Jersey*, That the Senators and Representatives in Congress from this State be requested to use all honorable means to secure such appropriation as shall be necessary for the above purpose.

2. *And be it resolved*, That after this joint resolution shall have been approved by the governor, copies of the same shall be sent to our Senators and Representatives in Congress.

Approved March 3, 1882.

The only way, as every member of the House knows, in which we could obey that request was by voting for the river and harbor bill. It was impossible to obtain an appropriation for the Delaware River between the city of Trenton and the sea except by supporting the river and harbor bill. Now, in obedience to that resolution, $474,000 was carried in the bill of last session for the Delaware between Trenton and the sea. In addition to that amount, which was for the joint benefit of New Jersey, Pennsylvania, and Delaware, New Jersey received for works distinct from the Delaware in round figures $361,000, making in all for her benefit, singly and jointly, $787,000. Yet notwithstanding all this, and notwithstanding those resolutions of instruction, we

have been held up to scorn by a portion of the press of New York as criminals and dishonorable men.

The distinguished gentleman from Maryland [Mr. McLANE] early this session had occasion to say that a most provincial opinion prevailed in that city.

Great as she is in wealth, commerce, and culture, some of her citizens seem to forget that the Union is not her appurtenance and that she is great because of the country whose metropolis she is, and that the country is not great merely because she makes it so.

A significant sentence was that contained in the notable letter of Governor Seymour in favor of free canals which appeared last autumn. Commenting on the opposition thereto he said it came chiefly from the counties of Cattaraugus, Franklin, and Saint Lawrence, the representatives from which in Congress voted for the last river and harbor bill, "the most important expenditure of which is designed to turn commerce from our State, to harm the prosperity of the city of New York, and to check the increase of its share of the State assessments, thus tending to increase the charges upon the counties I have named."

Instead of the lofty position of national opposition to local improvement which a portion of the press of New York assumes, this expression of New York sentiment from so distinguished a source indicates the existence of local opposition to national improvement.

If New York thought it unfair to her as a railroad center to improve the Mississippi, her opposition should have been put boldly on that ground, and not have assumed the form of vituperation and outcry against individual members as "jobbers" and participants in a "steal."

However, while we who supported the last bill suffered the injustice of having very many honest people misled not only as to our acts but as to our motives, nevertheless that bill, in my view, served a useful social purpose. It was a safety-valve whereby the cranks of the country let off their surplus of energy; and it also permitted many persons of damaged reputations to masquerade as reformers—to rehabilitate themselves in seeming pure political virtue.

In my own district there was scarce a political broker who had sold himself and everybody else over and over again to all sides of everything but was horror-struck at such a "steal." There was scarce a man who had paid the penalty of imprisonment in the State's prison for theft of public funds but stood around the colors in the front rank of reform as an opponent of that "steal." And as hypocrisy is always most zealous, those most deficient in character and most unsavory in their histories were the loudest in denunciation.

But, Mr. Chairman, I shall withhold my vote from this bill because there is much honest difference of opinion among the people of my district as to its wisdom, and I purpose to respect the sentiment of those who sent me here whenever I can ascertain it. Notwithstanding, however, that I shall adopt that course I have taken this opportunity to defend some of the appropriations for my State because they were I thought unjustly assailed, and have also availed myself of my privilege of placing on record my protest against the unjust, ignorant, and in many cases malicious abuse lately heaped upon those who could not reach with reply the firesides and homes into which these cowardly attacks, hissing with personalities, penetrated. My conscience is clear, and I trust and believe that those who now honestly attach to me and to others blame for voting for the river and harbor bill passed at the first session of the Forty-seventh Congress will not continue to do so when the fires of prejudice, kindled and fanned for the most part by persons with sinister motives, shall have consumed themselves, and information and reflection shall have led to the formation of a just opinion.

The Judiciary—Federal Courts.

"Law is the fruit of no human invention, is the decree of no judge, no nation, no country, but is that eternal something to whose unerring dictates of command or prohibition the whole world should bend."

"Virtue is the doing good to mankind in obedience to the will of God, and for the sake of everlasting happiness."

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, January 16, 1883,

On the bill (H. R. 3123) to amend sections 1, 2, 3, and 10 of an act to determine the jurisdiction of the circuit courts of the United States, and to regulate the removal of causes from State courts, and for other purposes, approved March 3, 1875.

Mr. WHEELER said:

Mr. SPEAKER: The features of this bill that commend it to my approval are those which tend to facilitate the removal of cases from the State to the Federal courts by regulations that will establish the practice and so define the jurisdiction as to leave no room for caviling. I do not propose to examine the bill minutely, but have some few observations to submit on the formation, construction, the use of courts of the United States, and the abuse of courts and judges, and their tendency to usurpation. Another reason why I desire to avail myself of this opportunity to express these views is the pendency of a bill to largely

INCREASE THE FEDERAL JUDICIARY,

the consideration of which, in its present condition, I shall feel it my duty to oppose.

The attention of mankind can not be too frequently called to the abuses of courts and to the crimes, corruptions, and cruelties of judges.

The history of past ages shows that courts grow up to overshadow and subordinate all other authorities, and that this tendency is observable in the judicial tribunals even of this, our free country.

Whoever is afraid of centralization should be jealous of the Supreme Court of the United States; for in that institution above all others in this country is lodged

THE POWER TO CENTRALIZE THE GOVERNMENT.

Mr. Jefferson gave this subject the profound consideration of his great mind, as is clear in the extracts from letters of his which I here produce, and is clearly illustrated in his writings.

Mr. Jefferson, like all great men, became more and more imbued with the conviction that there was no lamp by which a people could be so surely guided as the

LAMP OF EXPERIENCE AND THE TEACHINGS OF HISTORY;

recounting the experiences of those who have gone before us, blazing out the ways traveled by men, warning against the pitfalls to which they were led by error, and prominently portraying the paths of truth by which peoples and nationalities alone attain the zenith of glory, prosperity, and happiness.

The judiciary hold in their hands the lives, the liberties, and the property of all the people of all nations. With just, learned, and wise judges any people will be free and happy, but it matters not how free and liberal the laws and institutions of a country may be if these laws are to be construed and executed by a judiciary who are devoid of any of these three requisites.

A country with bad judges will feel the iron heel of tyranny more surely than it is felt by the people of the

WORST IMPERIAL DESPOTISMS,

and more incisively will these wrongs be felt because they are too apt to strike where they are least deserved and least expected.

A judge, no matter how learned, if corrupt; no matter how wise, if unjust; is a disgrace to the ermine which he wears, an insult to the bench on which he sits, and an oppression to the people of the country which he serves.

To save posterity from such evils seemed to be the study of the latter part of Mr. Jefferson's life.

I will detain the House a few moments while I read some emanations upon this subject from his pen. I will first read an extract from his letter dated December 25, 1820, to Mr. Thomas Ritchie, in which Mr. Jefferson says:

The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone. This will lay all things at their feet, and they are too well versed in English law to forget the maxim *Boni judicis est ampliare jurisdictionem.*

A judiciary independent of a king or executive alone is a good thing; but independence of the will of the nation is a solecism, at least in a republican government.

The expressions in this letter from Mr. Jefferson are prophecies which could only come from a man of his great penetration. In less than fifty years all that he here says

IS FULLY REALIZED,

and had he lived until to-day he would have seen American people subjected by corrupt judges to wrongs and indignities greater than had ever entered into his contemplations. I will now read what a month later was said by Mr. Jefferson in his letter of January 19, 1821, to Hon. Archibald Thweat:

I am sensible of the inroads daily making by the Federal into the jurisdiction of its co-ordinate associates, the State governments. The legislative and executive branches may sometimes err, but elections and dependence will bring them to rights.

The judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass.

Against this I know no one who, equally with Judge Roane himself, possesses the power and the courage to make resistance; and to him I look, and have long looked, as our strongest bulwark. If Congress fails to shield the States from dangers so palpable and so imminent the States must shield themselves and meet the invader foot to foot.

I call special attention to the warning here contained against consolidated government, and his intimation of the evils arising from a life tenure of officials whose positions enable them to wield unrestrained power. I will now call attention to what is said by Mr. Jefferson in his letter dated August 18, 1821, to Mr. C. Hammond, in which he says:

It has long, however, been my opinion, and I have never shrunk from its expression (although I do not choose to put it into a newspaper, nor like a Priam in armor offer myself its champion), that the germ of dissolution of our Federal Government is in the constitution of the Federal judiciary; an irresponsible body

(for impeachment is scarcely a scarecrow), working like gravity by night and by day, gaining a little to-day and a little to-morrow, and advancing its noiseless step like a thief over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one. To this I am opposed, because when all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated. It will be as in Europe, where every man must be either pike or gudgeon, hammer or anvil.

If the States look with apathy on this silent descent of their government into the gulf which is to swallow all, we have only to weep over the human character formed uncontrollable but by a rod of iron and the blasphemers of man as incapable of self-government become his true historians.

This letter to Mr. Hammond reiterates the sentiments before expressed, and in addition thereto he uses utterances which it would be well for us to consider. I will now read what is said by Mr. Jefferson in his letter dated July 2, 1822, to Hon. William T. Barry:

We already see the power installed for life, responsible to no authority (for impeachment is not even a scarecrow), advancing with a noiseless and steady pace to the great object of consolidation. The foundations are already deeply laid by their decisions for the annihilation of constitutional State rights, and the removal of every check, every counterpoise to the ingulfing power of which themselves are to make a sovereign part.

If ever this vast country is brought under a single government it will be one of the most extensive corruption, indifferent and incapable of a wholesome care over so wide a spread of surface. This will not be borne, and you will have to choose between reformation and revolution.

If I know the spirit of this country, the one or the other is inevitable. Before the canker is become inveterate, before its venom has reached so much of the body politic as to get beyond control, remedy should be applied.

Let the future appointments of judges be of four or six years and renewable by the President and Senate. This will bring their conduct at regular periods under revision and probation and may keep them in equipoise between the general and special governments. We have erred in this point by copying England, where certainly it is a good thing to have the judges independent of the king. But we have omitted to copy their caution also, which makes a judge removable on the address of both legislative houses. That there should be public functionaries independent of the nation, whatever may be their demerit, is a solecism in a republic of the first order of absurdity and inconsistency.

I will now give a single extract from the pen of Mr. Jefferson, in his letter dated March 4, 1823, to Judge Johnson:

I can not lay down my pen without recurring to one of the subjects of my former letter, for in truth there is no danger I apprehend so much as the consolidation of our Government by the noiseless, and therefore unalarming, instrumentality of the Supreme Court. This is the form in which Federalism now arrays itself, and consolidation is the present principle of distinction between Republicans and the pseudo-Republicans, but real Federalists.

We see that, so far from receding from the positions previously taken, this great man is more strongly impressed with the propriety of his apprehensions; and three months after this date, namely, June 12, 1823, we again find him writing to Judge Johnson, in which letter he says:

I have stated above that the original objects of the Federalists were, first, to warp our Government more to the form and principles of monarchy, and, second, to weaken the barriers of the State governments as co-ordinate powers. In the first they have been so completely foiled by the universal spirit of the nation that they have abandoned the enterprise, shrunk from the odium of their old appellation, taken to themselves a participation of ours, and under the pseudo-Republican mask are now aiming at their second object, and strengthened by unsuspecting or apostate recruits from our ranks are advancing fast toward an ascendency. I have been blamed for saying that a prevalence of the doctrines of consolidation would one day call for reformation or revolution. I answer by asking if a single State of the Union would have agreed to the Constitution had it given all powers to the General Government; if the whole opposition to it did not proceed from the jealousy and fear of every State of being subjected to the other States in matters merely its own; and if there is any reason to believe the States more disposed now than then to acquiesce in this general surrender of all their rights and powers to a consolidated government, one and undivided?

It seems almost an assumption for me to descant upon these words of wisdom so tersely and ably expressed. I will therefore, without comment, proceed to read what was said by Mr. Jefferson in his letter dated October 31, 1823, to Hon. M. Coray:

At the establishment of our Constitution the judiciary bodies were supposed to be the most helpless and harmless members of the Government.

Experience, however, soon showed in which way they were to become the most dangerous; that the insufficiency of the means provided for their removal gave them a freehold and irresponsibility in office; that their decisions, seeming to concern individual suitors only, pass silent and unheeded by the public at large; that these decisions, nevertheless, become law by precedent, sapping, by little and little, the foundations of the Constitution and working its change by construction before any one has perceived that that invisible and helpless worm has been busily employed in consuming its substance.

In truth, man is not made to be trusted for life, if secured against all liability to account.

It must be observed that during all the period occupied by these letters the prevailing thought in Jefferson's mind seemed to be

APPREHENSION OF THE LIFE-TIME TENURE

of the judiciary, and the feeling seemed to grow more intense as he gave it additional consideration. I will now read an extract from one of the last letters written by him. May we not call it the utterance of the greatest of statesmen, standing on the brink of the grave?

It was dated March 25, 1825, and was addressed to Edward Livingston, esq. It says:

One single object, if your provision attains it, will entitle you to the endless gratitude of society; that of restraining judges from usurping legislation. And with no body of men is this restraint more wanting than with the judges of what is commonly called our General Government, but what I call our foreign department. They are practicing on the Constitution by inferences, analogies, and sophisms, as they would on an ordinary law.

* * * * * * *

They imagine they can lead us into a consolidated government, while their road leads directly to its dissolution. This member of the Government was at first considered as the most harmless and helpless of all its organs. But it has proved that the power of declaring what the law is, *ad libitum*, by sapping and mining slyly and without alarm the foundations of the Constitution, can do what open force would not dare to attempt. I have not observed whether, in your code, you have provided against caucusing judicial decisions, and for requiring judges to give their opinions *seriatim*, every man for himself, with his reasons and authorities at large, to be entered of record in his own words.

The acuteness of Jefferson's mind appears in all his writings. His patriotic devotion to the

FUNDAMENTAL PRINCIPLES OF FREEDOM

is universally acknowledged. His intellect was grasping; his reading extensive, and his learning was vast, especially in the history of the rise, progress, and fall of empires.

His jealousy of the powers of the judiciary, as emphatically and repeatedly expressed by him, was built upon his knowledge of the usurping inclinations of the human mind, for he had observed how incessantly power accumulated power to itself, and how prone was authority to add to its own potency. And he had before his great mind developed as if by an open and widespread panorama the

ABSOLUTELY AUTOCRATIC POWER

of the English judiciary, which from its foundation by William the Conqueror grew up side by side with the kings, and how it finally became more potent in the affairs of state than the king himself. The royal authority of the King of England was so hedged and restricted by the rulings of the judges that the majesty of imperialism dwindled almost into governmental imbecility, and the royal head of the government was an autocrat only in name. When King John heard of the death of his chief-justice, Fittzpeter, he laughed aloud and exclaimed with a profane oath: "Now, I am again king, and am a lord in England."

Henry IV on one occasion had to submit to the judicial authority of one of his judges, who, for contempt of court, absolutely imprisoned the Prince of Wales, that rollicking youth popularly known in literature as "Prince Hal." On that memorable occasion the judge was greater than the king, and this liberty-loving world of ours has never ceased and will never cease to applaud that iron-hearted old judge for this act as indicating an independence of character in his high office that made him the most illustrious of the judges that in any age adorned the English bench.*

This grand display of judicial authority was perfectly legitimate; it taught mankind a lesson which was to them then unknown—simply that a king and his children must be subject to the same laws and rules which are made for the people. Nevertheless, the act was one of audacity, an audacity which grew bold in the gradual gathering of power to power and of authority to authority; and it presents a prime case by which I seek to illustrate the inevitable

TENDENCY OF THE JUDICIARY TOWARD ABSOLUTE AUTOCRACY.

And here I may safely assert that in England to-day the modern judicial ermine is more regarded and sanctified than the purple robes of royalty. And now, further to justify Jefferson in his jealousy of the judicial power, let us take a brief view of the rise of the judicial power of England to its present eminence.

THE BRIGAND JUDGES.

The first and most notable feature of the English judiciary is its early brigandism. Do not be startled by the phrase. William the Norman

* Sir William Gascoigne is the judge referred to. The story is stated in an old English book, and preserved by Lord Campbell:

"The most renowned prince King Henry the Fifth, late King of England, during the life of his father was noted to be of fierce and wanton courage. It happened that one of his servants, whom he favored well, was, for felony by him committed, arraigned at the King's Bench; whereof the prince being advertised and incensed by light persons about him, in furious rage came hastily to the bar where his servant strode as a prisoner and commanded him to be ungyved and set at liberty; whereat all men were abashed, reserved the chief-justice, who humbly exorted the prince to be contented, that his servant might be ordered according to the ancient laws of this realm, or if he would have him saved from the rigor of the laws, that he should obtain, if he might, of the king, his father, his gracious pardon whereby no law or justice should be derogated. With which answer the prince, nothing appeased, but rather more inflamed, endeavored himself to take away his servant. The judge, considering the perilous example and inconvenience that might thereby ensue, with a valiant spirit and courage commanded the prince, upon his allegiance, to leave the prisoner and depart his way. With which commandment the prince being set all in a fury, all chafed, and in a terrible manner came up to the place of judgment, men thinking that he would have slain the judge, or have done to him some damage; but the judge, sitting still without moving, declaring the majesty of the king's place of judgment, and with an assured and bold countenance, had to the prince these words following:

"'Sir, remember yourself. I keep here the place of the king, your sovereign lord and father, to whom ye owe double obedience, wherefore eftsoon in his name I charge you desist of your wilfulness and unlawful enterprise, and from henceforth give good example to those which hereafter shall be your proper subjects. And now, for your contempt and disobedience, go you to the prison of the King's Bench, whereunto I commit you, and remain ye there prisoner until the pleasure of the king, your father, be further known.'

"With which words being abashed, and also wondering at the marvelous gravity of that worshipful justice, the noble prince laying his weapon apart, doing reverence, departed and went to the King's Bench as he was commanded. Whereat his servants, disdaining, came and showed to the king all the whole affair. Whereat he awhile studying, after as a man all ravished with gladness, holding his eyes and hands up towards heaven, abraided, saying, with a loud voice: 'O, merciful God, how much am I, above all other men, bound to your infinite goodness, specially for that you have giverf me a judge who feareth not to minister justice, and also a son, who can suffer semblably, and obey justice!'"

appointed his judges from the army. Some of his commanders were what were called

FIGHTING PRELATES.

The greatest fighter, the most successful knight, was made the chief justiciar, and the judge even at that early day was next in power to the king.

The same beastly brutality that distinguished some of the English monarchs as well distinguished some of the earlier English judges. Henry VIII found his counterpart in some of his judges; not only his counterpart, but his willing and subservient parasites—these latter the everlasting disgrace of the bench. It is natural to suppose that a man stepping from the gory field of Hastings into the inner chamber of the judicial temple carried with him his military idea of obedience. In war he had one most effectual way of enforcing it—to command was to be implicitly obeyed.

It was a hard thing for those old knights of war to lay aside the cumbersome load of mail and brazen armor and put on the lighter and more graceful habiliments of a judge. But in disencumbering the body of its savage accouterments he took care to hold on to all the harder qualities of his head; and the lightening of the body only left the heart more free to follow its savage instincts; so that we see through many ages the chief justiciars of England composed of men of most brutal instincts.

THE JUDICIARY AS AN AID TO GOVERNMENT.

It was one of the ideas of Mr. Jefferson that at times the judiciary would become subservient to the Government, and so aid the Government in crushing out the public liberty. There never was a more sagacious apprehension.

Although the rulings, as I have before said, so hedged and restricted the authority of the king as to make him in many respects a mere automaton, nevertheless when the king could draw his judges to his side of any question, whether of mercy or tyranny, he could always carry his point. For when the regal prerogative was propped and supported by the presence of the judicial sanction it was all-powerful; and many prominent examples appear in English history where the king needed and found a suppliant and unscrupulous judge to support him on some imminent occasion; and we see in many cases that, when a new appointment of a judge became necessary, the question of succession was, not who is most learned in the law and most upright in integrity, but—

WHO IS THE MOST LIKELY TO SUPPORT THE GOVERNMENT,

in some great pending or prospective question such as this—a certain nobleman must be tried for treason—now, where shall we find a judge who in this anticipated prosecution will stand most stolidly by the king? Such was the question on which often hung the selection of a judge to fill a vacancy; nay, it has often happened that an upright judge of unflinching integrity has been removed upon some plausible pretext, in order to make way for some truculent parasite. Some satirist has said in his advice to monarchs as to their choice in the selection of judges:

> Take Jeffreys—if you want a pliant tool;
> Take Murray, if you want the law to rule;
> Take Bacon, if you want the "itching palm;"
> Take Coke, if you prefer the healing balm.
> Take Holt, if you would teach how erring youth
> May come back to the beauteous ways of truth,
> After the manner of Prince Hal, of Wales—
> (When Harry robs, 'tis frolic that prevails)
> Holt greatly err'd: how nobly he retrieves!
> He steals one purse, but hangs a thousand thieves!

THE BRIGAND JUDGES OF ENGLAND.

These sketches are historical and are taken mainly from Campbell's Lives. When the Duke of Normandy claimed the crown of England and prepared to wrest it from the perjured Harold, Odo preached the crusade in the pulpit and zealously exerted himself in levying and training the troops.

ODO, THE FIGHTING PRELATE.

He was one of the first to jump ashore at Pevensey; and he continued to ply his double trade of a priest and a soldier. At daybreak of the ever-memorable 15th of October, 1066, he celebrated mass in the Norman camp, wearing a coat of mail under his rochet. He then mounted a gallant white charger, carried a marshal's baton in his hand, and drew up the cavalry with the command of which he was intrusted.

In the fight he performed prodigies of valor and he mainly contributed to the victory.

As a reward for his services Odo was appointed grand justiciar.

He oppressed and insulted the natives so far as to drive them into rebellion. The result was a general insurrection all over England; and William was obliged to return and to reconquer the kingdom.

Only one cause is reported as tried before him, which resulted in a verdict for the Crown.

When intrusted with a military command he thought it unnecessary to discriminate between guilt and innocence; he executed without investigation all natives who fell into his hands, and he ravaged the whole country.

Instead of attending to the duties of his station he made riches and power the principal objects of his pursuit.

Such is the character of the first justiciar of England. He was a man of unbounded ambition, both as to preferment in church and state. He sought to be king, and even had an aspiration (founded upon a superstitious dream) to be Pope of the Roman Church. To the natural qualities that made up in the rough the genuine old English baron of later day, she had as much culture as the educational facilities of the times afforded. He had considerable learning in civil, feudal, and canon law, with undaunted courage; and in gentler times and under different auspices might have been an ornament to the bench.

William De Warrenne and Richard De Benefacta were jointly appointed to the office of chief justiciar.

These two grand justiciars, during their joint administration, invented a new punishment to be inflicted on disturbers of the public peace. Having encountered and defeated a powerful band of insurgents at a place called Fagadun, they cut off the right foot of all they took alive including the ringleaders, the Earls of Norfolk and Hereford. It seems then to have been considered that in times of rebellion the judges were to exercise martial law, or to disregard all law, according to their own arbitrary will.

Ralph Flambard, the "devouring torch," held the great seal. He was distinguished alike for his revolting atrocities and his edifying penitence. His name is significant of his character.

RALPH BASSET,

during the king's absence in Normandy, convicted capitally and executed no fewer than fourscore and four thieves, and deprived six others of their eyes and their virility.

King Richard the First put up

THE OFFICE OF CHIEF-JUSTICIAR TO SALE,

and the highest bidder was Hugh Pusar, Bishop of Durham. His morals were depraved even beyond the common licentious standard prevailing there. He was guilty of rapine and extortion exceeding anything practiced by any of his predecessors.

DE WEYLAND

was esteemed a great lawyer, was zealous in detecting and punishing criminals. But unfortunately his salary—

Being only sixty marks a year, he seems without scruple to have resorted to very irregular courses for the purpose of increasing his riches. He was punished for bribery. Having walked barefoot and bareheaded with a crucifix in his hand to the seaside at Dover, he was put on board a ship and departed to foreign parts. He is said to have died in exile, and he left a name often quoted as a reproach to the bench till he was eclipsed by Jeffreys and Scroggs.

SIR WILLIAM THORPE,

chief-justice of the King's Bench in Edward the Third's time, having of five persons received five several bribes which in all amounted to £100, was for this alone adjudged to be hanged and his lands and goods forfeited.

POPHAM.

Lord Campbell says:

The career of our next hero is capable of being made amusing as well as instructive. Although at one time in the habit of taking purses on the highway, instead of expiating his offenses at Tyburn he lived to pass sentence of death upon highwaymen and to be a terror to evil-doers.

While yet a child he was stolen by a band of gypsies, and remained some months in their society. We have no account of his schooling before he was sent to Baliol College, Oxford. Here he was very studious and well behaved, and he laid in a good stock of classical learning and of dogmatic divinity. But when he removed to the Middle Temple, that he might qualify himself for the profession of law, he got into bad company and utterly neglected his judicial studies. He preferred theaters, gaming-houses, and other haunts of dissipation to "readings" and "moots."

It seems to stand on undoubted testimony that at this period of his life, besides being given to drinking and gaming, either to supply his profligate expenditure or to show his spirit, he frequently sallied forth at night from a hotel in Southwark with a band of desperate characters and that planting themselves in ambush on Shooter's Hill, or taking other positions favorable for attack or escape, they stopped travelers and took from them not only their money, but any valuable commodities which they carried with them, boasting that they were always civil and generous, and that to avoid serious consequences they went in such numbers as to render resistance impossible.

We must remember that this calling was not then by any means so discreditable as it became afterward. The traditions were still fresh of robberies having been committed on Gad's Hill under the sanction of a Prince of Wales. The extraordinary and almost incredible circumstance is that Popham is supposed to have continued in these courses after he had been called to the bar.

When Sir Thomas Bromley, who had been long solicitor-general, was promoted to be lord chancellor, Popham succeeded him as solicitor-general. He succeeded Sir Gilbert Gerrard as attorney-general.

Popham conducted the trials of all those charged as being implicated in Babbington's conspiracy, which were meant to prepare the public mind for the trial of the unhappy Mary herself. I will give a little specimen of these proceedings from Tinley's case. The charge against him was that he had planned the murder of Queen Elizabeth in her coach. The chief evidence consisted of a confession of Abbington, an avowed accomplice, in which he said that "Tinley was disposed to kill the queen," and that Babbington on his own trial said the day before; "Tinley would have had Her Majesty set upon in her coach."

"TINLEY. No! I said not so; only at the Three Tuns, in Newgate Market, I said 'it might be Her Majesty might be set upon in her coach,' and I said no more. But that proves not I did consent.

"POPHAM, A. G. You have said enough, if we had no other evidence against you.

"TINLEY. How so?

"POPHAM, A. G. Because you have confessed high treason; your words prove that you were devising on the manner of her death.

"TINLEY. I tell you there is no such matter intended in my words. If a servant which is faithful, knowing where his master's money is, do say, 'If I would be a thief I could rob my master, for in such a place as his money is,' this proves not that he would rob his master, albeit he used such words. And so, though I said 'she might be set upon in her coach, it proveth not that I assented to the same;' for I protest before God I never intended any treason in my life."

Upon the death of Sir Christopher Wray there was some hesitation about the nomination of his successor. Popham was an able man and had done good service as attorney-general; but there was an awkwardness, after the stories that were circulated about his early exploits, in placing him at the head of the administration of criminal justice; nevertheless the choice fell upon Popham who, on the 8th day of June, 1592, received his writ as chief-justice of England and was knighted by the queen at Greenwich.

He held the office fifteen years. The reproach urged against him was extreme severity to prisoners. He was notorious as a "hanging judge." Not only was he keen to convict in cases prosecuted by the government, but in ordinary larcenies, and above all in highway robberies there was little chance of acquittal before him.

Among the many important trials over which he presided, probably the one most prominently connected with the history of England and this country was that of Sir Walter Raleigh.

Guy Fawkes and his associates, implicated in the Gunpowder Plot, were tried before Popham.

GARNET'S CASE.

Popham's last appearance in a case of public interest was upon the trial of Garnet, the Superior of the Jesuits. Against him the evidence was very slender, and the chief-justice was obliged to eke it out by unwary answers to dexterously framed interrogatories. He succeeded so far as to make the prisoner confess that he was aware of the plot from communications made to him in the confessional; so that in point of law he was guilty of misprision of treason by not giving information of what he had so learned; but Garnet still firmly denied ever having taken any part in the devising of the plot or having in any manner encouraged it. At last he said very passionately:

"My lord, I would to God I had never known of the powder treason; but, as He is my judge, I would have stopped it if I could."

"POPHAM, C. J. Garnet, you are Superior of the Jesuits; and if you forbid, must not the rest obey? Was not Greenwell with you half an hour at Sir Everard Digby's house when you heard of the discovery of your treason? And did you not there confer and debate the matter together? Did you not stir him up to go to the rebels and encourage them? Yet you seek to color all this; but that is a mere shift in you. Catesby was never far from you, and, by many apparent proofs and evident presumptions, you were in every particular of this action, and directed and commanded the actors; nay, I think, verily, you were the chief that moved it.

"GARNET. No, my lord; I did not."

The report adds: "Then it was exceedingly well urged by my lord chief-justice, how he writ his letters for Winter, Fawkes, and Catesby, principal actors in this matchless treason, and how he kept the two bulls to prejudice the king, and to do other mischief in the realm; and how he afterwards burnt them when he saw the king peaceably come in, there being no hope to do any good at that time."

His summing up to the jury is not reported, and we are only told that the verdict of guilty being found, "then the lord chief-justice, making a pithy preamble of all the apparent proofs and presumptions of his guiltiness, gave judgment that he should be drawn, hanged, and quartered."

With all his heavy sins upon him he lived to a good old age. On the 1st of June, 1607, he expired in his seventy-second year. His virtues are not enumerated, but he was much commended in his own time for the number of thieves and robbers he convicted and executed. In his long career he had a keen eye to the goods of this life, for we are told that—

He left behind him the greatest estate that ever had been amassed by any lawyer.

LORD HOLT.

In connection with this story of Popham we should place that of Lord Holt. There are some characteristics so peculiar to each that they may be profitably considered together. They had both in their youth been public robbers, highwaymen; they both became great and famous lawyers; they both occupied the exalted position of chief-justice of the King's Bench, and they were both especially notorious in their judicial careers for the unrelenting severity with which they punished thieves and robbers, as if they were thus attempting to convince the world that they had never been guilty of the same crime, or, more charitably perhaps, as if they thus intended to atone for their own offenses. I shall not pause to give an extended account of Lord Holt's career. He comes down to us as one of the greatest, most learned, profound, and renowned of the English judges and one of the most upright in his memorable judicial career.

Lord Campbell, in his Lives, admits the historic truth of Holt's highway robberies:

His biographers represent him as copying Henry V, when the associate of Falstaff, as not only indulging in all sorts of licentious gratifications, but actually being in the habit of taking purses on the highway. They even relate that many years after he recognized a man, convicted capitally before him, as one of his own accomplices in a robbery, and that, having visited him in jail and inquired after the rest of the gang, he received this answer: "Ah, my lord, they are all hanged but myself and your lordship."—*Campbell's Lives.*

CHIEF-JUSTICE HEATH.

The grand scheme of ship-money which had been long in preparation was ready to be brought forward, when, to the astonishment of the world, Heath was removed from his office. It has been said that the government was afraid of his opinion of ship-money and wished to prefer Frenca, the most profligate of men, on whom they could entirely rely.

Afterward Heath was made chief-justice of England in order that he might attaint the slaughtered rebels. Thus it appears that it was his fate to be removed for one purpose and elevated for another.

CHIEF-JUSTICE FOSTER—RELIGIOUS PERSECUTION.

The arbitrary disposition of this chief-justice was strongly manifested soon after, when John Crook and several other very loyal Quakers were brought before him at the Old Bailey for refusing to take the oath of allegiance:

FOSTER, C. J. John Crook, when did you take the oath of allegiance?

CROOK. Answering this question in the negative is to accuse myself, which you ought not to put me upon, *nemo debet seipsum prodire.* I am an Englishman, and I ought not to be taken, nor imprisoned, nor called in question, nor put to answer but according to the law of the land.

FOSTER, C. J. You are here required to take the oath of allegiance, and when you have done that you shall be heard.

CROOK. You that are judges on the bench ought to be my counsel, not my accusers.

FOSTER, C. J. We are here to do justice, and are upon our oaths, and we are to tell you what is law, not you us. Therefore, sirrah, you are too bold.

CROOK. Sirrah is not a word becoming a judge. If I speak loud it is my zeal of the truth, and for the name of the Lord. Mine innocency makes me bold.

FOSTER, C. J. It is an evil zeal.

CROOK. No; I am bold in the name of the Lord God Almighty, the everlasting Jehovah, to assert the truth and stand as a witness for it. Let my accuser be brought forth.

FOSTER, C. J. Sirrah, you are to take the oath, and here we tender it to you.

CROOK. Let me be cleared of my imprisonment, and then I will answer to what is charged against me. I keep a conscience void of offense both toward God and toward man.

FOSTER, C. J. Sirrah, leave your canting.

CROOK. Is this canting to speak the words of the Scripture?

FOSTER, C. J. It is canting in your mouth, though they are Saint Paul's words. Your first denial to take the oath shall be recorded; and on a second denial you incur the penalties of a *præmunire*, which is the forfeiture of all your estates, if you have any, and imprisonment for life.

CROOK. I owe dutiful allegiance to the King of kings. We dare not break Christ's commandments, who hath said, "Swear not at all;" and the apostle James says, "Above all things, my brethren, swear not."

ROBERT HYDE.

A printer named John Troyn having printed a book entitled Phœnix; or, The Solemn League and Covenant, containing passages which were said to reflect upon the king, was arraigned before him at the Old Bailey on an indictment for high treason. The prisoner being asked how he would be tried, said: I desire to be tried in the presence of that God who is the searcher of all hearts and the disposer of all things.

"HYDE, L. C. J. God Almighty is present here, but you must be tried by Him and your peers; that is, your country, or twelve honest men.

"PRISONER. I desire to be tried by God alone.

"HYDE, L. C. J. God Almighty looks down and beholds what we do here, and we shall answer severely if we do you any wrong. We are careful of our souls as you can be of yours. You must answer in the words of the law.

"PRISONER. By God and my country."

It was proved clearly enough that he had printed the book, and some passages of it might have been considered libelous; but there was no other evidence against him, and he averred that he had unconsciously printed the book in the way of his trade.

"HYDE, L. C. J. There is here as much villainy and slander as it is possible for devils or man to invent. To rob the king of the love of his subjects is to destroy him in his person. You are here in the presence of Almighty God, as you desired; and the best you can now do towards amends for your wickedness is by discovering the author of this villainous book. If not, you must not expect, and, indeed, God forbid there should be, any mercy shown you.

"PRISONER. I never knew the author of it.

"HYDE, L. C. J. Then we must not trouble ourselves. You of the jury, there can be no doubt that publishing such a book as this is as high treason as can be committed, and my brothers will declare the same if you doubt."

The jury having found a verdict of guilty, the usual sentence was pronounced by Lord Chief-Justice Hyde, and the printer was drawn, hanged, and quartered accordingly.

HYDE'S REMARKABLE DEATH.

On the 1st day of May, 1631, as he was placing himself on the bench to try a dissenter who had published a book recommending the compromise that had been promised by the king's declaration from Breda, while apparently in the enjoyment of perfect health, he dropped down dead.

CHIEF-JUSTICE KELYNGE.

He made up by loyal zeal and subserviency for his want of learning and sound sense.

The new chief-justice even exceeded public expectations by the violent, fantastical, and ludicrous manner in which he comported himself. His vicious and foolish propensities broke out without any restraint, and at a time when there was little disposition to question any who were clothed with authority, he drew upon himself the contempt of the public and the censure of Parliament. He was unspeakably proud of the collar he wore as chief-justice; this alone distinguished him externally from the puisnies, a class on whom he now looked down very haughtily. In his own report of the resolutions of the judges prior to the trial of Lord Morley for murder before the House of Lords, he considers the following as most important:

"We did all *una voce* resolve that we were to attend at the trial in our scarlet robes and the chief judges in their collars of S. S., which I did accordingly."

When Chief-Justice Kelynge was upon the circuit, being without any check or restraint, he threw aside all regard to moderation and to decency. He compelled the grand jury of Somersetshire to find a true bill contrary to their consciences, reproaching Sir Hugh Windham, the foreman, as the head of a faction, and telling them that they were all his servants, and that he would make the best in England stoop.

Some persons were indicted before him for attending a conventicle, and although it was proved that they had assembled on the Lord's Day with Bibles in their hands, without prayer-books, they were acquitted. He thereupon fined the jury one hundred marks apiece and imprisoned them until the fines were paid. Again, on the trial of a man for murder, who was suspected of being a Dissenter and whom he had a great desire to hang, he fined and imprisoned all the jury because, contrary to his direction, they brought a verdict of manslaughter.

CHIEF-JUSTICE SCROGGS

was the son of a butcher, and it is said that he was cruel as a judge because he had been himself accustomed to kill calves and lambs when he was a boy.

He contrived to be called to the bar, and some of his pot-companions being attorneys, they occasionally employed him in causes likely to be won by a loud voice and an unscrupulous appeal to the prejudices of the jury.

He was, says Robert North, a great voluptuary, his debaucheries egregious, and his life loose.

He kept company with King Guy and the high-court rakes, and his clients could not depend upon him.

He was knighted and sworn in a justice of the court of common pleas.

In addressing grand juries on the circuit he was loud and eloquent against the proceedings of the country party.

WHY RAYNSFORD WAS REMOVED.

The immediate cause of Raynsford's removal was the desire of the government to have a chief-justice of the King's Bench on whose vigor

and subserviency reliance could be placed to counteract the apprehended machinations of Shaftesbury.

The first of popish plot judicial murders, which are more disgraceful to England than the massacre of Saint Bartholomew is to France, was that of Stayly, the Roman Catholic banker. Being tried at the bar of the court of King's Bench, Scroggs, according to the old fashion, which had gone out during the commonwealth, repeatedly put questions to the prisoner, attempting to intimidate him, or to involve him in contradictions or to elicit from him some indiscreet admission of facts. A witness having stated that "he had often heard the prisoner say he would lose his blood for the king, and speak as loyally as man could speak," Scroggs exclaimed, "That is, when he spoke to a Protestant." In summing up, having run himself out of breath by the violence with which he declaimed against the Pope and the Jesuits, he thus apologized to the jury:

"Excuse me, gentlemen, if I am a little warm when perils are so many, murders so secret that we can not discover the murderer of the gentleman whom we all know so well. When things are transacted so closely and our king is in great danger and religion is at stake I may be excused for being a little warm. You may think it, gentlemen, to be warmer here than in Smithfield. Discharge your consciences as you ought to do. If guilty, let the prisoner take the reward of his crime, for perchance it may be a terror to the rest. I hope that I shall never go to that Heaven where men are made saints for killing kings."

HOW SCROGGS TRIED A PRIEST.

Andrew Bromwich, being tried before him capitally for having administered the Lord's Supper according to the rites of the Church of Rome, thus the dialogue between them proceeded:

PRISONER. I desire your lordship will take notice of one thing, that I have taken the oath of allegiance and supremacy and have not refused anything which might testify my loyalty.

SCROGGS, C. J. That will not serve your term; you priests have many tricks. What is that to giving a woman a sacrament several times?

PRISONER. My lord, it was not a sacrament unless I be a priest, of which there is no proof.

SCROGGS. What, you expect we should prove you a priest by witnesses who saw you ordained? We know too much of your religion; no one gives the sacrament in a wafer except he be a popish priest; you gave that woman the sacrament in a wafer; ergo, you are a popish priest.

Thus he summed up:

Gentlemen of the jury, I leave it upon your conscience whether you will let priests escape, who are the very pests of church and state; you had better be rid of one priest than three felons; so, gentlemen, I leave it to you.

SCROGGS IS IMPEACHED.

A committee was appointed which presented a report recommending that he should be impeached.

The report was adopted by a large majority, and articles of impeachment were voted against him. These were eight in number. The last was in these words:

Whereas the said Sir William Scroggs, being advanced to be chief-justice of the Court of King's Bench, ought by a sober, grave, virtuous conversation to have given a good example to the king's liege people, and to demean himself answerable to the dignity of so eminent a station; yet on the contrary thereof, he doeth by his frequent and notorious excesses and debaucheries, and his profane and atheistical discourses, daily affront Almighty God, dishonor his majesty, give countenance and encouragement to all manner of vice and wickedness, and bring the highest scandal on the public justice of the kingdom.

He was then called in and ordered to find his bail in £10,000 to answer the articles of impeachment, and to prepare for his trial. Luckily for him, at three days the parliament was abruptly dissolved.

Scroggs may be considered as having been of some use to his country, by making the character of a wicked judge so frightfully repulsive that he may have deterred many from giving away to his propensities.

SIR ROBERT WRIGHT,

if exceeded by some of his predecessors in bold crimes, yields to none in ignorance of his profession, and beats them all in the fraudulent and sordid vices.

HOW JEFFREYS MADE A JUDGE OUT OF A CRIMINAL.

Wright had been introduced into the circle of parasites and buffoons who surrounded Jeffreys, at this time chief-justice of the King's Bench, and used to make sport of him and his companions in their drunken orgies by taking off other judges, as well as the most eminent counsel.

One day, being asked why he seemed to be melancholy, he took the opportunity of laying open his destitute condition to his patron, who said to him, "As you seem to be unfit for the bar or any other honest calling I see nothing for it but that you should become a judge yourself." Wright naturally supposed that this was a piece of wicked pleasantry, and when Jeffreys had declared that he was never more serious in his life, asked how it could be brought about, for he not only felt himself incompetent for such an office, but he had no interest, and still more, it so happened, unfortunately, that the Lord Keeper Guilford, who made the judges, was fully aware of the unaccountable lapse of memory into which he had fallen when he swore the affidavit for Sir Walter Plummer that his estate was free from incumbrances, the lord keeper himself being the first mortgagee.

Jeffreys, C. J.: Never despair, my boy; leave all that to me.

Jeffreys, who was then much cherished at court and was impatient to supersede Guilford entirely, had urgently pressed the king that Wright might be elevated to the bench as a devoted friend of the prerogative and that, as the lord keeper had a prejudice against him, his majesty ought to take the appointment into his own hands.

The next time that the lord keeper was in the royal presence, the king, opening the subject on his own accord, observed, "Good, my lord, why may not Wright be a judge? He is strongly recommended to me, but I would have a due respect paid to you and I would not make him without your concurrence. Is it impossible, my lord?"

LORD KEEPER. Sir, the making of a judge is your majesty's choice, and not my pleasure. I am bound to put the seal as I am commanded, whatever the person may be. It is for your majesty to determine and me, your servant, to obey. But I must do my duty by informing your majesty of the truth respecting this man whom I personally know to be a dunce, and no lawyer; who is not worth a groat, having spent his estate by debauched living; who is without honesty, having been guilty of willful perjury to gain the borrowing of a sum of money. And now, sir, I have done my duty to your majesty and am ready to obey your majesty's commands in case if it be your pleasure that this man be a judge.

The king thanked the lord keeper without saying more, but next day came a warrant under the sign manual for creating the king's "trusty and well-beloved Robert Wright" a baron of his exchequer, and orders were given for making out the patent in due form.

And the detected swindler, knighted and clothed in ermine, took his place among the twelve judges of England.

HIS DISGRACE AND DEATH.

When William of Orange landed at Torbay Wright still filled the office of chief-justice of the King's Bench. He continued to sit daily in court till the flight of King James, when an interregnum ensued, during which all judicial business was suspended, although the public tranquillity was preserved and the settlement of the nation was conducted by a provisional government. After Jeffreys had tried to escape disguised as a sailor, and was nearly torn to pieces by the mob, Wright concealed himself in the house of a friend, and being less formidable and less obnoxious (for he was called the jackall to the lion) he remained some time unmolested, but upon information, probably ill-founded, that he was conspiring with Papists who wished to bring back the king, a warrant was granted against him by the Privy Council on the vague charge of "endeavoring to subvert the government." Under this he was apprehended and carried to the Tower of London; but after he had been examined there by the committee of the House of Commons it was thought this custody was too honorable for him. He was transferred to Newgate.

When he died his body was thrown into a pit with common malefactors; his sufferings when related excited no compassion; and his name was execrated as long as it was recollected.

Mr. Speaker, this is a

FRIGHTFUL ARRAY OF JUDICIAL MONSTERS,

but the facts are historical and the numbers might be duplicated.

These odious names have been well-nigh forgotten, having been lost in a great eclipse which obscured their bloody disks when Jeffreys rose supreme. Up to that day, when one desired a name to personify the most depraved of judges, he would say "Scroggs." The very sound of the word was significant of some impending horror. Yet, when we consider the improved civilization of the present day and consequently the less excuse for such atrocities, we are pained to admit that, compared with the changed condition caused by the advancement of knowledge, some of the rulings, decisions, and orders of

FEDERAL JUDGES DURING THE LAST TWENTY YEARS

have been more unwarranted, tyrannical, cruel, and unjust than those to which I have made allusion.

A brief review of the leading traits of these infamous English judges will show—

1. They were appointed with a full knowledge on the part of the government of their publicly known records; and the more vicious the man the more trusted the judge.

2. They were selected with a view to carry out some scheme of government to meet the exigencies of some anticipated or projected prosecution.

3. They were appointed on account of the entire absence of personal integrity, simply because they could and would be subservient to the appointing powers.

4. That learning in the law was of minor consideration, and when coupled with personal integrity was a bar to promotion.

5. That the intrigues of such a man as Jeffreys, forecasting his own fortunes, could circumvent the keeper of the great seal and hoodwink the king.

6. That a government itself corrupt is driven to the use of corrupt officials.

7. That a government judge is a tyrant to the people.

8. That a judge selected by a dominant party being a partisan will carry out the views of the party to which he owes his place.

9. That the party will protect him until the people, disgusted, clamor for his removal.

10. That the end of official corruption is riches in goods, and curses in the hearts of a betrayed people.

Another thing appears, gratifying to the reflection, that the gowned tryant of to-day may die in dungeons or ditches to-morrow; and that the wines that bribe the easy conscience serve as well to swell and bloat the despicable body of the oppressor.

But there is

ANOTHER SIDE TO THIS GLOOMY PICTURE.

In those dark records the great British nation finds its shame. In those dark records humanity finds abundant cause to lament over her frailties too glaringly displayed. But intermingled with these beastly portraits of the lowering brows of a long line of judicial monsters there appear from time to time and from age to age on the walls of the British pantheon the features of men of the human face divine which reveal all that is grand and noble in our nature.

In Glanville, in Bracton, in Dyer, in Bradshaw, in Coke, in Mansfield, and in a host of other distinguished English judges, Great Britain finds ample consolation and abounding glory growing out of her judicial history.

To these great minds she is indebted for the fundamental principles of her constitutional freedom; and from these great men have sprung

the prevailing tendencies of the human mind to keep up steadily its onward march toward the consummation of the

GRAND IDEA OF HUMAN LIBERTY

in its perfection; and to the honor of the English people be it said that she has employed her best energies for the last two centuries in wiping from the walls of her historic temples the hideous portraits of the monsters to which I have referred, and in their places substituting nobler pictures that disclose the diviner lineaments of justice and Christian civilization.

The bill now under discussion does not propose to make any change in the law governing the appointment of judges. But my observations are intended to bring the appointing power up to the consideration of the caution, the deliberation, with which every judge should be selected.

IT IS A LIFE OFFICE,

and virtue, integrity, honesty of purpose, and learning should all enter into the qualifications of a judge. If he be deficient in any of these, he is not fit for the place. No learning can supply the absence of integrity, and no integrity can fill up the gaps of learning.

If wrong prevail, say, what's the odds to me
Whether a knave or fool despoil my fee?

If I lose my estate, it is of no consequence to me or my children whether it was lost by the lack of learning or a misapplication of the rules of law or the knavery of a corrupt judgment, and the fraud-made prince may revel in the halls of the prince-made beggar.

Let an honest and enlightened President, when he comes to appoint a judge, recall the scene which I have depicted, in which the profligate Jeffreys is represented as circumventing an honest chancellor and in deceiving a confiding king, and so to secure the appointment of a recognized scoundrel. Let him refresh his mind now and then by a recurrence to the history of the

BRIGAND JUDGES OF ENGLAND,

and so see the dangers and villanies that surround the most conscientious princes. Let him thus keep his mind familiar with the practices of knaves and court retainers, who plot to control the king, and so rule the state by deep-laid schemes of corruption. Let him see to it that no man goes upon the bench or into any place of power who does not possess

ALL THE REQUISITE QUALITIES

for his place. The ruler that will do this in any country under any form of government will enjoy the confidence of his people.

I will now, Mr. Speaker, say a word regarding the tyrannies and oppressions suffered by the people of Alabama from the Federal courts, confirmed by facts which have come under my observation. I will not dwell upon the administration of

JUDGE RICHARD BUSTEED.

His boasting of having discharged a jury and entered a verdict of guilty to which they did not give their assent is one of the least of his crimes.

I will briefly, however, allude to a few of his proceedings. It will be remembered that President Johnson required all citizens of the Southern States whose property exceeded $20,000 to apply for pardon. Busteed and his district attorney, Smith (formerly a contestant for a seat in this House), caused indictments for treason to be presented against hundreds of the best citizens of Alabama, all of whom had been pardoned, and in each and every case the parties were informed that a nolle pros or a verdict for the defendant would be entered upon payment of the cost bill, which varied in the several cases from one to three hundred dollars. In this way hundreds of thousands of dollars went into the pockets of the court officials, as none of the gentlemen could afford the greater expense and the inevitable vexation which a trial would be certain to cause them to incur. But as Busteed's conduct has been the subject of investigation by Congress, which resulted in our being relieved from his tyranny, I will refer the House to the published evidence which shows a few of the offenses he committed, and I will pass on to tell you something of his successor,

HON. JOHN BRUCE,

at present the judge of the district court, in which my duty has required me to appear in defense of the citizens of my section of the country.

I do not wish to say and will not say one word reflecting upon the character of Judge Bruce outside of his judicial conduct. He is a genial, pleasant gentleman, and, apart from his judicial actions, is a good and exemplary citizen; but notwithstanding this I shall be able to show that in judicial effrontery the worst and most ignorant of English judges never exceeded Judge Bruce.

My information is that he came to this country from Great Britain, studied law in Iowa, served in the Army, and then settled in Wilcox County, Alabama, where, until his appointment as a Federal judge in 1875, he

DEVOTED HIMSELF TO POLITICS AND COTTON PLANTING.

Having taken his seat on the bench without even having been a practicing lawyer, we were all disposed to excuse his want of information regarding the subjects treated of by Littleton, Coke, Blackstone, and Judge Story. This deficiency, time and application we hoped would in some measure correct; but the gentleman seemed so imbued with the idea that the purpose of

HIS APPOINTMENT WAS TO MANIPULATE REPUBLICAN

and Greenback politics that he had but little time to devote to the ungenial task of reading books.

His decisions and rulings by which he cast into prison three judges who presided over our State courts, because they failed to violate their oaths as judges and make decrees which were not authorized by law, are now matters which are of record in the Supreme Court of the United States.

The prompt rebuke given him by the unanimous bench was commented upon by the bench and bar.

The Chicago American Law Journal likewise rebukes Judge Bruce in the following conclusion of its comments on the case:

In ordering the arrest and punishment of the commissioners for not doing what the law did not require them to do, the United States circuit court exceeded its jurisdiction, and its order was void. It is difficult to conceive how the court below could have erred so egregiously as it is seen to have done from the most cursory inspection of the proceedings above set forth; the excess of jurisdiction seems plain and palpable, and it resulted not only in great hardship to the petitioners (Rowland, Shultze, and Germany), but also in detriment to the public, the courts of probate and county commissioners (which were necessarily suspended during the incarceration of the petitioners) being the two most important courts under the system of laws in force in Alabama.

From the opinion of the Supreme Court and the opinion of the Law Journal, the public can form a judgment of Judge Bruce's legal capacity and soundness of judgment.

This decision leaves him and his apologists to choose one of the two horns of the dilemma. Either he was ignorant of his duty, or else he hoped the people of Alabama would subscribe and pay the amount of his illegal decree, rather than see the health and life of their State judges jeopardized by incarceration in damp jails, while awaiting the action of the Supreme Court of our country.

In support of this view I will state that this course was strongly urged by many of the best and wisest people of our State, and no doubt would have been adopted but for the fear that it would only have invited a repetition of a similar atrocity. Not having time to go into the matter *in extenso*, I will now inform the House of the modes adopted by

JUDGE BRUCE

to protect his own official and political friends in the worst violation of the State laws of Alabama, and in treating of this matter my statements will be based upon my personal knowledge and supported by copies of the records of the cases to which I refer, certified to be correct by A. W. McCullough, esq., the clerk of the Federal court, who is also the chairman of the Republican executive committee of the district.

The record shows that Deputy-Marshal James H. Bone and Leroy M. Peevey shot and killed a citizen by the name of James Treece, and that both were regularly and legally indicted by our State courts for murder in the first degree. The record also shows that Judge Bruce issued a decree ordering them to be brought before him, which he had executed by his marshal, both of the indicted men being thus taken from the State authorities, and when they entered the Federal court, the case having been previously entered on its docket, the Federal judge, namely,

HON. JOHN BRUCE,

entered a verdict of

NOT GUILTY.

The order by which the defendants were taken from the State courts was in these words:

The President of the United States of America to the marshal of the northern district of Alabama, greeting:

You are hereby commanded to take the bodies of James H. Bone, Theodore A. Thurston, George M. Ware, Jonathan Latham, and Leroy M. Peevey into your custody, alleged to be detained by Robert E. Murphy, sheriff and jailer of Madison County, in the State of Alabama, by whatsoever name they may be charged with, the cause of their detention, and a certified record of the proceedings which caused such detention before the honorable judge of the United States circuit court at the city of Huntsville, in the northern district of Alabama, forthwith to be dealt with in said circuit court according to law and the order of said circuit court.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this the first Monday of April, A. D. 1876.

A. W. McCULLOUGH,
Clerk U. S. Cir. Court, Nor. Dist., Ala.

Issued this the 20th day of May, A. D. 1876.

The indorsement of the United States marshal, showing how he executed the order, is in these words:

Executed by reading the within writ and delivering a copy to Robert E. Murphy, sheriff of Madison County, Alabama, and by taking the bodies of James H. Bone, Theodore A. Thurston, George M. Ware and Leroy M. Peevey, and Jonathan Latham into my custody.

R. P. BAKER, *U. S. M.*

MAY 20, 1876.

Executed May 26, 1876, by serving a copy of notice and petition on the clerk of Saint Clair County at Ashville.

R. P. BAKER, *U. S. M.*

The verdict entered on the records of the court is in these words:

Be it remembered that on the 1st day of November, 1876, it being a day of the regular term of the circuit court of the United States for the northern district of Alabama, the following proceedings were had and entered of record on the minutes of the said circuit court, to wit:

The State of Alabama vs. Leroy M. Peevy, Jonathan Latham, James H. Bone, Theodore A. Thurston, George M. Ware.—Murder.

This cause being called for trial came the defendants, Leroy M. Peevy, Jonathan Latham, James H. Bone, George M. Ware, and Theodore A. Thurston, and

defendants Thomas Moody and McClain come not, and it appearing to the court that the said Thomas Moody and McClain have not been arrested and do not appear, it is therefore ordered by the court that defendants Thomas Moody and McClain be severed from the said Leroy M. Peevy, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware, and that the trial of said cause as to said Leroy M. Peevy, Jonathan Latham, and James H. Bone, George M. Ware, and Theodore A. Thurston do now proceed: and thereupon comes a jury of good and lawful men, to wit, Joel T. Parish and eleven others, who were duly elected, empaneled, and sworn according to the statute, and truly to try said cause and true deliverance to make between the State of Alabama and Leroy M. Peevy, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware, the defendants at the bar, and a true verdict to render according to the evidence; and thereupon the said Leroy M. Peevy, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware, being duly charged and arraigned on the indictment in this case, each in his own proper person plead "not guilty;" and thereupon the trial of said cause proceeding, and the jury being duly charged by the court to find their verdict as follows, to wit: We, the jury, find the defendants Leroy M. Peevy, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware not guilty; Joel T. Parish, foreman. And thereupon it is ordered by the court that Leroy M. Peevy, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware go hence without day.

A true copy.

A. W. McCULLOUGH, *Clerk.*

Now, Mr. Speaker, I was present and witnessed the proceedings in a part of these cases, and I assert that the record I have read is not a true statement of what occurred.

The trial did not proceed.

There was no trial.

There was no jury.

There was no charge or indictment read.

There was no arraignment.

There were very few persons in the court-room when the farce was enacted.

I also, Mr. Speaker, will publish in the RECORD the proceedings in the case of a colored woman named

LUCY GILCHRIST.

I am familiar with the facts of the case. The defendant went to a bed in which another colored woman was lying, and possibly sleeping, and with an ax chopped her so as to cause her death. I will print a certified record of her case, which shows that she was indicted for murder in the first degree by the circuit court of Lawrence County, Alabama. She applied to have her case removed to that haven of securest rest for Republicans, the portals of the court of Judge Bruce. There being no warrant of law for such proceedings, of course the State judge refused to grant the application. But where law was lacking, with the example of Jeffreys and other English judicial tyrants before him, Federal force and power was ready at hand to take its place. A decree is prepared, a marshal sent to Lawrence County, who immediately returned with the defendant.

The order of the court and indorsement on the same is in these words:

In the circuit court of the United States for the northern district of Alabama.

The President of the United States of America to the marshal of said northern district of Alabama, greeting:

You are hereby commanded that you take the body of Lucy Gilchrist into your custody, alleged to be detained by William T. Cauch, sheriff and jailer of Lawrence County, in the State of Alabama, whatsoever name she may be charged, with the cause of her detention before the honorable B. Woods, judge of the United States circuit court, at the city of Huntsville, in the northern district of Alabama, forthwith to be dealt with in said circuit court according to law and the order of said circuit court.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this second Monday of October, A. D. 1876.

Teste:

A. W. McCULLOUGH,
Clerk U. S. Circuit Court, Northern District of Alabama.

Issued April 14, 1877.
Received April 14, 1877.

R. P. BAKER, *U. S. Marshal.*

Executed April 16, 1877, by taking the body of Lucy Gilchrist into my possession as herein commanded and now have her in my custody.

R. P. BAKER, *U. S. M.*,
By D. N. COOPER, *Deputy.*

I was at my State court in Lawrence County and saw the United States official come after the woman. I was called to the Federal court at Huntsville the next day, and was present when Lucy Gilchrist came into the court. I saw the farce enacted. The court seemed to be about to adjourn. There were but few persons present, and a

FALSE VERDICT OF ACQUITTAL WAS ENTERED.

It is in these words:

The United States of America, northern district of Alabama.

Be it remembered, that heretofore, to wit, on the 21st day of April, A. D. 1877, it being a day of a regular term of the circuit court of the United States for the northern district of Alabama, begun and held at the United States court-rooms in the city of Huntsville, in the said district, on the first Monday of April, A. D. 1877, and of the independence of the United States of America the one hundred and second year, present the Hon. John Bruce, judge of district court presiding, the following proceedings were had and entered of record on the minutes of said circuit court, to wit:

The State of Alabama *vs.* Lucy Gilchrist. 1097.

Comes the defendant in her own proper person and by counsel, and no prosecutor appearing for the State of Alabama, and it appearing that due notice had been given, come a jury of good and lawful men, to wit, C. C. Swoop, and eleven others who are duly elected, empanneled, and sworn, who return their verdict: "We, the jury, find the defendant not guilty."

It is therefore considered by the court that said defendant, Lucy Gilchrist, go hence without day.

These recitals may be tedious but I have only one more to which I will allude, and then I will recur to a new feature in the action of this tribunal.

WILLIAM RICHARDSON

was a colored brakeman on the Memphis and Charleston Railroad. Shooting from the train with a pistol he inflicted a severe wound in the head of a citizen named Schuyler Parshall, for which he was indicted in the State court. To be brief, William availed himself of his color, and therefore supposed politics, and had his case removed to the Federal court; and, as a matter of course, Judge Bruce immediately proves his innocence, and he was promptly set at liberty upon the face of the papers. The course pursued in this case was consistent with his former actions.

The defendant was a colored man and the presumption followed that he was an unquestioned Republican. The man he attempted to murder, it might be assumed, was a Southern man and a Democrat. In some people's eyes there might be great propriety in the shooting of a Southern white Democrat by a colored Republican. I do not mean to say that Judge Bruce entertained such views, but I do say he entered a verdict of

NOT GUILTY

for William Richardson. And now, Mr. Speaker, you will observe that when judges go too fast they sometimes make mistakes, and unfortunately for Judge Bruce he appears to have traveled a little too fast in this case.

I append a certified copy of the record of his court, which explains the error that he admits was in this case committed. It will be seen that Mr. Parshall, hearing of the acquittal of his assailant and, as he felt, would-be murderer, ventured to remonstrate. He hastened before the judge and made an affidavit, which I will print with the balance of the record in this case. The defendant, William Richardson, had been acquitted and discharged and had gone; but what did that matter with a judge who in the place of law and right had learned to substitute expedients and Federal force? Although William was in another State Judge Bruce entered a decree which I will read:

And afterward, to wit, on the 29th day of April, 1876, the following proceeding was had and entered on the minutes of said circuit court, to wit:

The State of Alabama *vs.* William Richardson.

In this cause a motion having been entered on the motion docket of this court on the 14th day of April, 1876, to set aside the action of the court in this cause on the 11th day of April, 1876, as shown by the entry thereof, and reinstated said cause on the trial docket of said court, and it appearing to the satisfaction of the court that notice of said motion was served on the day said motion was filed on one of the attorneys who represented said defendant on this cause, and the said motion being read to the court, and on argument of counsel, it is therefore considered by the court that said entry of jury and verdict made in this cause having been made in the absence of any attorney having authority to represent the State of Alabama, and the same was made without the empanneling of any jury for the trial of said William Richardson, without the arraignment of said William Richardson, and without the reading of the indictment or any paper in said cause, and without the introduction of any evidence either for the State of Alabama or for the defendant; and it further appearing that the attorney for the State of Alabama, who had represented the State in the commencement of said prosecution and while pending in the circuit court of Lawrence County, departed this life on the 14th day of March, 1876, and the court being satisfied that the said entry of jury and verdict was unadvised and without a knowledge of the facts of the case, as shown by said motion and the affidavit accompanying and verifying the same, it is therefore ordered, adjudged, and decreed that the said act of jury and verdict heretofore entered in this cause be, and the same is hereby, annulled, set aside, revoked, and held for naught; and that the said cause be, and the same is hereby, reinstated on the trial docket of this court as though the said entry of jury and verdict had never been made.

Now, one thing is certain. If Jeffreys, or the elder Chase, or Busteed, had ever made a decree like the one I have read, they would have had legal knowledge enough to deter them from having it spread on the records; but I challenge the entire judicial system of Europe or America to produce a more remarkable record.

But our judge does not stop here. Mr. Parshall wanted William where he could give the law to him good and heavy, and he therefore, having appointed himself guardian *ad litem* for the State of Alabama, applied for and procured an order remanding the case back to the State court.

I will read the order of the Federal court by which the case was remanded to the circuit court of Lawrence County:

Remanded.

On the 19th day of October, 1880, the following order was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Came the parties by their attorneys, and on motion of plaintiff's counsel, and for good cause shown, it is ordered by the court that this cause be remanded to the State court.

I was attending the State court engaged in some railroad litigation, when the defendant, who had been rearrested, arrived in company with the remarkable record, and as William was a railroader, it made us for the time brother professionals, and actuated by the feelings which pervade fellow-tradesmen, I, in compliance with his request, assisted in his defense. Of course we entered a plea of *autrefois acquit*, and the judge, seeing no other exit from the tangled web of error which the record disclosed, sustained the plea, and William was again set at liberty.

In reply to inquiries as to what influenced Judge Bruce in setting aside the solemn verdict of acquittal, rendered, as the record said, by a

jury, and his further action in remanding William to the tender mercies of a State court, I can only reply that I have never heard Judge Bruce explain the matter, and therefore I do not know. But there is no impropriety in my stating that some people have been so unkind as to intimate that he was in a measure influenced by certain facts which were finally developed. It appeared that

WILLIAM'S ADHERENCE TO THE REPUBLICAN PARTY

was by no means established, and it was broadly charged that the culture of railroad travel had caused him to become largely imbued with the principles of government which were so ably advocated by Thomas Jefferson and Andrew Jackson, while at the same time it was proved that Parshall, so far from ever having been a Southern rebel, was raised in the bosom of free-soil politics in Central New York, had adhered to, and served the cause of the Union during its trials from 1861 to 1865, and since that time had come to Alabama, where for a long time he was a supporter of the same party of which the judge is so prominent a member.

I wish to be distinctly understood that I do not indorse the views of others on this subject, but simply state the rumors to show how some people will draw extensive inferences from a very small investment of fact.

The judge says in his decree that the verdict of acquittal was rendered without a knowledge of the facts, &c.

Of what facts was he ignorant? The papers showed that William had shot Parshall. The judge with his own eyes saw William's ebony face; it is true the papers did not disclose the politics and antecedents of the parties. What other facts existed which influenced him?

I have now, Mr. Speaker, shown the tender care taken by Judge Bruce of the lambs of his flock, and how with judicial discrimination he expelled William from his fold when he discovered that Billy was not a Republican lamb, but rather a Democratic goat.

I will now proceed to show how he endeavored to neutralize his errors by exercising his judicial force upon men who belonged to the party whose representatives sit upon your right in the Hall of Congress.

At the election held in the fourth district in 1878 some colored brethren flew the track and committed the crime of casting their votes for General Charles M. Shelley, and the Republican candidate was defeated.

VENGEANCE WAS DEMANDED,

and Judge Bruce's court was selected as the avenging instrument. Upward of a hundred Democratic inspectors were indicted and dragged before his court at Montgomery.

The inspectors of election at a box in Lawrence County were also arrested and indicted, all of which was caused by some colored men exercising the right given them to vote under the mistaken idea which in some way had been impressed on them, that the right to vote also carried with it the right to exercise their wishes and judgment in the matter. I was counsel in many of the cases, and to be brief regarding this subject, I will state that none of these inspectors were convicted, and that demurrers were sustained to many of the indictments on the ground that a board of inspectors under the laws of Alabama consists of three members, and

THE INDICTMENTS ONLY INCLUDED THE TWO WHO WERE DEMOCRATS,

describing them as the board of inspectors. Judge Bruce, in these cases, seemed to be controlled by the decision of Mr. Justice Miller, of the Supreme Court, in Peay *vs.* Schenck and Bliss (1st Woolw. Cin. Ct. Rep., pp. 176, 187).

In 1880 the election for the Forty-seventh Congress was held, in which the most determined efforts were made by the Republicans aided by the Greenback party to elect Colonel William M. Lowe. The main concentration of all the force of the opposition in Alabama centered in this district, and when the result was announced showing the defeat of Colonel Lowe, plans of vengeance were immediately inaugurated and this willing and powerful engine of oppression was called into requisition. The election was held on November 2, 1880, and the court did not meet until April, 1881.

In the mean time a contest for the seat had been begun and means were adopted to

AID THE CONTESTANT

with all the force, power, and terror of the Federal court.

During the five months which intervened between the election and the meeting of the court all the evidence in the contested election case had been taken. Most of that for the contestant was taken and written out in the office of the clerk and deputy clerk of the United States circuit and district courts. The clerk, Mr. A. W. McCullough, was the chairman of the Republican district committee. The assistant district attorney was chairman of the Greenback district executive committee. The United States marshal was an active supporter of the contestant. Most of his evidence was

WRITTEN BY THE DEPUTY CLERK OF THE FEDERAL COURT,

and the assistant district attorney was one of the contestant's lawyers and assisted in the work of taking the evidence, and the clerk and marshal and some of his deputies were often present, while the witnesses were giving their testimony. Another lawyer of the contestant who was afterward employed by the Government to prosecute the indictments to which I am about to refer, was also active in taking evidence. Still another lawyer in the case was president of the Huntsville Advocate Company, which published a paper mostly owned and controlled by the Federal officials connected with the court. Much of the evidence was published in this paper, and the evidence was kept open for many weeks in the office of the clerk of the court, and all these officials seemed to have unrestricted access to it. This shows that the Federal court officials knew what it contained.

I will now endeavor to show that the court did not make any effort to do justice, but confined the exercise of its powers to the

PERSECUTION OF INNOCENT PARTIES

for the purpose of obtaining political advantage. I will here call attention to the evidence on pages 1 to 12 of my brief in the election case, which shows that the Democratic party acted with perfect fairness in the election. The conclusion arrived at by said evidence is collated in these words:

The proof shows that the election was conducted with perfect fairness so far as the contestee (Wheeler) and his party friends were concerned.

We insist that there never has been in the history of contested elections so determined, energetic, and powerful an effort to prove fraud as the effort in this case, on the part of Colonel Lowe and his party friends.

If the slightest fraud or unfairness of any kind had been done by Wheeler or his friends, it would have been unearthed.

Colonel Lowe had the service of eighteen lawyers (many of them eminent), including three persons who acted as lawyers.

His notices to Wheeler that he would take evidence of witnesses were showered upon him, all of them containing lists of names of witnesses numbering about a thousand.

With all these herculean and unprecedented efforts on the part of Colonel Lowe and his friends, we insist that he failed to prove one single fraudulent or unfair act on the part of any of contestee's friends; nor did he prove a single act of violence; nor did he prove a single illegal act by which a single legal vote was lost to William M. Lowe, and he was unable to prove that any one of the 12,800 votes which were counted for Wheeler lacked the slightest element of perfect legality.

The unanimous report of all the Democrats of the Committee on Elections, which report is now a record of the Forty-seventh Congress, refers to this question in these words:

The evidence shows that the election was conducted with perfect fairness on the part of Wheeler and his supporters. Indeed, there is no pretense that there was unfairness anywhere except at Meridianville and Lanier's precinct, and the most extraordinary efforts on the part of Mr. Lowe and his attorneys utterly fail to prove any fraud or unfairness at these boxes.

As the questions involved in the prosecution, or rather persecution to which I am about to refer, all entered into the contest and have been carefully considered by Congress, I can not explain the matter better than by reading from the report on said case signed by all the Democrats belonging to the committee and indorsed by all the Democrats in Congress:

1. The contestee insists that ballots of the form described were illegal and ought to have been excluded by the inspectors, because they contained the designations of eight offices unknown to the laws of Alabama, and for the further reason that they were so printed that their contents were distinctly visible on the outside to the inspectors and bystanders when the ballots were folded.

1. In support of his position that the ballots in controversy were illegal and ought to have been rejected, the contestee urges the following considerations:

The ballots were in this form:

FOR ELECTORS FOR PRESIDENT AND VICE-PRESIDENT:

STATE AT LARGE.

JAMES M. PICKENS.
OLIVER S. BEERS.

DISTRICT ELECTORS.

1st District—C. C. McCALL.
2d District—J. B. TOWNSEND.
3d District—A. B. GRIFFIN.
4th District—HILLIARD M. JUDGE.
5th District—THEODORE NUNN.
6th District—J. B. SHIELDS.
7th District—H. R. McCOY.
8th District—JAMES H. COWAN.

FOR CONGRESS—EIGHTH DISTRICT.

WILLIAM M. LOWE.

The following ballot is in the form prescribed by the laws of Alabama. It is similar in form to 12,808 ballots cast for the contestee:

For Electors for President and Vice President of the United States.

GEORGE TURNER.
WILLARD WARNER.
LUTHER R. SMITH.
CHARLES W. BUCKLEY.
JOHN J. MARTIN.
BENJAMIN S. TURNER.
DANIEL P. BOOTH.
WINFIELD S. BIRD.
NICHOLAS S. McAFEE.
JAMES S. CLARK.

For Representative in Congress from the Eighth Congressional District:

WILLIAM M. LOWE.

Two of the offices designated on the illegal ballots are offices of Presidential electors for the State at large, and two of the candidates named are candidates for those offices. Eight of the offices designated are offices of district electors of President and Vice-President, for eight different districts in the State; and eight of the candidates named are candidates for those offices.

The Alabama statute declares that—

"The ballot must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon, not less than two nor more than

two and one-half inches wide, and not less than five nor more than seven inches long, on which must be written or printed, or partly written and partly printed, only the names of the persons for whom the elector intends to vote, and must designate the office for which each person so named is intended by him to be chosen, and any ballot otherwise than described is illegal and must be rejected."

This law prescribes four distinct requirements for the ballot:

1. It must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon.

2. It must be not less than two nor more than two and a half inches wide, and not less than five nor more than seven inches long.

3. It must contain only the names of the persons voted for and the designations of the offices for which they are "intended to be chosen."

4. The names of the candidates and the designations of the offices are to be written or printed, or partly written and partly printed.

If the Legislature had merely prescribed the form of the ballot, without declaring those cast in any other form to be illegal, or commanding their rejection, then, of course, it would be a question whether the requirement of the statute, that the ballot must contain only the names of the candidates and the designations of the offices, is directory or mandatory. And to the decision of that question such authorities as McKenzie *vs.* Braxton, Smith, 19, would be applicable. But when the law makes a ballot not cast in a prescribed form illegal and requires its rejection, there is no place for the question whether the statute is mandatory or directory. The ballot which is not in the prescribed form is illegal, and must be rejected, because the law in terms declares it to be illegal and commands its rejection.

The Legislature of Alabama, exercising a power expressly conferred by the Federal Constitution, had prescribed the mode of choosing Presidential electors as follows:

"On the day prescribed by this code there are to be elected, by general ticket, a number of electors for President and Vice-President of the United States equal to the number of Senators and Representatives in Congress to which this State is entitled at the time of such election."

Under this statutory provision there could be no choice of "district elector" for the "first district," or "second district," or for either of the other eight districts designated. The ballots in question each contained the designations of eight different offices unknown to the law; that is to say, the offices of district electors for the eight districts of the State. They were deposited in the ballot-boxes in violation of the requirement of the statute that the ballot shall contain only the names of the candidates and the designations of the offices.

It is submitted, as an incontrovertible proposition, that this statutory provision for the choice of Presidential electors makes the office of each and every Presidential elector an office for the State at large, and that the office of district elector is unknown to the law of Alabama. It is submitted, as a second incontrovertible proposition, that the ballots in question were ballots for two electors from the State at large, and for eight district electors, one for each of eight districts. If these two propositions are correct, so also must be the conclusion that eight of the offices designated on these ballots are unknown to the laws of the State, and that the designation of these eight offices was a violation of that requirement which excludes from the face of the ballot everything except the names of the candidates and the designation of the offices voted for, and that, therefore, under the law, it was the duty of the inspectors to reject these ballots.

This would be all different in the State of Massachusetts. For the law of Massachusetts contains a provision unknown to the law of Alabama. It is that—

"The names of all the electors to be chosen shall be written on each ballot; and each ballot shall contain the name of at least one inhabitant of each Congressional district into which the Commonwealth shall be then divided, and shall designate the Congressional district to which he belongs." (Pub. Stat. Mass., 1882, page 90.)

The effect of this statutory enactment is that two of the Massachusetts electors are chosen from the State at large, and the others, although chosen by the people of the whole State, are district electors, chosen not from the State at large, but from the several districts. In Massachusetts the ballots now under consideration would be in exact conformity with the requirements of the law; and a Massachusetts statute, commanding the rejection of ballots containing designations of offices unknown to the law, would not affect ballots like those alleged to have been rejected in this case.

For precisely the same reasons, ballots like these would be legal in the States of Iowa, Tennessee, Missouri, Virginia, and North Carolina.

If, then, the statutes of Massachusetts, Iowa, Tennessee, Missouri, Virginia, and North Carolina commanded the rejection of all ballots not fashioned in conformity with the requirements of law, they would not affect ballots like those alleged to have been rejected in the late election in Alabama, because such ballots would conform to the statutory requirements of those States.

The laws of Illinois, New York, South Carolina, Michigan, and Wisconsin, like that of Alabama, provide that the Presidential electors shall be chosen by "general ticket." The statutes of Mississippi and Nebraska provide that they shall be chosen from the "State at large." If the laws of these seven States provided, as do the laws of Alabama, that all ballots containing anything beyond the names of the candidates and the designations of the offices should be rejected, then ballots like those alleged to have been rejected, in the case now under consideration, would necessarily be rejected in those States. But no law, in either of those seven States, requires the rejection of ballots for the reason that they contain more than the names of the candidates and the designations of the offices. It follows, therefore, that in these seven States, as well as in the States of Massachusetts, Iowa, Tennessee, Missouri, and Virginia, these rejected Alabama ballots would have been good.

They would also have been good in all the other States of the Union except Alabama. For in none of the other States is there any statute requiring the Presidential electors to be chosen by general ticket or from the State at large. In all the other States the statutes provide that Presidential electors shall be chosen, but fail to determine whether they are to be chosen wholly from the State at large or partly from electoral districts. They do not make illegal the offices of district electors as does the law of Alabama. The case of Alabama therefore stands upon statutes peculiar to that State.

It is said that the objectionable matter on these ballots does not constitute figures, marks, rulings, characters, or embellishments in the sense of the statute. Even if this be admitted for the sake of the argument, it does not meet the objection now under consideration, which is not that they were fashioned in violation of the clause of the statute prohibiting figures, marks, rulings, characters, and embellishments, but that they presented a violation of that clause which provides that the ballot shall contain only the names of the candidates and the designations of the offices.

But to ascertain whether these ballots did have distinguishing marks, let us refer to the evidence of the witnesses whom the contestant introduced, and by whom he claims to have proven the rejection of these ballots.

Mr. Hopkins, a witness for the contestant, testifies (see bottom of page 131 and top of page 132) that the ballots which he says were rejected could be identified from the outside when folded four times.

His evidence is as follows:

"Question. When folded in four thicknesses, could you see at a distance of three feet that that ticket had something on it besides the names of the persons voted for and the offices for which they were to be chosen?

"Answer. Yes, sir; I could.

"Q. Please examine the ticket and see if it is the ticket that you made an exhibit to your deposition.

"A. Yes, sir; it is.

"Q. Please examine those three tickets folded, and say if they are not the kind of tickets that were rejected, and say if you can not identify them from the outside when folded four times?

"A. These tickets are similar to the tickets that were rejected for being numbered, and I can designate them when the printing is folded inside and the ticket folded in four thicknesses."

These ballots are in evidence, and it will be observed that they are of the least objectionable class of Greenback ballots found in the record.

Ira G. Wood, a witness and supporter of Mr. Lowe, and an officer of the election, testifies as follows regarding the ballots which he says were rejected (see record, page 304, near bottom):

"Question. Your eyesight is a little defective and infirm without your glasses?

"Answer. Yes, sir; I can read large print; I do not do it, however, without my spectacles, but I can.

"Q. Can you see the words first district on that ticket [handing witness a ticket]?

"A. Yes, sir.

"Q. Can you see the words first district on it?

"A. Yes, sir.

"Q. Can you see the words first district on the back when folded with the printing inside?

"A. Well, I wouldn't know that unless my attention was called to it.

"Q. Could you read it if your attention was called to it?

"A. I suppose I could if my attention was called to it.

"Q. Can you, when the ticket is open, read the words first district without your glasses?

"A. Yes, sir.

"Q. When the ticket is closed now, with the printing inside, can you see by reading backwards, when your attention is called to it, the words first district; wouldn't you be willing to swear there was a D?

"A. Yes, sir."

If feeble old men could identify the ballots, when folded, which Mr. Lowe claims were rejected in the railroad towns, it is evident that it would have been impossible for such ballots as Mr. Lowe's witnesses put in evidence, and swear were used in Franklin County, to have escaped the scrutiny of the party managers.

It is claimed that these ballots ought to be counted for Representative in Congress, if for no other candidate. This would be true, if the statutory provision had been merely that such names of candidates and designations of offices as should be placed on the ballots in violation of the law should be rejected in the canvass. But such is not the provision of the statute. The statutory provision is that if the ballots are not in the form prescribed, the ballots themselves shall be rejected.

It seems to us clear that these 1,294 ballots, which not only contained the designations of eight offices unknown to the law of Alabama, but were also marked ballots, and, for that reason, peremptorily excluded by a mandatory law of that State, were illegally counted for Mr. Lowe, and are to be deducted from his vote.

The question here presented is a new question. It was not considered by the Committee on Elections in the Mississippi case of Lynch *vs.* Chalmers. The differences between the statutory provisions of Mississippi and Alabama, and between the ballots in the two cases, are such that a decision in one of the cases will not, necessarily, furnish a precedent for the other. The Mississippi statute is in the following words:

"All ballots shall be written or printed in black ink, with a space not less than one-fifth of an inch between each name, on plain, white printing news paper, not more than two and one-half nor less than two and one-fourth inches wide, without any device or mark by which one ticket may be known or designated from another, except the words at the head of the ticket; but this shall not prohibit the erasure, correction, or insertion of any name by pencil-mark or ink upon the face of the ballot; and a ticket different from that herein prescribed shall not be received or counted."

As we have seen, the Alabama provision is that—

"The ballot must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon, not less than two nor more than two and one-half inches wide, and not less than five nor more than seven inches long, on which must be written or printed, or partly written and partly printed, only the names of the persons for whom the elector intends to vote, and must designate the office for which each person so named is intended by him to be chosen; and any ballot otherwise than described is illegal and must be rejected."

The provisions of the Mississippi law applicable to the case of Lynch *vs.* Chalmers are: (1) That the ballot shall be without any device or mark by which one ticket may be known or distinguished from another, except the words at the head of the ticket, and (2) that a ticket different from that prescribed shall not be received or counted. The provisions of the Alabama statute applicable to the case now on trial are: (1) That the ballot must be without marks, and must contain only the names of the persons for whom the elector intends to vote, and the designations of the offices, and (2) that any ballot otherwise than as described is illegal and must be rejected. In the Mississippi case the grounds of objection to the ballots were that certain printer's dashes separated different headings of the ticket. In this case the grounds of objection are that the ballots contained the designations of eight offices unknown to the law, and that they were so marked, by the use of peculiar paper, ink, and type, as to be readily distinguished from other ballots, even when folded. The differences between the two cases are too palpable to require or justify any comment.

What we have said is sufficient to show that these ballots are illegal; but there is other evidence in this case which makes their rejection still more imperative.

The evidence shows that Mr. Lowe's supporters used the marked ballots, together with violence and terrorism, to destroy secret voting.

The evidence shows clearly that the using of these ballots in the precincts where it is claimed they were rejected was for the unlawful purpose of preventing a secret ballot.

It is evident that with these ballots secrecy was impossible and that such ballots could be identified in the hands of the voters.

It is certain that when voters are abused, terrorized, and ostracized for not voting as their leaders dictate, the weaker classes will hesitate before going to the polls with ballots different from those ordered by their leaders.

It was distinctly charged in the answer, and proved by over fifty witnesses, that the supporters of Mr. Lowe had unlawfully maintained a state of terrorism and alarm among the colored persons by threats of harm to their persons and property. (See record, pages 506, 893, 894, 895, 896, 898, 900, 902, 904, 959, 960, 961, 962, 963, 964, 966, 967, 969, 970, 999, 1000, 1001, 1002, 1020, 1021, 1022, 1023, 1024, 1025, 1066, 1068, 1070, 1072, 1075, 1076, 1079, 1081, 1082, 1085, 1089, 1091, 1093, 1095, 1098, 1102, 1109, 1111.)

This uncontradicted testimony of more than fifty witnesses, including men of all parties and of both colors, shows that by threats of bodily harm, by ostracism, and by fear and intimidation, Greenback leaders have absolutely destroyed freedom of election among the weaker class of colored persons in the eighth district of Alabama.

A colored man, page 1079, swears that if colored men had been left to their own choice nearly all would have voted the Wheeler ticket. They would have so voted had it not been for the threats of the Greenback leaders, and this same character of evidence is found on pages 1067, 1068, 1071, 1073, 1075, 1081, 1083, 1085, 1089, 1092, 1096, 1098, 1102, 1110, 1112.

It is also in proof (see bottom of page 1095) that two colored men, Peter Walker

and John Bell, attempted to become candidates for the Legislature upon the Republican ticket, and these Greenback leaders drove them from the town and threatened to kill them.

Also, on this subject, see pages 1066, 1070, 1073, 1075, 1079, 1085, 1087, 1089, 1091, 1092, 1096, 1098, 1102, 1109.

We might stop with the above, but in passing we will call the attention to the evidence of two of Mr. Lowe's witnesses, Wade Blankenship and William Wallace.

These men were party managers for Mr. Lowe. They testified that they required every man to carry his ballot at least a foot and a half from his body. (See bottom page 224.)

Wallace says, page 231, "I told it to every man. Now, I said, you hold your ticket so I can see it."

Wallace also testified, page 223, as follows:

"Question. You thought it important to examine their wrists and see that there was nothing up their sleeves?

"Answer. Yes, sir; I did.

"Q. And you examined each one in this way?

"A. Yes, sir. I examined every one that voted the ticket.

"Q. You examined each one of the one hundred and fifty-six colored men?

"A. Yes, sir; I did.

"Q. You examined their hands and sleeves to see that there could be no foul play?

"A. Well, I did not feel of their arms and sleeves, but I examined their wrists close before I gave them their ticket."

We think the evidence shows beyond question that the policy of the Greenback party was to prevent a secret ballot. Mr. Lowe's witnesses, supporters, and managers swear they examined the wrists of voters, and made them hold the ballot at least a foot and a half from the body to prevent the possibility of their escaping the surveillance of party managers.

This was the plan adopted with colored men, but in localities where possibly objections might be urged to so close inspection of underclothing, Mr. Lowe's managers adopted the plan of having the ballots marked so that they could without question identify the ballot in the hands of the voter.

We have examined the ballots, and can not resist the conclusion that these ballots were issued to enable party managers to destroy the freedom and purity of the election, and to prevent secrecy of the ballot, and to place the voter under improper restraint or influence in casting his ballot.

More than a year prior to November 2, 1880, this law had been construed by an eminent judge of the State of Alabama. His decision was as follows:

Transcript.

THE STATE OF ALABAMA, *Cullman County:*

Before Hon. Louis Wyeth, judge of the fifth judicial circuit.

Charles Plato *vs.* Julius Damus.—Contest of election.

In this case Charles Plato contests the election of Julius Damus to the office of mayor of the town of Cullman, in the county of Cullman, claiming to have been elected to that office himself by a majority of the votes cast at the election held on the first Monday in April, 1879.

The respondent claims to hold the office under the certificate of election issued by the proper officers under the provisions of the "act of assembly to establish a new charter for the town of Cullman." (Pamphlet Laws of 1879, page 304, section 9.)

On examining and counting the votes it appears that fifty-four of them were cast for the contestant, and twenty-seven for the respondent; of these fifty-four votes given for the contestant, fifty-two had printed on them at the top of the ballot the words "Corporation Ticket," and of the twenty-seven votes cast for respondent three had in like manner printed thereon the same words, and the question for me to decide is whether or not those words rendered the ticket on which they were printed illegal ballots, and such as must be rejected.

The act approved February 12, 1879, Pamphlet Laws, pages 72, 73, requires that the ballot must be a plain piece of white paper, without any figures, marks, rulings, characters, or embellishments thereon, * * * on which must be written or printed * * * only the names of the persons for whom the elector intends to vote, and must designate the office for which each person so named is intended by him to be chosen, and any ballot otherwise than described is illegal and must be rejected.

The law under which the election now being considered was held, in section 4, Pamphlet Laws, 1879, page 305, declares "that the election provided for in this charter shall be regulated by the general State election law."

The judicial officer of the State has nothing to do with the propriety of a statute. If not void by reason of a constitutional inhibition, the judicial duty is limited to their construction and enforcement.

These ballots had more than only the names of the persons for whom the elector intends to vote, or the designation of the office, and must be rejected because illegal. Such is the mandate of law and so I must declare it.

It is considered, adjudged, and ordered that the election of Julius Damus as mayor of the town of Cullman, in the county of Cullman, be confirmed, and that the contestant pay the costs of this court.

LOUIS WYETH, *Judge, &c.*

JUNE 9, 1879.

The numerous authorities which the contestee cites in pages 14 to 85 of his brief conclusively show that Congress and the courts and all law-writers have uniformly held that, under such a law as that of Alabama, ballots like those now under consideration are illegal.

First. The law of Mississippi provides that all ballots shall be "without any device or mark by which one ticket may be known or distinguished from another."

This leaves room for debate as to whether the marks on the ballots were marks by which one ticket may be known or distinguished from another.

The Alabama law provides that the ballot shall have "only the names of the persons for whom the elector intends to vote and the designations of the office;" therefore this law does not give latitude for debate on this question.

The Alabama law and Pennsylvania law (see page 21 of contestee's brief) stand alone in this, that they alone prohibit anything being on the ballots but the names of candidates and designations of the offices.

In the report of the case of Lynch *vs.* Chalmers the committee say, on page 11:

"It need, however, hardly be added that a line of carefully considered cases in the States, in which such courts have undoubted jurisdiction, so far as they would apply in principle, would go a long way toward settling a disputed point of construction in any State election law. In fact it may be said that it would probably be the duty of Congress to follow the settled doctrine thus established."

On page 10:

"Where decisions have been made for a sufficient length of time by State tribunals, construing election laws, so that it may be presumed that the people of the State knew what such interpretations were, would furnish another good reason why Congress should adopt them in Congressional election cases."

And on page 12:

"Had the opinion been rendered before the election of 1880, or become one of settled law of Mississippi, we do not say but that it would have such weight with us that, though we might disagree with it in logic, we might feel compelled to follow it."

Now, certainly, the facts in this case bring it within the principles here expressed.

The decision of Judge Wyeth was rendered June 9, 1879, seventeen months before the election of November 2, 1880.

First. It was carefully considered.

Second. The court had undoubted jurisdiction.

Third. It had been made for a sufficient length of time; and above and beyond this, to use the language of Mr. Justice Curtis, 16 How., 279–87, quoted page 11 of Lynch report, it was "needful to the ascertainment of the right or title in question between the parties."

The committee in Lynch *vs.* Chalmers say:

"What we have here remarked does not, of course, apply to the marks or devices ordinarily used on tickets, such as spread eagles, portraits, and the like; those would be considered marks and devices of themselves, and not necessary in the ordinary mechanical art of printing. The use of the latter would be considered a violation of the statute in any aspect of the case, while the use of the former seems to us, in any view of the law, ought to be restricted to an intentional or manifest misuse."

We submit that this reasoning makes the Greenback ballots clearly obnoxious to the statute of Alabama.

The act amending section 274 is a remedial act. Sedgwick, page 309, says:

"The words of a remedial statute are to be construed largely and beneficially, so as to suppress the mischief and advance the remedy. It is by no means unusual in construing a remedial statute, it has been said, to extend the enacting words beyond their natural import and effect, in order to include cases within the same mischiefs.

"Remedial statutes are liberally expounded in advancement of the object of the Legislature."—*Blakeney vs. Blakeney*, 6 Port., 109.

"A remedial statute must be construed largely and beneficially, so as to suppress the mischief and advance the remedy."—*Sprowl vs. Lawrence*, 33 Ala., 674.

Let us now see what was sought to be remedied by the amendment to section 274 of the code, approved February 12, 1879.

It is shown by the evidence, page 1237 of the record, that at elections prior to November 2, 1880, the Democrats used ballots substantially in form to the exhibits above, that is, the exhibits on pages 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, which have the words:

STATE AT LARGE.

District electors.

1st District—
2d District—
3d District—
4th District—
5th District—
6th District—
7th District—
8th District—

And one of which, page 1234, is almost precisely like the ballots which we decide should be rejected.

The evidence shows that at previous elections ballots were used substantially like the Weaver and Lowe and Hancock and Lowe ballots, and that the remedy sought was to prevent the use of the very ballots which the Greenback party insisted upon using.

The report of the majority even admits the correctness of our position on this subject.

We are to bear in mind these facts:

First. The election preceding and nearest to November 2, 1880, when such ballots were used, or could by any possibility have been used, was the election of November, 1876.

Second. The first Legislature of Alabama which was elected after the November Presidential election of 1876 proceeded to and did amend section 274 of the code, and did prohibit by the law they enacted the use of the very ballots which the contestant swears were used in November, 1876, and preceding elections.

This shows what was to be remedied.

We are also to remember—

Third. That Judge Wyeth construed the law on June 9, 1879, just as we construe it.

Fourth. That the contestant swears that the August, 1880, canvass was made mainly by attacking this law.

Fifth. That with all this before them, he and his party managers defied the law they had denounced, and printed ballots and placed in voters' hands ballots which were prohibited by the law of the State.

Sixth. That nearly one hundred witnesses in this case testify that the Greenback party compelled men to vote their ticket by threats and terrorism, and that forty witnesses (including men of both colors and all parties) swear that but for this system of terrorism exercised by the Greenback leaders at least half of the people who voted for contestant would have voted with the party which supported the contestee.

Considering all these things together, we see how necessary it was for contestant to have a ballot which could be distinguished by his party leaders, in order to keep the weaker classes in line and prevent them from secretly voting as they desired.

It must be observed that the unanimous report of the Democratic members of the Elections Committee in considering the illegality of the ballots says:

The numerous authorities which the contestee cites in pages 14 to 85 of his brief conclusively show that Congress and the courts and all law writers have uniformly held that, under such a law as that of Alabama, ballots like those now under consideration are illegal.

First. The law of Mississippi provides that all ballots shall be "without any device or mark by which one ticket may be known or distinguished from another."

This leaves room for debate as to whether the marks on the ballots were marks by which one ticket may be known or distinguished from another.

The Alabama law provides that the ballot shall have "only the names of the persons for whom the elector intends to vote and the designations of the office;" therefore this law does not give latitude for debate on this question.

The Alabama law and Pennsylvania law (see page 21 of contestee's brief) stand alone in this—that they alone prohibit anything being on the ballots but the names of candidates and designations of the offices.

It is not improper for me to here remark that the records of this election case from the eighth district of Alabama, now a part of the records of the Forty-seventh Congress, show that the question upon which Judge Bruce laid such stress did not in any way affect the result of the election of November, 1880, because uncontradicted proof, all of such proof being primary, and unquestioned evidence, clearly demonstrated that even according to the contestant's most extreme demands on this subject, and counting every illegal ballot which he and his friends claimed were cast for him, and refusing to count any of the rejected ballots which it is admitted were cast for the contestee, still the contestee's

majority of votes cast by legal voters would be 1,547. I will now proceed to state some of the

ILLEGAL RULINGS.

The board of inspectors at Huntsville box were:

First. Mr. Davis, who for years prior to 1880 had been an earnest and persistent opponent of the Democratic party and in the election of 1882 he was a most active worker and canvasser against said party.

Second. Mr. Clark, who was a Federal soldier who fought gallantly and received wounds from which he is still suffering, was an earnest Republican for a long time, but had voted the Democratic ticket for several elections.

Third. Mr. McGehee, who was a Democrat.

When the polls closed they found in the box ballots for both Wheeler and Lowe of the character referred to in the Congressional report which I have read, said ballots being in direct violation of the law of Alabama. The board of election officers after mature investigation, unanimously decided that they were illegal, and they reported them to the county board precisely as directed by the laws of Alabama. The report signed by the inspectors specifically stated the number of ballots rejected for each party, and inclosed them with the report of the election which was sent to the county officials. It was for this that Mr. Clark and Mr. McGehee were indicted.

Mr. Davis, as is shown by his action in the elections which have taken place since November, 1880, no doubt satisfied these people of his adhesion to the party in opposition to the Democracy, and he was not indicted, although his position and action was the same as that of Clark or Mr. McGehee.

These two gentlemen were, however, brought to trial and the

UNCONTRADICTED EVIDENCE

showed that they acted conscientiously and judicially; that they counted all the legal ballots fairly and made a correct report, and also reported the number of illegal ballots which were cast for each party.

Mr. Goodwin, a deputy marshal and a Republican, was present as a Federal supervisor, and he corroborated these facts in his printed evidence, but with all this and notwithstanding the fact that authorities were read to the court showing that inspectors of elections are judicial officers and, that under such a state of facts, no crime could attach to them even if they had erred (which was not the case), even with all that this, Judge John Bruce, either from ignorance or corrupt intention, charged the jury, in effect, to find a verdict of

GUILTY.

A prominent lawyer who was present informed me that his charge was substantially as I will read:

That although the defendants McGehee and Clark had no criminal intent in rejecting ballots cast for William M. Lowe and notwithstanding the fact that the laws of Alabama directed that they should reject said ballots, yet if they did reject any said ballots they were guilty under the United States law, and the jury must bring in a verdict against them, and he further charged that although the proof showed McGehee and Clark never heard of a United States statute this did not alter the case, and that if the jury believed the evidence they must find a verdict of guilty against the defendants.

The jury consisted of six Democrats and six of opposing politics, mostly Republicans. The

CHARGE SO SHOCKED THE JURY

that they could not but feel that the judge was either insane or corrupt, and after mature deliberation they returned a verdict of acquittal.

JUDGE BRUCE RECEIVED IT WITH ANGER

and indignation and while he was compelled to discharge the defendants he attempted to insult the jury by immediately ordering them to be discharged from further service.

To show that I am right in my information regarding these statements, I will read some editorials from the press of Huntsville giving an account of these atrocities. I read first from the issue dated April 26, 1882, of a newspaper published by Hon. J. Withers Clay, a brother of Senator C. C. Clay, for many years an honored Senator in this Capitol:

The Government's counsel and the judge both urged that defendants violated the law of Congress in rejecting the Lowe ballots, and made no complaint of the rejection of Wheeler ballots, and the judge charged the jury, if they believed the evidence, to wit, the rejection of the Lowe ballots, they must return a verdict of guilty.

Defendants' counsel maintained that the rejection of ballots was required by the Alabama statute and not violative of the law of Congress. The indictment charged defendants with violating the law knowingly, willfully, and fraudulently. Government's counsel and the judge ignored the allegations of the indictment, acquitted defendants of knowing, willful, and fraudulent violation of the law, but asserted that the law was, nevertheless, violated, and subjected defendants to its penalties. Defendants' counsel contended that the *allegata* and the *probata* must agree, and, if the allegations were not proved, the jury could not lawfully convict. The jurors agreed with defendants' counsel, believed the evidence, but did not believe the charges proved, and, therefore, returned a verdict of "not guilty." The judge, however, instructed them, if they believed the evidence, they must find defendants guilty. For the violation of this palpably wrong instruction the judge discharged the jury for the rest of the term.

* * * * * * *

The jury, from the time it was empaneled to the rendition of the verdict, was classified here as six Democrats and six opposition, Republicans or Greenbackers, and the jury was in charge of a United States bailiff.

The fact was (we learn from other jurors) that the negro (a Republican) was one of the first to say "not guilty," remarking, in substance, that Government's counsel seemed to want to punish defendants for the acts of the Legislature.

I now read from the Huntsville Independent, edited by a son of Judge Coleman, formerly of the supreme court of Alabama. Its date is April 27, 1882:

In the trial of Captain J. T. McGehee and Mr. Dan C. Clarke (two gentlemen of most excellent character), charged with violation of election laws, there was not a particle of proof that they were guilty of any official misconduct whatever. Nicholas Davis, esq., who, together with the above-named, was an inspector of the election, was the only witness examined. He testified that there was no concealment in anything that was done and that the election was fair in all respects. The sole charge against the other inspectors was that they had rejected a certain number of ballots, a number for Lowe and a number for Wheeler, which ballots had been rejected because they had on them numerals and something else than the designation of the office and the name of the person voted for. The sole question was whether these gentlemen were criminally responsible for their act in rejecting these ballots. Judge Bruce held that under section 5515 of the Revised Statutes of the United States they were in criminal violation of the law. This decision was contrary to all authority, precedent, reason, and principle. There is an unbroken line of legal authorities, both English and American, holding that inspectors of election are judicial officers. Admitting that in this instance they might have been wrong in their judgment (there is no legal decision to such effect), no criminality attaches to the error of judgment.

To enforce the other, most absurd view, would make it impossible to get men to accept the office of inspector. (It is likely that the hope of the prosecutors is to so intimidate Democrats as to prevent them from serving as inspectors. This, however, will utterly fail of its object.)

The Mobile Register, which for a long time, and I think still is, principally owned by a gallant Federal general, said:

The singular performances of District Judge Bruce, of the Alabama district, have induced many of his friends to believe that his mind is seriously affected. A dispatch of the 12th instant from Huntsville, reads:

"Judge Bruce, of the Federal court, to-day discharged the twelve jurors regularly summoned for the term because they rendered a verdict of not guilty in the Clark and McGehee case, which the minutes of the court state was in disobedience of the mandate of the court. General L. P. Walker and other members of the bar protested against this action of the court, and one of the jurors arose and said that he asked the court on yesterday if they must decide the case according to the law and evidence presented before them, and the court said they must; that they had been guided in rendering their verdict by their responsibility under their oaths, and not by the mere *ipse dixit* of the court. The new jury was ordered to be drawn, and the court suspended until jurors can be summoned."

The action of Judge Bruce is in keeping with his imprisonment of the county officers of Chambers County, a short time ago. It will be remembered that these gentlemen were incarcerated, without a shadow of justification, until the Supreme Court of the United States granted a writ of habeas corpus and virtually released them.

These eccentricities of Judge Bruce and his disregard of law have been of late so very pronounced that it would be proper for our Representatives in Congress to propose articles of impeachment.

No judge in his senses could act as Judge Bruce does, and no judge who is learned in the law could so often and so flagrantly disregard the law. There is no explanation of his vagaries except that his mind is seriously affected. Those who have watched him closely during the past few years are alarmed at his aberrations of intellect. It is the duty of Congress to give us relief at once.

There is no limit to the judicial decisions which show the error of Judge Bruce in his charge. I have one before me from the supreme court of Pennsylvania. During the war a great number of foreigners, who had settled in Pennsylvania, in order to avoid conscription, did not naturalize. Therefore, in 1868, a large number naturalized for the first time. A great many such citizens presented themselves on election day to Republican inspectors, who decided that citizenship had been granted wrongly by the *nisi prius* court in which they had taken out their naturalization papers. The practical result of this wholesale rejection of votes went materially toward affecting the result. As many as 24,000 votes are said to have been thus rejected. Many of the inspectors of election were indicted, and in the first case, styled Lee *et al. vs.* the Commonwealth, the supreme court decided that he, among other inspectors, had done wrong in rejecting these votes, as the voters offering their ballots had been naturalized by the proper court and in the proper way. But the supreme court, at the same time, decided that the inspectors had merely committed an error of judgment and no crime. There are no conflicting decisions. The British parliament actually has a statute to this effect.

The Lee case will be found in 1 Brewster, 273. It is cited approvingly by Judge McCrary, section 466, and this writer also with great emphasis lays down the same rule in chapter 10 of his work on Elections and cites numerous authorities to the same effect. I call attention to the cases referred to in his second edition, paragraphs 459 to 494.

Atrocious as these matters may appear, there were other equally discreditable features in the rulings of Judge Bruce in this case. As before stated, the indictment included but two of the inspectors, namely, Clark and McGehee. Judge Bruce had sustained demurrers to indictments in other cases which were precisely similar.

In order to carry out his cruel and illegal purposes it was necessary for Judge Bruce to overrule his former decisions, but this did not seem to cost him one pang of regret. The principle of law which Judge Bruce trampled under foot so that he might confine his persecutions to Democrats is as old as law itself. We find it in old decisions and in the works of text-writers. It was recently reasserted by Justice Miller, of the Supreme Court, in Peay *vs.* Schenck and Bliss, 1 Woolw. Circuit Court Reports, pages 176, 187, who used these words:

We understand it to be well settled that when authority of this kind is conferred upon three or more persons, in order to make its exercise valid, all must be present, and participate or have an opportunity to participate in the proceedings, although some may dissent from the action determined on.

The action of two out of three commissioners to all of whom was confided a power to be exercised can not be upheld when the third took no part in the transaction.

Bear in mind that the indictment charged that McGehee and Clark held the election.

If that were true the election was illegal and void, and for that reason the indictment was bad.

In that connection I will read from Howard *vs.* Cooper, 1 Bartlett, page 282:

> Fourth. Your committee have rejected the vote of the township of Van Buren. The law requires that the board of inspectors shall be constituted of three persons in number. The proof is clear that there were but two. And as there was no board of inspectors known to the law, your committee see no way by which any legal effect can be given to the returned vote; they have therefore deducted it, although it can in no way affect the decision of this case, whether it be deducted or retained.

Before leaving this case let me explain the sophistry by which Judge Bruce and the prosecuting attorneys arrived at their conclusions; and in passing I must not forget to mention that the Department of Justice (should not I say the Department from Justice?) had three lawyers employed, all in the pay of the Government, to prosecute this case, namely, Ex-Governor Smith, district attorney; L. W. Day, assistant district attorney and chairman Greenback executive committee, and P. L. Jones (specially employed), who at that time and now heads the list of members of the national committee of the Greenback party. From what could be gathered Judge Bruce and these prosecutors based their proceedings upon section 27 and section 5515 of the Revised Statutes. Section 27 is a part of the act of February 28, 1871, which provides that—

> All votes for Representatives in Congress must be by written or printed ballot.

This meant nothing more than to prohibit voting *viva voce* and to insure secrecy to the voter.

Section 5515 is a part of the act of February 28, 1875, which provides that an election officer, at an election where a Representative for Congress is voted for, who fraudulently does certain things or violates any duty "required of him by any law of the United States, or any State," "shall be punished," &c.

Now, unless these inspectors had violated a law of the United States or of Alabama it was criminal for Judge Bruce to tell a jury to render a verdict against them. Let us examine this matter.

Article 1, section 4, of the Constitution of the United States says:

> The times, places, and manner of holding elections for Senators or 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.

Judge McCrary, in his work on Elections, says (paragraph 6):

> While the Legislature can not add to, abridge, or alter the constitutional qualifications of voters, it may and should prescribe proper and necessary rules for the orderly exercise of the right resulting from these qualifications. The Legislature must prescribe the necessary regulations as to place, mode, manner, &c.

Again, Mr. McCrary says:

> All devices by which the secrecy of the ballot is destroyed by means of colored paper used for ballots, or by other similar means, are exceedingly reprehensible, and, whether expressly prohibited by statute or not, should be discountenanced by all good citizens.—*American Law of Elections*, page 195; People *vs.* Cicott, 16 Michigan, 283.

Judge Cooley, in his work upon Constitutional Limitations, says, page 599, under the head of "The right to participate in elections:"

> Each State establishes its own regulations on this subject; subject only to the fifteenth amendment to the National Constitution, which forbids that the right of citizens to vote shall be denied or abridged on account of race, color, or previous condition of servitude. Participation in the election franchise is a privilege rather than a right, and it is granted or denied on grounds of general policy.

After speaking of the various restrictions, Judge Cooley says (page 602):

> All such reasonable regulations of the constitutional right which seem to the Legislature important to the preservation of order in elections, to guard against fraud under influence and oppression, and to preserve the purity of the ballot-box, are not only within the constitutional power of the Legislature, but are commendable, and at least some of them absolutely essential.

Judge Cooley continues (page 604):

> The mode of voting in this country at all general elections is almost universally by ballot. The distinguishing feature of this mode of voting is that every voter is thus enabled to secure and preserve the most complete and inviolable secrecy in regard to the persons for whom he votes, and thus escape the influences which, under the system of oral suffrage, may be brought to bear upon him, with a view to overbear and intimidate, and thus prevent the real expression of public sentiment. In order to secure as perfectly as possible the benefits anticipated from this system, statutes have been passed in some of the States which prohibit ballots being received or counted unless the same are written or printed upon white paper, without any mark or figures thereon intended to distinguish one ballot from another.

After giving this statement of the system, Judge Cooley proceeds to use this emphatic language:

> These statutes are simply declaratory of a constitutional principle that inheres in the system of voting by ballot, and which ought to be inviolable, whether declared or not. In the absence of such a statute all devices by which party managers are enabled to distinguish ballots in the hands of the voter and thus determine whether he is voting for or against them are opposed to the spirit of the Constitution, inasmuch as they tend to defeat the design for which voting by ballot is established.

These paragraphs show the views of able writers upon constitutional law regarding the clause of the Constitution which I have read, and pursuant to which the Legislature of Alabama enacted the law which Judge Bruce nullified or tried to nullify, at the same time overruling and nullifying the Constitution, and also overturning the principles of law so ably expounded by Judges Cooley and McCrary. This clause of the Constitution is the only one which directly delegates legislative powers to States.

We see that the decision of Judge Bruce in this case is in harmony with his decree by which he imprisoned three Alabama judges, solely for the reason that they refused to violate law and perform acts not permitted by their jurisdiction.

In the McGehee and Clark case he exercised all his power in the endeavor to incarcerate two excellent citizens because they would not violate their oaths and trample under foot the laws of Alabama and the Constitution of the United States.

He could not have vengeance on the defendants; he therefore satisfied it as far as possible on the jury by not permitting them to serve for the period for which they were empanneled.

And this judge is allowed to preside over a court and decide cases from which there is practically no appeal.

He could imprison the best citizens of Alabama, and only in very exceptional cases could an appeal be had to the Supreme Court.

The most charitable explanation suggested is, that the judge, having been born and reared in Scotland, can not conceive but that the relation of a sovereign State in America to the Federal Government, is the same as that of a borough of Scotland or Ireland to the Crown of England; and he seemed to regard Legislatures of States as social gatherings of ambitious gentlemen, and the laws they enact as of about the same force and dignity, as resolutions of a town-meeting or the rules adopted by the vestry of a country church. His contempt for the mandates of the Constitution can be understood when we recall that probably his first knowledge of that instrument was its denunciation as a "league with hell and a covenant with the devil," by Garrison, Seward, Chase, and other people from whom he imbibed his idea of constitutional construction.

The decisions which have been quoted by able lawyers in their efforts to extricate Judge Bruce from his embarrassing position have no application to laws enacted by States in obedience to the mandates of the Constitution and pursuant to power delegated to States by that instrument.

The following list of cases, which I believe have been cited, all refer to regulations regarding commerce:

Wilson *vs.* Blackbird Creek Marsh Co., 2 Peters, 225, opinion by Marshall, J.; Cooley *vs.* Board of Wardens, 12 Howard, 318, opinion by Curtis, J.; Linnott *vs.* Commissioners of Pilotage, 22 Howard, 241; Gilman *vs.* Philadelphia, 3 Wallace, 727–729, opinion by Swayne, J.; Shirlock *vs.* Allen, 3 Otto, 104, opinion by Field, J.; Hall *vs.* De Cuir, 5 Otto, 488, opinion by Waite, C. J.; Mobile *vs.* Kimball, 12 Otto, 700, opinion by Field, J.; Webber *vs.* Virginia, 13 Otto, 351, opinion by Field, J.

Phrases from these decisions have no applicability to this case, for many reasons, and particularly because the Constitution does not direct States to enact laws regarding commerce, and for the same reason the decisions of *Ex parte* Eames, 2 Story, 322, and Sturgess *vs.* Crowninshield, 5 Wheaton, 122, are inapplicable to State laws on the subject of elections.

Article 1, section 1 of the Constitution reads:

> All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Among the powers which are enumerated are:

> To regulate commerce—

And—

> To establish uniform laws on the subject of bankruptcies.

Observe that the Constitution does not direct States to legislate on these subjects, but, quite the contrary, provides that they shall be regulated or established by Congress.

The part of section 27, Revised Statutes, which provides that "all votes for Representatives in Congress must be by written or printed ballot" was first enacted February 28, 1871 (16 Stat., page 440, sec. 19). It is the last section of what is known as the "enforcement act," amendatory of the act of May 31, 1870. This law was construed in the circuit court of the United States, in the case of *Ex parte* McIllwee. I read from Brightley's Leading Cases on Elections, page 65. The court says:

> The act of Congress of 31st of May, 1870 (16 Stat., 440), does not interfere with the laws of the several States.

The decision also says:

> It was not the intention of Congress to abolish the laws of the several States which prescribe the qualifications of voters, or even alter them, except so far as they are founded upon the distinction of race, color, or previous condition of servitude.

I will now give an account of a still

GREATER ENORMITY.

The next case set for trial was an indictment against two gentlemen of high standing, together with a colored man.

They were the inspectors at Lanier's precinct.

The evidence shows that the election at Lanier's was conducted with perfect fairness so far as the rights of Colonel Lowe were concerned.

The proof shows that it was conducted under the supervision of Mr.

Hertzler, a Federal supervisor, who was a friend and advocate of Colonel Lowe, and John F. Lanier, a deputy United States marshal, who had, at the August election just preceding, been an active supporter of the Republican candidate for probate judge. (Record, page 180.)

Mr. Lanier was appointed marshal by United States Marshal Sloss to take charge of the election at this box.

Marshal Sloss is shown by the evidence to be a violent supporter of William M. Lowe.

Even Mr. Hertzler (page 183) says, under oath:

Everything was fairly done in counting the ballots as possibly could be.

The report of the Democratic members of the Committee on Elections, in referring to the evidence regarding this box, uses these words:

At Lanier's box the evidence shows that it was impossible for any fraud to have been practiced by any one in the interest of Mr. Wheeler.

Mr. Lowe's friend swears they could not have counted the ballots in the shop where the election was held, and he swears that he "took charge of the box," and carried it to the store of Deputy United States Marshal Lanier, who was appointed to take charge of the election by Mr. Lowe's friend, Marshal Sloss.

The box remained locked up in the side room of Mr. Lanier's store for about an hour, and Mr. Lanier, who was a Republican, swears that no one could possibly have had access to it while it was there.

All these facts were known to Judge Bruce and the prosecuting counsel, and they apparently foresaw that some extraordinary effort would be necessary to carry out the nefarious purposes which they contemplated.

THE USES AND ABUSES OF JURIES.

The word jury, as used in the Constitution, is qualified; it means jury as then constructed and governed by the rules then ascertained to be applicable to it. Any tribunal, though called a "jury," is no longer a constitutional jury when it ceases to embrace any material old element, or if it be burdened with any material additions to its original signification. A word in the course of time may be frittered away or whittled out of its original meaning and be brought into new and baser uses.

The fact that the framers of our Constitution used the word *impartial* as a qualification to the word jury is significant that even at that day the word jury had been to a certain extent corrupted. It had been hammered on the judicial anvil for several centuries, and had thereby been beaten somewhat out of shape, and had lost some of its original meaning, so that our fathers evidently concluded that it was not safe to let the word stand alone. They cast the word anew and gave it to us as a coin with an unmistakable face upon it. The crucible through which they passed it cleansed it of all alloy, and it now stands in our Constitution

IMPARTIAL JURY.

It is thus placed beyond the reach of all conventionalities, stripped of its dross, and glittering with all its original purity.

A packed jury is

NOT A CONSTITUTIONAL JURY,

for if the framers of the Constitution had intended such a jury they would have used the word. The words are "a speedy public trial before an impartial jury," not a packed jury. There are more ways than one of packing a jury; the usual *modus operandi* is secret, vicious, sinister, and is consummated generally in the dark, either by bribery, persuasion, partiality, rewards, or the hope of rewards. Selfishness sometimes enters into its machinations when men guilty of similar offenses sit quietly on the jury to prepare and smooth the way for an easy acquittal of themselves upon an emergency. The modes of packing juries are as various as the suggestions of iniquity are numerous. But this packing of juries has ever been abhorrent in the eyes of the judiciary.

It is a new phase in the mode of packing a jury to see the judge himself

AIDING AND CONTRIBUTING TO IT BY HIS RULINGS AND HIS ADVICE.

I respectfully submit that in this case, the jury was packed by the instrumentality of the judge. Now, let us see. Here are these newly invented interrogatories to the juror upon his *voire dire:*

Each juror, before the case was opened, qualified by accepting the test embodied in the appended questions, propounded by the Government, as a challenge for cause. The defense resisted the right of the prosecution to try the jury in this manner, but the court refused to sustain the objection.

3. Do you hold any opinion upon the subject of the Federal election laws, so called, or upon the subject of prosecutions thereunder, which would induce you to refuse to convict a person indicted under said laws, if the facts set forth in the indictment are proven against him, or if the court directs that upon the facts proven it is your duty to convict?

4. Do you hold any opinion upon the constitutional power of Congress to punish State election officers for acts of omission or commission at elections for members of Congress, which would induce you to refuse to convict such officers when indicted under the laws of the United States for such acts of omission or commission, if the facts set forth in the indictment are proven against them, or if the court directs you that upon the facts proven it is your duty to convict?

5. Are you sensible of any bias or prejudice of any character which will prevent you from rendering a verdict of guilty against the defendants, if the court should charge you that upon the facts proven it is your duty to render such verdict?

As doubts might arise that a judge could be guilty of such an enormity I state that I take these interrogatories from the issue of April 19, 1882, of the Huntsville Advocate, which paper as I have before stated was mostly owned and controlled by the Federal court officials and the Congressman whom they supported. It was in fact the organ of the Federal court officials, and it might with propriety be termed the court journal of these autocrats. This paper in the same edition says editorially:

CHALLENGE FOR CAUSE.

The organization, Monday, of the present jury for the trial of the election cases led to protracted argument as to the right to challenge for cause. His honor Judge Bruce permitted the jury to be examined as to bias, opinion, and prejudice.

I do not believe that the judicial history of this or any other country shows any case which would authorize such questions. They do not belong to the category of questions heretofore recognized as proper to be propounded to a juror, in testing his qualifications to sit on the trial in a criminal case. The old, well-recognized questions have, I admit, been enlarged and expanded from time to time, as certain exigencies and the remodeling of old and the adoption of new laws, have dictated the change, but these expansions upon examination will appear to the judicial mind to be on the line of sound logic and legal legitimacy, and they well illustrate the enlightened judgment of the present age. I know of no one of these questions authorized or sanctioned in the books, that wears upon its face either unreasonableness or absurdity, certainly not one of them could be considered as a monstrosity.

But we have here

BRAND-NEW INTERROGATORIES,

invented and sanctioned not by a Coke, a Mansfield, or a Denman, a Kent or a Story—judges grown gray in the precincts of the temples of learning, and who might be permitted to have a right to plant amid the rules of law some sound and matured maxim, the suggestion of tedious toil and learned sagacity—but questions invented, sanctioned, and sustained by a Wilcox farmer, who had been made a judge from political considerations alone, to

SUBSERVE THE EXDS OF A DOMINANT PARTY

without ever perhaps having filed a declaration in an important case or have written an indictment for petit larceny.

And what are these questions? The practicing lawyers and the presiding judges of this day will be amazed when these questions are repeated:

Do you hold any opinion upon the subject of the Federal election laws, so called, or upon the subject of prosecutions thereunder, which would induce you to refuse to convict a person indicted under said laws if the facts set forth in the indictment are proven against him, or if the court directs that upon the facts proven it is your duty to convict?

This question being gravely propounded, the juror says, "Yes." This is declared by the judge cause for challenge, and the juror is promptly set aside. Why? Because his opinion, thus dragged out by the judicial nippers, is not the opinion of the prosecuting attorney nor of the court, who is snuffing for the odors of conviction.

If he answers "No," he is competent, and sworn and seated. He is thus packed in because his opinion is thus asserted

NOT TO BE AGAINST THE GOVERNMENT,

and be it remembered that in packing a jury the opinion of the juror is a paramount consideration. But the further absurdity of this proceeding appears in this: it will be observed that this conglomerate interrogatory which calls for one categorical answer, "yes" or "no," contains three distinct questions, each requiring ratiocination, and each to a certain extent intricate. The part first of the interrogatory calls attention to the Federal election laws and prosecutions under them, and for the juror's opinion as to a conviction; part second calls attention to the indictment, using this idiotic phrase, "if the facts set forth in the indictment are proved against him." Now, these very remarkable words place

THE JUROR IN A STATE OF ANXIETY

as to what these facts may be, and he is called on to say "yes" or "no," without being informed what the facts are or even time being given him to inquire, but he is

ABSOLUTELY FORCED TO PRESUME

that the facts are both indictable and are sufficiently and legally set out in the indictment to authorize a conviction! The part third of this interrogatory is a distinct question, "or if the court directs that upon the facts proven it is your duty to convict."

This conglomerate interrogatory, as I have called it, was framed, it would seem, on the strict rules of rhetoric, which looks as well to phraseological adornments as to logical climaxes—and this third part presents what we may call the logical climax—and the whole should pass into the text-books of belles-letters as an example, and be placed side by side with the efforts of the great writers as illustrative of the beauty of the construction of sentences, so as to be both sonorous in tone, grand in the conception, and conclusive in the argumentative arrangement.

Now, if we cut off this climax and put part third on a line to itself, what does it amount to? Simply, will you refuse to convict if the court directs that upon the facts proven it is your duty to convict?

It must not be forgotten that this question was put to the juror upon his *voire dire*, and that the answer was to disclose his competency to sit upon that jury. That is to say, the United States would not allow him to sit without a pledge in advance that he would convict "if the court directed that upon the facts proven it was his duty to convict."

Scroggs, Wright, and Jeffreys, those great jury-bullies of England of whom I have spoken, amid all their enormities never

REQUIRED A JUROR, IN ADVANCE,

to thus basely pledge himself to follow the directions of the court in a criminal case. It remained for Judge Bruce, a Federal judge in the State of Alabama, to be the first judge in Christendom who ever required a juror in advance to pledge himself to

CONVICT IF THE COURT DIRECT IT.

Scroggs, Wright, and Jeffreys did their bullying on the bench, after the jury was sworn and impaneled. But Bruce

PACKS THE JURY IN ADVANCE,

by requiring the pledge of base subserviency to the "direction of the court."

The fourth interrogatory allowed by Judge Bruce in this case reads thus:

Do you hold any opinion upon the constitutional power of Congress to punish State election officers for acts of omission or commission at elections for members of Congress which would induce you to refuse to convict such officers when indicted under the laws of the United States for such acts of omission or commission, if the facts set forth in the indictment are proven against them, or if the court directs you that upon the facts proven it is your duty to convict?

In this conglomerate interrogatory will be seen also this same anomaly: Three distinct questions calling for one categorical answer.

The first phase is signally remarkable in this: it inquires of the juror's opinion upon the

CONSTITUTIONAL POWER OF CONGRESS TO PUNISH STATE ELECTION OFFICERS

for acts of commission or omission at elections for members of Congress; a question involving an enlightened capacity on the part of a juror on a subject sufficiently intricate to demand the laborious investigation of a good legal mind, a question upon which the best judges of the Supreme Court of the United States might entertain positively opposite views! It presumes the existence of an amount of intelligence on the part of the juror utterly inconsistent with the well-known fact that the mass of jurors summoned for the Federal courts in the Southern States are illiterate persons, very many of them freedmen, without a particle of education or legal acumen! A man that is not acquainted with a letter in the alphabet is staggered with a question of the greatest magnitude, a question that a Coke might decide one way and a Mansfield another.

It is hardly possible for the imagination to take in the grotesque situation, the ludicrous absurdity of asking a negro his "opinion of the constitutional powers of Congress to punish State election officers for acts of omission or commission at the election of members of Congress."

I know nothing equal to this in history or fable, excepting the story of Cambyses, the Persian monarch, who, taunting the calf-god of the Egyptians, gravely inquired of that deity concerning some of the mysteries of Egyptian worship. The calf-god of course had no opinion on that occult subject. The calf-god had not fathomed the profound deeps of Egyptian theology; and in answer only glared with upraised and dilated eyes at the imperial interrogator; thus mutely signifying that he had no opinion.

The haughty monarch, receiving such an answer, in his fury stabbed and slew the unoffending deity for its mute ignorance. Not so with Bruce. He was not quite that savage, but on the contrary, upon being assured by the juror that he had no opinion on the subject, he rewards him by giving him a high place in the governmental inquisition.

As further proof that Judge Bruce, after allowing his court to exercise its power to aid in the election of the Greenback candidate for Congress, now sought to devote its powers to aiding him in the contest to secure the position for which the people had defeated him, I will call attention to a few facts.

At boxes where I got majorities, indictments were presented against the Democratic inspectors, although the proof showed the utmost fairness and good faith on their part. For instance, at Laniers Colonel Lowe's friend, the supervisor, swears he took charge of the box and went to find a place where they could count the ballots, and the ballots were all counted in a very short time, but on account of the unavoidable delay of an hour the Democratic inspector was indicted.

The same officials had before them the evidence of Colonel Lowe's witnesses regarding Courtland box No. 2. I will read from the report of the Elections Committee, signed by all the Democrats of that committee:

At Courtland precinct (the same place where the proof shows that there was no legal registration, and that one hundred and eighty unregistered persons cast illegal votes for William M. Lowe) the preponderance of evidence decidedly shows that none of the inspectors were supporters of the party which sustained Mr. Wheeler, and Mr. Lowe's witnesses are compelled reluctantly to admit that they violated the law which required them to count the ballots immediately on the closing of the polls, and that they pretended to be occupied for nine hours in counting about 500 ballots, and then put the counted and uncounted ballots together in a rough box, and that one of their number took the box off and kept it until the next day, when a box was returned which contained some ballots which they counted in an illegal manner, and made a report that Mr. Lowe had received 419 votes and that Mr. Wheeler had received 111 votes.

The proof also shows that this report was false, as the witnesses admit that Mr. Wheeler was polling a large vote—quite as large as that polled by Mr. Lowe—and some of the witnesses testified that he (Wheeler) polled two or three times as many votes as were counted for him.

Mr. Wheeler has proven, by uncontradicted and uncontroverted evidence of Republicans as well as Democrats, that over two hundred persons voted for him at that box.

We respectfully submit that we have never seen a case where the integrity of a ballot-box was more emphatically and essentially impeached, and where justice called louder for action.

The proof that all the inspectors were opposed to the Democratic party has been since overwhelmingly confirmed. The inspector who was claimed to have had a spark of Democracy in him was one of the most active opponents of the party at three elections held since November, 1880. No thought of indicting these inspectors was entertained by these court officials.

At the other Courtland box two of the inspectors were Republicans or Greenbackers. The first ballots taken from the box which were illegal in form were Wheeler ballots.

These inspectors read the law and decided them to be illegal and they rejected them. This was all right with Judge Bruce's court, and no complaint was ever made about it.

No doubt one object of Judge Bruce was to prevent Democrats having anything to do with elections, so that the Greenback party could carry on their election frauds without danger of detection.

In reply to a very proper inquiry as to how it was possible for such indictments as I have described to be presented by a grand jury, I will thank the gentleman for the inquiry and will say this is another illustration of the judicial tyranny practiced by Judge Bruce.

Another instance where Judge Bruce subordinated justice and law to political chicanery is when he dragged the ermine of a judge into the slush of political

DEBAUCHERY.

On June 30, 1879, the President approved a law enacted by Congress, a portion of which I read from pages 43 and 44, acts of first session Forty-sixth Congress:

SEC. 2. That the per diem pay of each juror, grand and petit, in any court of the United States, shall be $2; and that the last clause of section 800 of the Revised Statutes of the United States, which refers to the State of Pennsylvania, and sections 801, 820, and 821 of the Revised Statutes of the United States are hereby repealed; and that all such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing at the time of each drawing the names of not less than three hundred persons possessing the qualifications prescribed in section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of such court and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a well-known member of the principal political party in the district in which the court is held opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately, without reference to party affiliations, until the whole number required shall be placed therein. But nothing herein contained shall be construed to prevent any judge from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the State; and no person shall serve as a petit juror more than one term in any one year, and all juries to serve in courts after the passage of this act shall be drawn in conformity herewith.

There was but one purpose to be attained by this law and that purpose was to prevent packing juries in the interest of political parties. To such an extent had this been done in the South that trials by jury in the Federal courts had become mockeries in conception, farces in execution, and tragedies in their termination.

This was made possible by the existence of a law which was enacted during the times when party feeling was supreme. The law provided that any person could be excluded from serving as either grand or petit jurors in the Federal courts who declined to take the following oath, namely—I call attention to sections 801, 820, 821, and 822 of the Revised Statutes, and I will read the oath for jurors which formed a part of section 821:

That you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not directly or indirectly given any assistance in money or other thing to any person or persons whom you knew or had good ground to believe to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms the execution of the laws of the United States, and that you have not counseled or advised any person to join any insurrection or rebellion against or to resist with force of arms the laws of the United States.

An examination of section 822 shows that another law went so far as to provide that on trials under the civil-rights bill the judge could, on his own motion, exclude from the jury any person whom he thought was in complicity with any combination or conspiracy in said law set forth. Here was a case where humanity demanded immediate action.

Honorable Republicans from the North were shocked when informed of the injustice and base wrongs suffered by Southern people resulting from such laws. I had myself seen our best citizens dragged from their homes and lodged in jail because some trivial regulation of which they had never heard had not been complied with.

An honest farmer had perhaps made a tub for his neighbor, had hauled him a load of wood, or sold him a peck of peaches, and because an investigation showed that his neighbor afterward made a quart of peach brandy all parties were arrested, dragged one and even two hundred miles from home, thrown into jail, and then brought out and tried by a jury who could take the oath we have above recited.

I have seen in Huntsville and Montgomery hundreds of honest and hard-working men sleeping upon the cold ground, without means to buy bread or procure shelter. There they would wait, their families

miles away, suffering the agonies of anxiety and deprivation. I have seen honest, free men dragged before a jury of twelve men, seven of whom were deserters from the confederate and afterward soldiers in the Federal army, men filled with hate, prejudice, and partisanship; men who, in the supreme hour of battle, had deserted their colors, their comrades, their country, their honor, and their God.

To do some justice to our people, Congress proposed to change the law so that a portion of the jurors who were to try our citizens should come from the honorable class of society, and who could be relied upon to do justice between the citizens and Government.

The law was all that Democrats asked, and we all felt that it would secure fair trials in the Federal courts—a constitutional right which Matt Carpenter, a Republican Senator, said the South had not had since the war. Certainly it would have been thought that not one could be found to oppose this just measure, but remarkable as it may appear, it was opposed, notwithstanding that it was absolutely essential to the preservation of the lives, liberty, and property of the Southern people.

The object of the law enacted was to repeal the laws by which juries had been packed, yes, shamefully packed, for the purpose of tyranny and for the purpose of using Federal courts in the South as engines of oppression.

There was a man in Congress who it appears was a beneficiary of this jury-packing. The more terrible the Federal court to honest citizens the more license and force to those who profited by its exercise of power. That man raised his voice against the law which sought to give fair juries to the South, and the affidavit of a Republican, Mr. Hewlett, which I will print, shows that two distinguished citizens of Alabama, whom he wished indicted, escaped his vengeance. I give a few of his words in Congress:

> Now for the first time in the history of this country partisan politics is introduced by law into the jury-box. Juries, no doubt, have been sometimes packed, but contrary to law, never before by statute. This section does it. I am opposed to the whole thing in principle and practice.

It is a recognized principle adhered to by just and virtuous rulers that laws should be executed in the spirit of their enactment, *i. e.*, that the intention of the law-making power should govern; and with that view it is regarded proper and judicious to consult the originators and advocates of measures in the selection of persons to carry these measures into execution, because it is presumed that their judgment will be correct as to what manner of person will execute the law in accordance with the mandate of those who made it.

The records of Judge Bruce's court, however, show that he adopted precisely the opposite rule, and that the appointment of the commissioner to select juries was dictated by the only man who raised his voice against the law when it was enacted. This proves that Judge Bruce sought to violate his duty by not executing the law of Congress, but, just the contrary, to prevent its execution. That he succeeded in this effort is not surprising.

The record shows that in direct violation of the law not only did he not appoint as commissioner a "well-known member of the principal political party in the district in which the court was held, opposing that to which the clerk may belong," but directly the reverse; he appointed one James M. Hutchens, who was a well-known member of the party which affiliated with the party to which the clerk of said court belonged; and worse than that, the testimony recorded in the court shows that said Hutchens himself said at the time he received his commission as commissioner to select jurors that it was through Colonel Lowe that he got the appointment; and as it might be presumed the records of the court show that he performed his duty, so as to make the law nugatory.

I will present as an appendix to these remarks, certain records of Judge Bruce's court, which show that Mr. Hutchens and the clerk of his court violated the law and selected as jurors men who were almost entirely members of the parties which coalesced against the Democratic party.

In making these remarks I beg leave to say that not one word is intended as in the slightest degree reflecting upon the gentleman whose Congressional candidacy and contest was so especially made the business of these Federal officials, but it is necessary to my argument to allude to the matter to show that a person who opposed the jury law, and who is shown by the record and by the affidavits hereto appended to have, by himself and the aid of friends, taken charge of the grand jury and the court, was not the man whom Judge Bruce should have permitted to dictate the appointment of an officer who was to carry the law into operation. I will read a few lines:

> Your petitioners further state that the juries and grand juries drawn at the spring term, 1881, of this court were almost entirely composed of men who belonged to the political organization which opposed the Democratic party as aforesaid, and at the fall term, 1881, the grand jury which was drawn was of the same political complexion. Your petitioners further state that the political status of the thirty-men drawn for the petit juries at the present term, as reported by their neighbors, is as follows: Twenty-seven are men who have been and are now members of the Greenback or Republican party, which have as aforesaid coalesced against the Democratic party. One of said jurors belonged to and acted with the Greenback party until recently, and the remaining two are members of the Democratic party.

It will also be seen by the sworn paper of record in this case that the defendants and the counsel were denied any knowledge of the number or character of the names in the box, by the action of the clerk and commissioner in not filing a list of said names in the court as required by the printed rules of said court. Now, remember that the prosecuting attorney had the right to four peremptory challenges, and we see how thoroughly packed were the juries for obeying the mandate of a cruel judge. It was such grand jurors who presented the indictments which have claimed our attention.

Not satisfied with such packing, it seems from the affidavit of a Republican, which affidavit was taken before another Republican, that in violation of law the United States marshal had notified men of the same class to be on hand so that when persons on the grand or petit jury were excused he could still continue the packing. He tells McCullough, the Republican clerk, that—

> I notified men to be here so I could summon them none of them are here and it is a going to play Hell with these election cases. McCullough replied well I cant help it I have done my duty and it is not my fault.

I will print the entire affidavit in the RECORD. I will explain how the jury commissioner was finally changed. The circuit judge, Hon. Don A. Pardee, attended on court at the October term, 1881, and the records which refer to this matter were placed before him.

As soon as he discovered that the clerk of the court was a Republican and chairman of the Republican executive committee and that the district attorney was chairman of the Greenback executive committee, and that these two parties were combined against the Democratic party, he immediately admitted that the object of the law was defeated in the appointment of a Greenbacker to the office of commissioner, and as the proof also developed that the appointment was by recommendation of William M. Lowe, in whose interest the chairman of the committee of his party was prosecuting gentlemen charged with election frauds in the election of November, 1878, when Colonel Lowe was a candidate, he immediately announced that unless the attorney (Mr. Jones), who appeared for Hutchens, could contradict these facts he would be compelled to appoint another commissioner. Judge Pardee afterward appointed Mr. Rison and he was then called to Atlanta. After he left what was our surprise to learn that Judge Bruce declined to allow the newly appointed commissioner, together with the clerk, in compliance with the law and rules of the court, to place not less than three hundred names in a box and file the list in the office of the clerk; Judge Bruce intimating that he would let the marshal draw the names of the grand and petit jurors from the box which Hutchens and McCullough had previously arranged.

Shocked at this action we filed with the court a paper asking that the commissioner be permitted to perform the duties for which he had been appointed. In submitting the paper, counsel suggested many reasons why it would

BE ILLEGAL TO DRAW JURORS FROM THE OLD BOX;

and among them the attention of the judge was called to the fact that as the rules of the court had been violated and no list of the names filed, it was impossible to know how many names there were in the box. There might be less than the three hundred required by the statute, and there might be many more. For as far as the record showed there might have been 3,000 of these illegal names in the box, and to exhaust that number would occupy ten or fourteen years. Judge Bruce replied, with great asperity, that he did not care if it took forty-four years. In other words, he did not care if Democrats were tried for the next forty-four years by juries illegally impaneled and consisting almost entirely of their opponents.

Fortunately the clerk's better feeling prevailed, and he finally consented that the newly appointed commissioner and himself should add names selected by Mr. Rison.

I understand that the Federal court gentlemen claim that their record shows that many convictions have taken place in their courts, and this fact they insist upon as an evidence that Federal statutes have been violated.

In reply I will state that it is quite true. Judge Bruce's record shows convictions.

I will now explain the

DISGRACEFUL BARGAINS

by which many of these records of convictions were obtained.

Many expedients had been exhausted to secure conviction. Complaints had come from Washington of the great expense of the courts, and the meager results attained had also been brought to the attention of these officials. A new plan was now devised.

Hundreds, nay, probably thousands of honest and good citizens who had been arrested, charged with violating some trivial rule or regulation, were awaiting the slow process of judicial procedure.

Perjury of witnesses had been so thoroughly exposed by the defendants' attorneys that the prospects of satisfactory results in attaining convictions were not encouraging to the prosecution. A bargain was arranged by which defendants in a large class of cases were allowed to plead guilty upon the assurance that they would be released; that sentence should not be pronounced, and that they should be allowed to

return to their homes, of course, with the condition precedent (so I am informed) that court costs should be paid or satisfaction secured.

Under this plan the question resolved itself into one of endurance.

The judge with $3,500 a year and the other court officials with bounteous incomes, and all with sumptuous living, on the one side, and the poor defendant with nothing a year and often with nothing to eat on the other.

I am credibly informed that in this way many convictions were made to appear on the record.

I was present when one defendant came forward to enter his plea of guilty under this bargain.

When asked if guilty or not guilty, he replied:

I am not guilty; I am entirely innocent of the charge, but I have concluded it is better to plead guilty than to be kept longer from my family.

A colloquy then took place between the judge, the defendant, and his attorney as to whether a plea of guilty could be legally entered at the request of the defendant while he still asserted his innocence. The final determination was reached that the defendant had a right to enter such plea as he desired, and the records of Judge Bruce's court in the case show a confession of guilt.

I will mention an incident which, I am informed, a former district attorney repeated as a good joke: After the acquittal of a defendant, against whom conclusive evidence had been adduced, the district attorney privately inquired of a colored juryman how it was that such a verdict was reached? His reply was, "That man is a good Republican. We (meaning the jury) agreed we would acquit him, but we will bring in all the rest of the verdicts for you."

Such oppressions of our people are justified by the charge that we are Bourbons.

The people called Bourbons in the South are those who build the churches, maintain the schools and the industrial enterprises which once again, thank God, are feeling the mental and physical energies of the sons of those who made the South a great, chivalrous, and prosperous country.

Who, Mr. Speaker, are those who oppose the Bourbons? They comprise almost all the deluded colored men, to whom are added a very few conscientious and respectable Republicans, a very few conscientious and excellent men whose delusions cause them to follow the greenback phantom, all of whom are controlled by a few score of leaders who, crazed with a desire for office, worship at any shrine whose altar affords a glimpse of hope of an answer to their prayer for official power. These men were formerly confined to people who came from afar to seek office and fortune at our homes, but now the worst of these leaders are men who were raised in our midst. They seem to think that the god at whose feet they kneel is best pleased with sacrifice, and they seem to scruple at no wrong or oppression that they are able to inflict upon their former fellows and former friends.

What will history say of such greedy cormorants? What malediction will time heap upon them? When passion has been appeased, when the clouds have vanished, when the storm shall have ceased and reason once more has its legimate sway; when posterity looks back and sees the blows these men struck at our prostrate land; when they read the utterances from malignant tongues, when told of their base invasion of quiet homes, and the trampling under foot of the rights and liberties of these chivalrous people, who, I am proud to say, are of my country, my State, and my neighboring States, will they not say, "Withered be the arm that struck, cursed be the tongue that maligned, and despised be those who wounded the honor of our good people and dragged off the father, the brother, and the son, leaving wives, mothers, sisters in the agony of apprehension and alarm; and when the wrongs were inflicted by a son of the land of the South, one to the manor born—cursed, thrice cursed, be his name, and withered, thrice withered, should be his arm, despised and hated be his memory to-day, to-morrow, and forever?"

In closing, let me to all these political judges say, that law is the fruit of no human invention, is the decree of no judge, no nation, and no country; but it is the eternal something to whose unerring dictates of command or prohibition, the whole world should bend, and to him and all his retainers let me pronounce the admonition that justice is the most sublime element of virtue, and that virtue is the doing good to mankind in obedience to the will of God and for the sake of everlasting happiness.

APPENDIX.

AFFIDAVIT.

STATE OF ALABAMA, *Madison County:*

Before me, James H. Bone, a commissioner of the U. S. circuit court for the northern district of Alabama, personally appeared Thomas G. Hewlett, who, being duly sworn, says: That during the October term, 1881, of the United States court at Huntsville, Alabama, and while the court was in session, affiant saw Joseph H. Sloss, the marshal, come out of the court-room and walk to the door of the back room of the clerk's office and heard him call the clerk of the court, A. W. McCollough, out of his back office, which is in the building in which said court, into the hall leading from said back office into the front office. Affiant further states that said McCollough went out of his office into said hall in response to said call, and while there with said Sloss affiant heard a conversation between them, of which the following is the substance:

Sloss said they have excused several of the jurors and I have notified men to be here so that I could summon them; none of them are here and it is going to play hell with these election cases.

McCollough replied, well I can't help it; I have done my duty and it is not my fault.

Sloss then left McCollough and went out and called some one else.

When Sloss made the above remark to McCollough I remarked to Capt. F. M. Shouse, with whom I was sitting, "listen, the boss is stocking the jury on the boys."

When Sloss called McCollough out of his office, and when said conversation occurred between them, Shouse and I were sitting on the steps leading from said hall to the court-yard at the rear of the court building. We were in a position in which we could not be seen by McCollough and Sloss, and were engaged in reading some affidavits made by Capt. Jas. H. Savage, Wm. Stevenson, Mark L. Hatfield, and others.

THOS. G. HEWLETT.

Sworn and subscribed to before me this 10th day of February, A. D. 1882.
[SEAL.] JAMES H. BONE,
U. S. Commissioner.

PLEA TO THE VALIDITY OF INDICTMENT.

Circuit court U. S. for northern district of Alabama.

United States vs. Jos. S. McGehee *et al.*

The defendant for answer to said indictment says that the indictment was presented to this court by a body of men who were not a legal grand jury for the following reasons:

The records of this court show that the said grand jury which presented this indictment was not a legal grand jury in this: That said persons who composed said grand jury, or thirteen members thereof, were summoned to attend said court when no order had ever been made by any of the judges of this court for a venire to issue therefor, and the records of this court affirmatively show that when in his own discretion or upon a notification by the district attorney the judge of this court has found that a grand jury was needed one of the judges of this court ordered a venire to issue therefor and that such has been the standing rule and practice in this court, and the records of this court affirmatively show that grand jurors which were summoned anterior to the summoning of the grand jury which presented this indictment were summoned pursuant to a recorded order on the minutes of this court, and the same is true for all grand juries which have been summoned since the summoning of the grand jury which presented this indictment, and the records of this court affirmatively show that it has likewise been the standing rule and practice of this court that such orders for the summoning of grand jurors should be entered on the record of this court, and the records of this court affirmatively show that all of these rules were violated in the creation and organization of the grand jury which presented the indictment in this cause.

The records of this court do not show that the said persons who presented said indictment were ever sworn or charged or organized or empaneled as a grand jury, or that any person was appointed as foreman of said grand jury; and the records of this court affirmatively show that it is a standing rule of practice in this court for its records to show that all grand jurors which attend this court are sworn and charged and organized and empaneled, and that a member of said grand jury (whose name is given) was appointed foreman of said grand jury, and the records of the court affirmatively show that all grand juries which have attended this court up to this time expect the grand jury which presented this indictment were sworn and charged and organized and empaneled, and that a member of said grand jury (whose name is given) was appointed foreman thereof; and the records of this court affirmatively show that this rule of practice was violated in the creation and organization of the grand jury which presented the indictment in this cause or else in truth and in fact the grand jury which presented this indictment was neither sworn nor charged nor organized nor empaneled as a grand jury, and that no person was appointed as foreman thereof.

The records of this court show that when the court met and said body of men who acted as a grand jury met, eighteen members of said grand jury were present and answered to their names and constituted said grand jury, and thirteen of them acted as members of said grand jury; and the record shows that the judge of said court ordered without warrant of law that the clerk and marshal of said court draw from the box the names of jurors, a sufficient number to complete the panel; thereupon the clerk and marshal drew from the box containing the names of jurors the names of the following persons to serve as grand jurors during the term of the court, to wit: Jacob Myers, David Day, Sandy Bynum, Fearn Erskine, Joseph F. Ellett, Robert McMahan, H. L. George, Orrick Robertson, Wm. B. Allen, and S. W. Smith; and defendants aver that said ten persons acted as members of the grand jury which found the indictment aforesaid.

The records of this court affirmatively show that in the course of the formation of the grand jury that presented this indictment the grand jurors who were originally summoned and who appeared were reduced below the number of sixteen, and thereupon for the purpose of the completion of said grand jury the clerk and marshal drew from the box containing the names of jurors the names of the following persons to serve as grand jurors: Jacob Myers, David Day, Sandy Bynum, Fearn Erskine, Joseph F. Elliott and Robert McMahan, H. L. George, Oric Robertson, Wm. B. Allen, and G. W. Smith.

The records of this court show that the rules of this court were violated in drawing the grand jury which presented this indictment, in this, that the names drawn were not noted in the list kept by the clerk of the names deposited in the box.

The records of the court show that no one of the eighteen persons who appeared and acted as a member of said grand jury were challenged, and the record does not show that any challenge was allowed by the court to any one of said eighteen persons who appeared and answered to their names and were ready to act as grand jurors, but the record shows that for good and sufficient reasons to the court shown: It is ordered that John Winstead, F. M. Reece, Gilbert Shelton, James Canal, and Wm. Driscoll be excused from service as grand jurors at this term of the court.

The rules of this court require that "a list of the names deposited in the box shall be made and kept on file in his office by the clerk." And the clerk of this court violated the rules of this court in this, that when he and the jury commissioner placed the names in the box, from which the grand jury which presented the indictment in this cause was drawn, he, the said clerk, did not make and keep on file in his office a list of the names deposited in the box.

Before me, A. W. McCullough, clerk of the United States circuit court, personally appeared Jos. T. McGehee, who, being sworn, says that the above statement is true to the best of his knowledge, information, and belief, and as he verily believes.

J. T. McGEHEE.

Subscribed and sworn to before me this 29th day of October, 1881.
A. W. McCULLOUGH, *Clerk.*

Filed in open court Oct. 29th, A. D. 1881.
A. W. McCOLLOUGH, *Clerk.*

CITY OF WASHINGTON, *District of Columbia:*

Before me, James A. Tait, a notary public, personally appeared the undersigned, Thomas G. Hewlett, who, being duly sworn says, that soon after the

spring term of 1881 of the U. S. court of Huntsville, Alabama, he heard Wm. M. Lowe say that District Attorney Smith had pocketed the indictments found against Foster & Sykes in election cases. Lowe said Smith took these indictments and said he would write them out. Lowe said Day wrote the other indictments out and that they were ready.

He was general in abuse of Governor Smith for not writing out of these indictments, and said Gov. Smith ought to be removed and would be removed. Lowe said Day was the man for the place and ought to have it.

T. G. HEWLETT.

Subscribed and sworn to before me this 21st day of March, 1882, at Washington city, D. C.

[SEAL.] JAS. A. TAIT, *Notary Public.*

PETITION FOR LEGAL JURY COMMISSIONER.

To the honorable Don A. Pardee, circuit judge, and the honorable John Bruce, district judge:

Your petitioners, humbly complaining, state unto your honors that on the 30th day of June, 1879, a law was enacted by the Congress of the United States which provided for the manner of drawing all jurors, grand and petit, for the circuit and district courts of the United States. Said law provided that said jurors should be selected by the clerk of the court and by a commissioner to be appointed by the judge of said court, "which commissioner shall be a citizen of good standing, residing in the district in which said court is held, and a well-known member of the principal political party in the district in which the court is held, opposing that to which the clerk may belong."

Your petitioners further state that before the term of the circuit court of Alabama and the district court of the northern district of Alabama, which was held soon after the passage said act, to wit, on or about the 1st day of August, 1879, a petition was filed asking that H. L. Scruggs be appointed said commissioner; and your petitioners aver that said H. L. Scruggs is "a citizen of good standing residing (at said time and at this time) in the district in which said court is held and is a well-known member of the principal political party in the district in whfch the court is held, opposing that to which the clerk of the court belongs."

Petitioners allege that parties, who do not belong to the principal political party, opposed to the party to which the clerk belongs, made such representations to his honor Judge B. Woods as to secure the appointment as said commissioner of James H. Hutchens, who is not a member of the principal political party, in the district in which the court is held, opposing that to which the clerk belongs, and certainly is not a well-known member of said principal political party. Your petitioners further state that A. W. McCullough, esq., the clerk of the court of the northern judicial district of Alabama, is a member of the Republican party, and that for some time he has been a member and chairman of the Republican executive committee of the 8th Congressional district of the State of Alabama; that Mr. J. H. Hutchens, who holds the office of commissioner to select juries, is a member of the party called the Greenback or Independent party.

Your petitioners further state that the political affiliation and political status of the legal voters who reside in that portion of Alabama which comprises the northern judicial district of Alabama, as shown by the election returns for the four elections which took place next preceding the date of the appointment of the present commissioner, was as follows:

In Aug., 1876, Gov. Houston, the Democratic candidate for governor, received 30,648 votes, and Mr. Woodruff, his opponent, sometime called the Independent and sometimes called the Republican candidate, received 13,198 votes.

At the election for President in Nov., 1876, Mr. Tilden, the Democratic candidate, received 30,337 votes, and Mr. Hayes, the Republican candidate, received 16,408, and Mr. Cooper, the Greenback candidate, did not receive any votes, and no candidate for Congress received any votes as a Greenback candidate; the Democratic candidates receiving 28,984 votes and the opposing parties combined receiving but 8,910 votes. In August, 1878, Mr. Cobb, the Democratic candidate for governor, received 31,443 votes, and no votes were cast for any candidate for governor or any other State office who ran on the Greenback ticket or the Republican ticket.

In Nov., 1878, the Democratic candidates for Congress received 12,935 votes, and the opponents to said Democratic candidates, who were designated in the American Almanac (compiled by the Librarian of Congress) as Independent Democrats, received 11,970 votes.

It will, therefore, be seen that the average Democratic vote at said four elections was 26,338, and that the average opposition vote all combined together only amounted to 9,644, a little more than one-third the average Democratic vote; and if we omit the large Democratic majority of Aug., 1878, still the average Democratic vote would be nearly double the vote of all opposing parties combined.

Your petitioners further state that there have been three elections in this judicial district since the appointment of Mr. J. H. Hutchens as commissioner.

At the election for governor in August, 1880, Mr. Cobb, the Democratic candidate, received 38,726 votes, and Mr. Pickens, the Greenback candidate, received 18,514 votes.

At the election for President in November, 1880, General Hancock, the Democratic candidate, received 26,753 votes, and General Garfield, the Republican candidate, received 13,660 votes, and General Weaver, the Greenback candidate, received 3,266 votes.

The combined vote of Gen. Garfield & Genl. Weaver being only 16,926, or less than two-thirds the vote received by Genl. Hancock. At the Congressional election in November, 1880, the Democratic candidates received 26,456 votes, and the entire vote polled by the opposing candidates was 15,153 (all of which is fully shown by the tables filed herewith, marked Exhibit A & B, and prayed to be taken as a part of this petition; said figures are copied from pages 350 & 351 of the American Almanac of 1879, and pages 197 & 198 of the American Almanac of 1881, both compiled by Ainsworth R. Spofford, the Librarian of Congress, which are also filed herewith and prayed to be taken as part of this petition).

Your petitioners therefore assert that the Democratic party is the principal political party which is opposed to the party to which the clerk of this court belongs and they pray that your honor will appoint a commissioner who belongs to said principal political party.

Your petitioners further state that the Greenback party, to which Mr. J. H. Hutchens, the present commissioner, belongs, is not opposed and has not been opposed to the party to which the clerk of this court belongs, but in the election for member of Congress in Nov., 1878, and in the election for all State and county officers in August, 1880, and in the election for member of Congress in the 8th district, which comprises eight counties of this district, the said Greenback or Independent party and the party to which the clerk of this court belongs worked together as one party and voted for the same candidates; and your petitioners further state that the clerk of this court was the chairman of the Republican district executive committee, and the assistant district attorney of the court was the chairman of the Greenback district executive committee, and that they both worked together to elect the same candidate.

Your petitioners further state that the juries and grand juries drawn at the spring term, 1881, of this court were almost entirely composed of men who belonged to the political organization which opposed the Democratic party as aforesaid, and at the fall term, 1881, the grand jury which was drawn is of the same political complexion.

Your petitioners further state that the political status of the 30 men drawn for the petit juries at the present term as reported by their neighbors is as follows: Twenty-seven are men who have been and are now members of the Greenback or Republican party, which have as aforesaid coalesced against the Democratic party. One of said jurors belonged to and acted with the Greenback party until recently, and the remaining two are members of the Democratic party.

L. P. WALKER,
HUMES, GORDON & SHEFFEY,
By MILTON HUMES,
BRANDON & COOPER,
By JNO. D. BRANDON,
R. C. HUNT,
Attys. for parties litigant in the court.

AFFIDAVIT.

Petition for the appointment of a legal commissioner to select jurors.—Pending in the circuit court of the United States for northern district of Alabama.

Before me, A. W. McCullough, esq., clerk of the court aforesaid and the district court of the northern district of Alabama, personally appeared Daniel C. Clark, who, being sworn, deposes and says that he is a neighbor and has been a neighbor of James H. Hutchens for ten years. That said James H. Hutchens was a warm supporter of Hon. Wm. M. Lowe in his contest against the Democratic nominee, Hon. W. W. Garth, in November, 1878, and affiant further states that said James H. Hutchens told affiant that he voted for said Wm. M. Lowe for Congress at said election. He also told affiant that he would vote for James M. Pickens, who was the Greenback candidate for governor in August, 1880. He also told affiant that he would vote for Hon. Perry L. Harrison, for probate judge, said Harrison's principal opponent being Hon. Wm. Richardson, the Democratic candidate. He also told affiant that he would vote for Gen. Weaver, for President, in November, 1880, and for Hon. Wm. M. Lowe, for Congress, in November, 1880.

Affiant met said Hutchens at the time he received his commission to select jurors and affiant asked him how he got the appointment and said Hutchens told affiant that it was through Col. Lowe that he got the appointment.

Affiant further says that in all conversations with said James H. Hutchens for the last three years on the subject of politics the said Hutchens has been outspoken in opposition to the Democratic party.

DANIEL C. CLARK.

Sworn to and subscribed before me this 24th day of October, 1881.

A. W. McCULLOUGH, *Clerk.*

MOTION OF JOHN L. RISON.

Circuit Court United States for northern district of Alabama.

And now comes John L. Rison, in his own person, and states that he has been appointed the commissioner to select jurors, and that he has accepted said appointment, and his acceptance is on file in this court, and he moves the court to allow him to perform his duties as said commissioner.

Your movent states that the former commissioner did not comply with the law in selecting the names of jurors to put in the box containing the names of jurors, in this, that said jurors were not selected without regard to party affiliation, that the clerk did not comply with the law, and the clerk did not comply with the rules of the court in this, that the clerk failed to keep on file in this court a list of the names placed in the box in which the names of jurors are kept.

Your movent requests permission, in conjunction with the clerk of this court, to prepare a list of jurors, who are householders, and who, under the laws of Congress and the State of Alabama, are competent and qualified to serve as grand and petit jurors of this court, and place the names of said jurors in the jury box, according to the rules of this court, from which said names, so deposited in said box, the grand and petit jurors may be drawn in pursuance of law and the rules of this court.

JOHN L. RISON.

CASE OF BONE, PEEVEY, ET AL.

To the honorable judge of the United States circuit court for the northern district of Alabama:

Your petitioners, James H. Bone, Leroy M. Peevey, Jonathan Latham, G. M. Ware, and T. A. Thurston, respectfully represent unto your honor that at the spring term of 1876 of the circuit court of St. Clair County, which is in the northern district of Alabama aforesaid, they were indicted by the grand jury of said circuit court, and now stand charged with the murder of one James Treese in said county of St. Clair, before the finding of said indictment and of which offense they are not guilty.

Petitioners further allege that at the time of the alleged killing of the said James Treese your petitioner, the said James H. Bone, was a deputy United States marshal of the northern district of Alabama aforesaid, and your petitioners, Jonathan Latham, G. M. Ware, and T. A. Thurston, were special deputies acting under him, and your petitioners further aver that at the time of the alleged killing aforesaid, your petitioner, the said Le Roy M. Peevey, was a deputy collector of internal revenue for the third collection district of Alabama.

Your petitioners further aver that at the time of the alleged killing aforesaid the said James H. Bone, as such deputy U. S. marshal for the northern district aforesaid, had in his possession a capias against the said James Treese, issued from an indictment theretofore found against the said James Treese in the circuit court of the United States for the northern district of Alabama aforesaid; and also a warrant of arrest against the said James Treese issued by A. W. McCullough, clerk of the circuit court of the United States aforesaid, and that said James H. Bone, United States deputy marshal as aforesaid, with his special deputies aforesaid, the said Jonathan Latham, G. M. Ware, and T. A. Thurston, were then endeavoring lawfully to execute said processes.

And your petitioners further aver that at the time of the alleged killing aforesaid the said Le Roy M. Peevey, as such deputy collector of internal revenue as aforesaid, had authority to seize a certain still and stilling apparatus then and there being used by the aforesaid James Treese in the illicit distillation of spiritous liquor from grain and other material. Your petitioners further aver that the county of St. Clair, in said State of Alabama, is within and forms a part of the fifth judicial circuit of the United States. The premises considered your petitioners pray your honor for a writ of habeas corpus cum causâ directed to the United States marshal for the northern district of Alabama, that service and return may be had thereon as required by law, so that the prosecution and the custody of the bodies of your petitioners may be removed from the said circuit court of the State of Alabama for the county of St. Clair into the circuit court of the United States for the northern district of Alabama at Huntsville.

WALKER & SHELBY, *for Petitioners.*

Before me, A. W. McCullough, clerk of the circuit court of the United States for the northern district of Alabama, this day personally came James H. Bone and Le Roy M. Peevey, two of the petitioners aforesaid, who, being duly sworn, deposes and say the statements contained in the foregoing petition are true.

JAMES H. BONE.
THEO. A. THURSTON.
GEO. M. WARE.
LE ROY M. PEEVEY.

Sworn to and subscribed before me, this 20th of May, 1876.

A. W. McCULLOUGH,
Clerk U. S. Cir. C't.

HUNTSVILLE, ALA., *May* 20, 1876.

We hereby certify that as counsel for the petitioners, James H. Bone, Le Roy M. Peevey, Jonathan Latham, G. W. Ware, and T. A. Thurston, we have examined the proceedings against them and carefully inquired into all the matter set forth in their petition, and that we believe them to be true.

WALKER & SHELBY, *Att'ys for Petitioners.*

The President of the United States of America to the clerk of the circuit court of the county of St. Clair, in the State of Alabama, greeting:

You are hereby commanded to transmit to this court forthwith a certified transcript of the proceedings had in the circuit court of said county of St. Clair, in which the State of Alabama is plaintiff and James H. Bone, Le Rory M. Peevey, J. F. Latham, George Ware, Theodore A. Thurston, Andrew McLane are defendants.

And in this you shall in no wise fail.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States of America, at Huntsville, this the 20th day of October, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first year.

A. W. McCULLOUGH, *Clerk Circuit Court.*

The President of the United States of America to the marshal of the northern district of Alabama, greeting:

You are hereby commanded to take the bodies of James H. Bone, Theodore A. Thurston, George M. Ware, Jonathan Latham, and Le Roy M. Peevey into your custody, alleged to be detained by Robert E. Murphy, sheriff and jailor of Madison County, in the State of Alabama, by whatsoever name they may be charged, with the cause of their detention, and a certified record of the proceedings which caused such detention before the Hon. Judge of the United States circuit court, at the city of Huntsville, in the northern district of Alabama, forthwith to be dealt with in said circuit court according to law and the order of said circuit court.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this the 1st Monday of April, A. D. 1876.

A. W. McCULLOUGH,
Clerk U. S. Cir. Court Nor. Dist. Ala.

Issued this the 20th day of May, A. D. 1876.

Executed by reading the within writ and delivering a copy to Robt. E. Murphy, sheriff of Madison County, Alabama, and by taking the bodies of James H. Bone, Theodore A. Thurston, George M. Ware, and Le Roy M. Peevey, and Jonathan Latham into my custody.

R. P. BAKER, *U. S. M.*

May 20th, 1876.

Executed May 26, 1876, by serving a copy of notice and petition on the clerk of St. Clair County, at Ashville.

R. P. BAKER, *U. S. M.*

Circuit court Saint Clair County, Alabama, spring term, 1876.

Be it remembered that at a regular term of the honorable circuit court of the county of Saint Clair and State of Alabama, began and held at the town of Ashville, in the county of Saint Clair and State of Alabama, on Monday, the 24th day of April, in the year of our Lord one thousand and eight hundred and seventy-six, and of the Independence of the United States of America the one hundredth, to hear and determine all causes, as well as divers felonies, trespasses, and misdemeanors in the said county committed. On Monday, the 24th day of April, of the year aforesaid, at 10 o'clock of the forenoon, the same being the time appointed by law for holding said circuit court, the honorable William L. Whitlock, judge of the tenth judicial circuit of the State of Alabama, appeared and presided, and the said court was opened in due form of law.

Hereupon the following proceedings were had and done, to wit:

Abner Crow, sheriff of St. Clair County, returns into court a venire facias, heretofore issued, to wit, on the 6th day of January, in the year of our Lord one thousand eight hundred and seventy-six, in words and figures as follows, that is to say:

THE STATE OF ALABAMA, *St. Clair County:*

To the sheriff of St. Clair County greeting:

You are hereby commanded to summon the following-named persons to appear and serve as grand jurors at the term of the circuit court for St. Clair County, to be on Monday, the 24th of April next, they having been regularly drawn as grand jurors for said term said circuit court, to wit;

No.	1. John C. Williams,	farmer,	prect. No.	1.
"	2. John A. Harden,	"	"	3.
"	3. John M. Sims,	"	"	12.
"	4. William Vowel,	"	"	9.
"	5. John J. Abbott,	"	"	11.
"	6. Moses Pierce,	"	"	4.
"	7. Samuel C. Vaughan,	"	"	8.
"	8. John M. Gulley,	"	"	4.
"	9. J. H. Vandergriff,	"	"	3.
"	10. James H. Ranking,	"	"	2.
"	11. D. J. Clark,	"	"	2.
"	12. Robert M. Cook,	"	"	6.
"	13. James H. Autrey,	"	"	5.
"	14. J. F. Fletcher,	"	"	7.
"	15. John A. Zell,	"	"	10.
"	16. A. P. Stain,	"	"	1.
"	17. C. J. Teague,	"	"	2.
"	18. J. S. Maddox,	"	"	11.

And have you then and there this writ with your endorsement thereon.

Witness my hand this the 6th day of January, A. D. 1876.

S. A. WYATT,
Clerk of the Circuit Court of St. Clair County, Alabama.

Which said venire facias was returned into open court by said sheriff with endorsements of the tenure following, that is to say:

Received into office this 6th day of January, A. D. 1876.

——, *Sheriff.*

Received by me February the 24th, 1876, and executed on all the within-named jurors by personal service.

April 24th, 1876. ABNER CROW, *Sheriff.*

Upon the call of it, as in venire facias for said grand jurors by the sheriff of St. Clair County, all the persons therein named appeared in court, and answered to their names. The court for good an' sufficient reasons excused said John M. Gulley from serving. And the court being satisfied that the seventeen other persons therein named are qualified under the laws to serve as grand jurors for the present term of this court, appoints James H. Vandegrift as foreman of the grand jury. And the said James H. Vandegrift so appointed as said foreman, together with the said John C. Williams, John A. Harden, John M. Sims, William Vowel, John J. Abbott, Moses Pierce, Samuel C. Vaughan, James H. Ranking, D. J. Clark, Robert M. Cook, James H. Autry, John F. Fletcher, John A. Zellner, A. P. Stain, C. J. Teague, and John S. Maddox, were duly empanneled, sworn and charged according to law, as the grand jury for the present term of this court, who retired in charge of James A. Walker as their duly sworn bailiff to consider of their presentments.

Circuit court, spring term, 1876.

THE STATE OF ALABAMA, *Saint Clair County:*

The grand jury of said county charge that before the finding of this indictment that James H. Bone, Jonathan Latham, Thos. J. Moody, LeRoy M. Peevey, A. T. McLane, whose Christian name is to the grand jury unknown, G. M. Ware, whose true Christian name is unknown to the grand jury, and A. T. Thurston, whose true Christian name is to the grand jury unknown, unlawfully and with malice aforethought killed James Treese by shooting him with a gun; and the grand jury of said county further charge that before the finding of this indictment James H. Bone, Jonathan Latham, Thomas J. Moody, LeRoy M. Peevey, A. T. McLane, whose true Christian name is to the grand jury unknown, G. M. Ware, whose true Christian name is to the grand jury unknown, and T. A. Thurston, whose true Christian name is to the grand jury unknown, unlawfully and with malice aforethought killed James Treese by shooting him with a loaded fire arm, to wit, with a loaded fire arm known, assigned, and called a carbine, contrary to law and against the peace and dignity of the State of Alabama.

WELLINGTON VANDIVER,
Solicitor for St. Clair County.

Filed in office in open court April the 27th, 1876.

S. A. WYATT, *Clerk.*

Capias issued May 10, 1876.

S. A. WYATT, *Clerk.*

THE STATE OF ALABAMA, *St. Clair County:*

To any sheriff of the State:

An indictment having been found at the spring term, A. D. 1876, of the circuit court of St. Clair County against James H. Bone for the offence of murder (of James Treese), against the peace and dignity of the State of Alabama, you are therefore commanded fourthwith to arrest the said defendant, James H. Bone, and commit him to jail to answer such indictment, and that you return this writ according. Dated this 10th day of May, 1876.

SAMUEL A. WYATT,
Clerk of the Circuit Court, St. Clair County.

No. 25. State *vs.* James H. Bone.—Murder.

May 20th, 1876, executed by the arrest of the defendant, James H. Bone, and committing him to jail to answer the within charge. The said James H. Bone has been taken from my custody by R. P. Baker, U. S. marshal for the northern district of Alabama, by virtue of a writ of habeas corpus cum causâ, issued by the honorable Wm. B. Wood, of the circuit court of the U. S. for the northern district of Alabama, and who has been discharged by said court by the defendant entering into bond with surety in the sum of five thousand dollars, conditioned for his appearance at the next term of the U. S. court, to which said court the defendant has made application for the removal of said cause from the circuit court of the county of St. Clair, State of Alabama.

ROBERT E. MURPHY, *Sheriff.*

THE STATE OF ALABAMA, *St. Clair County:*

To any sheriff of the State:

An indictment having been found at the spring term, 1876, of the circuit court of St. Clair County against Jonathan Latham for the offence of murder (of James Treese), against the peace and dignity of the State of Alabama, you are therefore commanded forthwith to arrest said defendant, Jonathan Latham, and commit him to jail to answer such indictment, and that you return this writ according to law. Dated this 10th day of May, 1876.

SAMUEL A. WYATT,
Clerk of the Circuit Court, St. Clair County.

No. 25. The State *vs.* Jonathan Latham.—Writ of arrest.—Murder.

May the 20th, 1876, executed by the arrest of the defendant, Jonathan Latham, and committing him to jail to answer the within charge. The said Jonathan Latham has been taken from my custody by R. P. Baker, U. S. marshal for the northern district of Alabama, by writ of habeas corpus cum causâ, issued by the honorable Wm. B. Woods, judge of the circuit court of the United States for the northern district of Alabama, and who has been discharged by said court by the defendant entering into a bond with seeuries in the sum of five thousand dollars, conditioned for his appearance at the next term of the U. S. circuit court, to which said court the defendant has made application for the removal of said cause from the circuit court of the county of St. Clair, State of Alabama.

ROBERT E. MURPHY, *Sheriff.*

THE STATE OF ALABAMA, *St. Clair County:*

To any sheriff of the State:

An indictment having been found at the spring term, 1876, of the circuit court of St. Clair County against G. M. Ware for the offense of murder (of James Treese), against the peace and dignity of the State of Alabama.

You are, therefore, commanded forthwith to arrest the said defendant, G. M. Ware, and commit him to jail to answer such indictment. And that you return this writ according to law, dated this 10th day of May, 1876.

SAMUEL A. WYATT,
Clerk Circuit Court of St. Clair County.

No. 25. The State *vs.* G. M. Ware.—Writ of arrest.—Murder.

May the 20th, 1876, executed by the arrest of the defendant, G. M. Ware, and committed to jail to answer the within charge. The said G. M. Ware has been taken from my custody by R. R. Baker, U. S. marshal for the northern district of Alabama, by virtue of a writ of habeas corpus cum causâ, issued by the honorable William B. Woods, judge of the circuit court of the U. S. for the northern district of Alabama, and who has been discharged by said court by the defendant entering into bond with securities in the sum of five thousand dollars, conditioned for his appearance at the next term of the U. S. circuit court, to which court the defendant has made application for the removal of said cause from the circuit court of the county of St. Clair, State of Alabama.

ROBERT E. MURPHY, *Sheriff.*

THE STATE OF ALABAMA, *St. Clair County:*

To any sheriff of the State:

An indictment having been found at the spring term, 1876, of the circuit court of St. Clair County against T. A. Thurston, for the offense of murder (of James Treese), against the peace and dignity of the State of Alabama, you are therefore commanded fourthwith to arrest the said defendant, T. A. Thurston, and commit him to jail to answer such indictment, and that you return this writ according to law, dated this 10th day of May, 1876.

SAMUEL A. WYATT,
Clerk Circuit Court, St. Clair County.

No. 25. The State *vs.* T. A. Thurston.—Writ of arrest.—Murder.

May 10th, 1876, executed by the arrest of the defendant, T. A. Thurston, and committed to jail to answer the within charge. The said T. A. Thurston has been

taken from my custody by R. R. Baker, U. S. marshal for the northern district of Alabama, by virtue of a writ of habeas corpus cum causâ, issued by the honorable Wm. B. Woods, judge of the circuit court of the U. S. for the northern district of Alabama, and who has been discharged by said court by defendant entering into bond with sureties in the sum of five thousand dollars, conditioned for his appearance at the next term of the U. S. circuit court, to which said court the defendant has made application for the removal of said cause from the circuit court of the county of St. Clair, State of Alabama.

ROBERT E. MURPHY, *Sheriff.*

THE STATE OF ALABAMA, *St. Clair County:*

To any sheriff of the State:

An indictment having been found at the spring term, 1876, of the circuit court of St. Clair County against L. M. Peevey for the offense of murder (of James Treese), against the peace and dignity of the State of Alabama, you are therefore commanded forthwith to arrest the said L. M. Peevey and commit him to jail to answer such indictment, and that you return this writ according to law. Dated this 10th day of May, 1876.

S. A. WYATT,
Circuit Court Clerk, St. Clair County.

No. 25. The State *vs.* L. M. Peevey.—Warrant of arrest.—Murder.

May 20th, 1876, executed by the arrest of the defendant, L. M. Peevey, and committing him to jail to answer the within charge. The said L. M. Peevey has been taken from my custody by R. P. Baker, U. S. marshal, northern district of Alabama, by virtue of a writ of habeas corpus cum causâ, issued by the honorable Wm. B. Woods, judge of the circuit court of the United States for the northern district of Alabama, and who has been discharged by said court by the defendant entering into bond with sureties in the sum of five thousand dollars, conditioned for his appearance at the next term of the U. S. circuit court, to which the defendant has made application for the removal of said cause from the circuit court of the county of St. Clair, Alabama.

ROBERT E. MURPHY, *Sheriff.*

To the honorable judge of the United States circuit court for the northern district of Alabama:

Your petitioners, James H. Bone, Le Roy M. Peevey, Jonathan Latham, G. M. Ware, and T. A. Thurston, respectfully represent unto your honor that at the spring term of 1876 of the circuit court of St. Clair County, which is in the northern district of Alabama, as aforesaid, they were indicted by the grand jury of said circuit court, and now stand charged with the murder of one James Treese, in said county of St. Clair, before the finding of said indictment and of which offense they are not guilty.

Petitioners further allege that at the time of the alleged killing of the said James Treese, your petitioner, the said James H. Bone, was a deputy United States marshal of the northern district of Alabama, as aforesaid, and your petitioners, Jonathan Latham, G. M. Ware, and T. A. Thurston, was special deputies acting under him, and your petitioners further aver that at the time of the alleged killing, aforesaid, your petitioner, the said Le Roy M. Peevey, was a deputy collector of internal revenue for the third collecting district of Alabama.

Your petitioners further aver that at the time of the alleged killing aforesaid the said James H. Bone, as such deputy United States marshal for the northern district aforesaid, had in his possession a capias against the said James Treese issued from an indictment theretofore found against the said James Treese in the circuit court of the United States for the northern district of Alabama aforesaid. And also a warrant of arrest against the said James Treese issued by A. W. McCullough, clerk of the circuit court of the United States aforesaid, and that said James H. Bone, United States deputy marshal as aforesaid, with his special deputies, the said Jonathan Latham, G. M. Ware, and T. A. Thurston, were then endeavoring lawfully to execute said process.

And your petitioners further aver that at the time of the alleged killing aforesaid, the said LeRoy M. Peevey, as such deputy collector of internal revenue as aforesaid, had authority to seize a certain still and stilling apparatus then and there being used by the aforesaid James Treese in the illicit distilling of spiritous liquors from grain and other materials.

Your petitioners further aver that the county of St. Clair, in said State of Alabama, is within and forms a part of the fifth judicial circuit court of the United States. The premises considered, your petitioners pray your honor for a writ of habeas corpus cum causâ directed to the United States marshal for the northern district of Alabama that service and return may be had thereon as required by law, so that the prosecution and the bodies of your petitioners may be removed from the said circuit court of the State of Alabama for the county of St. Clair into the circuit court of the United States for the northern district of Alabama at Huntsville.

WALKER & SHELBY,
For Petitioners.

Before me, A. W. McCollough, clerk of the circuit court of the United States for the northern district of Alabama, this day personally came James H. Bone and LeRoy M. Peevey, two of the petitioners aforesaid, who, being duly sworn, depose and say the statements contained in the foregoing petition are true.

JAMES H. BONE.
THOS. A. THURSTON.
GEORGE M. WARE.
LE ROY M. PEEVEY.

Sworn to and subscribed before me this 20th day of May, 1876.

A. W. McCOLLOUGH,
Clerk U. S. Cir. Court.

HUNTSVILLE, ALABAMA, *May 20th*, 1876.

We hereby certify that as counsel for the petitioners, Jas. H. Bone, LeRoy M. Peevey, Jonathan Latham, G. M. Ware, and T. A. Thurston, we have examined the proceedings against them, and carefully inquired into all the matter set fourth in the petition, and that we believe them to be true.

WALKER & SHELBY,
Att'ys for Petitioners.

The President of the U. S. of America to the marshal for the northern district of Alabama, greeting:

You are hereby commanded to take the bodies of Jas. H. Bone, Theodore A. Thurston, George M. Ware, Jonathan Latham, and LeRoy M. Peevey into your custody, alleged to be detained by Robert E. Murphy, sheriff and jailor of Madison County, in the State of Alabama, by what so ever names they may be charged with the cause of their detention, and a certified record of the proceedings, which caused such detention, before the honorable judge of the U. S. circuit court, at the city of Huntsville, in the northern district of Alabama, forthwith to be dealt with in the circuit court according to law and the order of said circuit court.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this the 1st Monday of April, 1876.

A. W. McCOLLOUGH,
Clerk U. S. Circuit Court, Northern Dist. of Ala.

Issued this the 20th day of May, 1876.

I, A. W. McCullough, clerk of the circuit court of the United States for the northern district of Alabama, hereby certify that the above and foregoing are full, true, and complete copies of the petition filed in the clerk's office and the writ of habeas corpus cum causâ, issued by me on the 20th day of May, A. D. 1876.

In testimony whereof I hereunto subscribed my name and affix the official seal of my office, at Huntsville, the 20th day of May, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundredth year.

A. W. McCOLLOUGH,
Clerk U. S. Cir. Court, Northern Dist. of Ala.

Filed in office 25th day of May, 1876.

S. A. WYATT,
Clerk of the Circuit Court of St. Clair County, Ala.

Circuit court, fall term, 1876.

OCTOBER *the 12th*, 1876.

The State *vs.* James H. Bone, Jonathan Latham, L. M. Peevey, G. M. Ware, T. A. Thurston.—Continued generally.

THE STATE OF ALABAMA, *St. Clair County:*

I, Samuel A. Wyatt, clerk of the circuit court in and for said St. Clair County and State, hereby certify that the within pages, numbering from one to twenty-three, contains a full, true, and complete transcript of all the record and proceeding in the above-stated cause as appears of records in my office, in witness whereof I hereunto set my hand and affix the official seal of my office, at office in the town of Ashville, on this 24 day of October, A. D. 1876.

S. A. WYATT,
Cir. Clerk St. Clair County.

Be it remembered, that on the 1st day of November, 1876, it being a day of the regular term of the circuit court of the United States for the northern district of Alabama, the following proceedings were had and entered of record on the minutes of the said circuit court, to wit:

The State of Alabama *vs.* Leroy M. Peevey, Jonathan Latham, James H. Bone, Theodore A. Thurston, George M. Ware.—Murder.

This cause being called for trial, came the defendants, Leroy M. Peevey, Jonathan Latham, James H. Bone, George M. Ware, and Theodore A. Thurston, and defendants Thomas Moody and McClain come not, and it appearing to the court that the said Thomas Moody and McClain have not been arrested and do not appear, it is therefore ordered by the court that defendants Thomas Moody and McClain be severed from the said Leroy M. Peevey, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware, and that the trial of said cause as to said Leroy M. Peevey, Jonathan Latham, and James H. Bone, George M. Ware, and Theodore A. Thurston do now proceed, and thereupon comes a jury of good and lawful men, to wit: Joel T. Parish and eleven others, who were duly elected, empanelled, and sworn according to the statutes and truly to try said cause and true deliverance to make between the State of Alabama and Leroy M. Peevey, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware, the defendants at the bar, and a true verdict to render according to the evidence, and thereupon the said Leroy M. Peevey, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware being duly charged and arraigned on the indictment in this case, each in his own proper person plead "not guilty," and thereupon the trial of said cause proceeding, and the jury being duly charged by the court do find their verdict as follows, to wit: We, the jury, find the defendants Leroy M. Peevey, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware not guilty, Joel T. Parish, foreman, and thereupon it is ordered by the court that Leroy M. Peevey, Jonathan Latham, James H. Bone, Theodore A. Thurston, and George M. Ware go hence without day.

A true copy teste:

A. W. McCULLOUGH, *Clerk.*

UNITED STATES OF AMERICA, *Northern District of Alabama:*

I, A. W. McCullough, clerk of the circuit court of the United States of America, in and for said district, do hereby certify that the above and foregoing is a true, full, and complete copy of the proceeding had in the case of James H. Bone, Leroy M. Peevey, *et al.*, as fully as the same does appear of record in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court at office in the city of Huntsville, in said district, this 19th day of February, A. D. 1883.

[SEAL.]

A. W. McCULLOUGH,
Clerk of U. S. Court.

CASE OF LUCY GILCHRIST.

STATE OF ALABAMA, *Lawrence County:*

Be it remembered, that on this the 3d day of July, 1874, we, J. H. McDonald, judge of the probate court; W. T. Simmons, sheriff, and R. Y. Goodlet, clerk of circuit court, all of said county and State, in pursuance of the statutes in such cases made and provided, assembled at the office of the clerk of the circuit for the purpose of drawing a grand jury to serve at the September term, 1874, of said court for the year 1874, of which said drawing the following is an exhibit:

Names.	Residence.	Occupation.
Robert Byan	Moulton	Farmer.
James A. Milam	Landersville	"
Geo. V. Altwood	Mt. Hope	"
John Urling	Moulton	"
James H. Livingstone	Oakville	"
Reason Young	Landersville	"
W. D. McDaniel	Moulton	"
Geo. W. McNutt	Oakville	"
W. S. Eyster	Moulton	"
James L. Stephens	Moulton	"
David B. Barret	Oakville	"
J. P. Craig	Mt. Hope	"
S. H. Radford	Mt. Hope	"
J. W. Sandlin	Landersville	Merchant.
A. J. Shelton	Moulton	Farmer.
John E. Stevenson	Mt. Hope	"
James D. Pickens	Mt. Hope	"
Wm. H. Bowling	Landersville	"

STATE OF ALABAMA, *Lawrence County:*

We, the undersigned, certify that the foregoing list of names drawn for grand jurors for the September term, 1874, for the circuit court of said county, is a true exemplification of said names drawn as aforesaid.

J. H. McDONALD, *J. P. C.*
W. T. SIMMONS, *Sheriff.*
R. Y. GOODLETT, *Clerk.*

STATE OF ALABAMA, *Lawrence County:*

To the sheriff of Lawrence County, Alabama:

We command you to summon the following good and lawful men, citizens of said county, to serve as grand jurors at the September term of 1874 of the circuit court of said county:

Names.	Residence.	Occupation.
Robert Byan	Moulton	Farmer.
Jas. A. Milan	Landersville	"
Geo. V. Altwood	Mt. Hope	"
John Urling	Moulton	"
James H. Livingstone	Oakville	"
Reason Young	Landersville	"
W. D. McDaniel	Moulton	"
Geo. W. McNut	Oakville	"
W. S. Eyster	Moulton	"
James L. Stepens	Moulton	"
David B. Barret	Oakville	"
J. R. Craig	Landersville	"
S. H. Radford	Mt. Hope	"
J. W. Sandlin	Landersville	Merchant.
A. J. Shelton	Moulton	Farmer.
John E. Stenson	Mt. Hope	"
James D. Pickens	Mt. Hope	"
W. H. Bowling	Landersville	"

Herein fail not and have you this writ of venira facias at the office of the clerk of said court three days previous to the next term of said court, with your return thereon.

Witness my hand this 3d day of July, 1874.

R. Y. GOODLETT, *Clerk.*

Venire facias returned September 10th, 1874. Endorsed: Executed September 10, 1874.

W. T. SIMMONS, *Sheriff.*

Upon a call of the venire facias of the grand jury the following-named persons appeared: W. H. Bowling, Robert Byan, A. J. Shilton, J. H. Livingstone, W. S. Eyster, J. E. Steenson, J. W. Sandlin, R. Young, J. P. Craig, J. D. Pickens, S. H. Radford, D. B. Barret, J. D. Nidam, G. W. McNutt, and W. D. McDaniel, making fifteen in number, there the court appointed W. H. Bowling, foreman, who being duly sworn diligently to inquire and true presentment make of all indictable offenses committed or triable in this county, &c., the rest of said jurors being duly sworn well and truly the oath of their said foreman to observe and keep and receive the charge of the court, and retired with the bailiff, W. J. Gibson, who was duly sworn to consider of their findings.

The State of Alabama, Lawrence County circuit court, September term 1874.

The grand jury of said county charges that before the finding of this indictment, Lucy Gilchrist, alias Lucy Depriest, alias Lucy Arnold, unlawfully, and without malice aforethought, killed Phillis Gilchrist, alias Phillis Depriest, by striking her with an ax, cutting off her leg, whereby she was killed, against the peace and dignity of the State of Alabama.

JOS. C. BAKER,
Solicitor of Lawrence County.

Witnesses: Tom Caldwell, Jefferson McCullough, Anderson McCullough, Laura Nelson, Martha Harris, Edmond Blair.

A true bill. No prosecutor.

W. H. BOWLING,
Foreman of Grand Jury.

Filed in office 15th September, 1874.

R. Y. GOODLETT, *Clerk.*

At fall term, 1874, defendant, Lucy Gilchrist, arraigned in open court and plead "Not guilty."

Ordered by the court that said court be continued by defendant and admitted to bail in bond of one thousand dollars.

At the spring term 1875 the following order was made:

The State of Alabama *vs.* Lucy Gilchrist.

Continued by defendant.

At fall term 1875 the following order was made:

The State of Alabama *vs.* Lucy Gilchrist.

Defendant in open court ordered that the sheriff summon fifty jurors, including the regular jurors, for next week of this term, and a list of jurors, with copy of indictment, be delivered to defendant at least one entire day before day of trial, and that Wednesday of next week be set for her trial.

WEDNESDAY, *October* 20, 1875.

This day set for trial, the following order was had:

"Continued by State and attachment for witness for their appearance at next term of this court, and that they enter into bond of one hundred dollars each, with good securities, for their appearance to give evidence as aforesaid."

Circuit court.—Fall term, 1876.

THE STATE OF ALABAMA, *Lawrence County:*

To any sheriff of the State of Alabama, greeting:

Whereas it appears to the satisfaction of the court that Thomas Caldwell, Jefferson McCullough, Laura Nelson, Martha Harris, Edmond Blair, Robert Foster, Charles Looney, and Robert Parker have been duly summoned to appear at this term of this court and testify or give evidence in case of The State *vs.* Lucy Gilchrist, and they having been solemnly called came not, but made default. It is therefore ordered by the court that an attachment be issued for the said witnesses.

You are, therefore, hereby commanded to forthwith arrest the said Tom Caldwell, Jefferson McCullough, Anderson McCullough, Laura Nelson, Martha Harris, Edmon Blair, Robert Foster, Charles Looney, and Robert Parker, and them safely keep until the next term of this court, to be held in April, 1876, next, at Moulton, Alabama, when and where you must produce said witnesses until they give good bond, with good security, in the sum of one hundred dollars each for their appearance at said court to testify or give evidence in the case of the State *vs.* Lucy Gilchrist.

Witness my hand, this 28th day of March, 1876.

R. Y. GOODLETT, *Clerk.*

Executed by arresting the within parties and taking bond for one hundred dollars, except Chas. Looney and Robert Parker, not found. April 17, 1876.

W. T. COUCH, *Sheriff.*

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, Tom Caldwell and O. A. Vanhook, agree to pay the State of Alabama one hundred dollars unless Tom Caldwell appears at the next term of the circuit court, and from day to day thereof and from term to term thereof, until discharged by law, as a witness. The State *vs.* Lucy Gilchrist.

THOM. CALDWELL.
O. A. VANHOOK.

Approved this 4th day of April, 1876.

W. T. COUCH,
Sheriff of Lawrence County.

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, Jefferson McCullough and J. A. Edwards, agree to pay to the State of Alabama one hundred dollars unless Jefferson McCullough appear at the next term of the circuit court, and from day to day thereof and from term to term thereof, until discharged by law, to give evidence. The State *vs.* Lucy Gilchrist.

his
JEFF + McCULLOUGH.
mark.
J. R. EDWARDS.

Approved the 4th day of April, 1876.

W. T. COUCH,
Sheriff of Lawrence County.

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, S. Parshall and Martha Harris, agree to pay to the State of Alabama one hundred dollars unless Martha Harris appears at the next term of the circuit court, and from day to day thereof and from term to term thereof, unless discharged by law, to give evidence. The States *vs.* Lucy Gilchrist.

her
MARTHA + HARRIS.
mark.
S. PARSHALL.

Approved this 4th day of April, 1876.

W. T. COUCH,
Sheriff Lawrence County.

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, Edmond Blair and D. B. Campbell, agree to pay the State of Alabama one hundred dollars, unless Edmond Blair appear at the next term of the court, and from day to day thereof and from term to term thereof, until discharged by law, to give evidence. The States *vs.* Lucy Gilchrist.

his
EDMOND + BLAIR.
mark.
D. B. CAMPBELL.

Approved this 5th day of April, 1876.

W. T. COUCH,
Sheriff of Lawrence County.

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, Laura Nelson and O. A. Vanhook, agree to pay the State of Alabama one hundred dollars, unless Laura Nelson appears at the next term of the circuit court, and from day to day thereof and from term to term thereof, unless discharged by law, to answer as a witness. The State *vs.* Lucy Gilchrist.

her
LAURA + NELSON.
mark.
O. A. VANHOOK.

Approved this 4th day of April, 1876.

W. T. COUCH,
Sheriff of Lawrence County.

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, Robert Foster and O. A. Vanhook, agree to pay to the State of Alabama one hundred dollars unless the said Robert Foster appears at the next regular term of the circuit court, and from day to day thereof and from term to term thereof until discharged by law, to answer, as a witness, The State *vs.* Lucy Gilchrist.

ROBERT FOSTER.
O. A. VANHOOK.

Approved this the 4th day of April, 1876.

W. T. COUCH,
Sheriff of Lawrence County.

In the circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

We, Andrew McCullough and J. A. Edwards, agree to pay to the State of Alabama one hundred dollars unless Andrew McCullough appears at the next term of the circuit court, and from day to day thereof and from term to term thereof until discharged by law, to answer and give evidence, as a witness, The State *vs.* Lucy Gilchrist.

his
A. + McCULLOUGH.
mark.
J. P. EDWARDS.

Approved this 4th day of April, 1876.

W. T. COUCH,
Sheriff of Lawrence County.

At the April term, 1876, the following order:

The State of Alabama *vs.* Lucy Gilchrist.

Came H. C. Jones, solicitor for the State, and defendant in own proper person is brought into open court. It is ordered thereupon by the court that sheriff summon fifty persons, including the jurors summoned for the sweek of the trial of defendant, and that a list of jurors and a copy of the indictment be delivered to the defendant at least one entire day before the trial, and that Wednesday of this week be set for her trial.

To the Hon. WM. B. WOODS, judge of the fourth judicial circuit of the State of Alabama:

Your petitioner, Lucy Gilchrist, would respectfully show unto your honor that a prosecution has been commenced her and is now pending in the circuit court of Lawrence County, of said State of Alabama, in which she is charged with the murder of one Phillis Gilchrist; that she is a woman, and on account of her color and race is denied and cannot inforce in the judicial tribunals of that part of the State of Alabama in which such prosecution is pending, and particularly in the courts of said fourth judicial circuit of said county of Lawrence, the equal civil rights of citizens of the United States; that according to the rules and practice prevailing in the said circuit court of said 4 judicial, and particularly of said county of Lawrence, and according to the usages and customs established by the officer thereof, to wit, the clerk of said circuit court, the sheriff, and judge of probate, who, according to the laws of said State of Alabama, select, draw, and summons jurors for the trial of the offenses that pertain to the jurisdiction of said circuit court of said State of Alabama, and particularly of the offense with which petitioner is denied and cannot inforce in the judicial tribunals of said State of Alabama the rights of being tried by a jury consisting in whole or a part of her own race and color, as secured to her by the Constitution and laws of the United States.

Whereupon petitioner pray that the said cause be removed for trial into the next circuit court of the United States, to be held in the district wherein said cause pending, to wit: The circuit court of the U. S. for the northern district of the State of Alabama, at Huntsville, in said State.

LUCY GILCHRIST.

Sworn and subscribed before me this 20th day of April, 1876.

R. Y. GOODLETT, *Clerk.*

The State *vs.* Lucy Gilchrist.

This being the day set for trial, came H. C. Jones, solicitor for the State, and defendant in her attorney and in her own proper person, and on petition of defendant, under act of Congress providing for the removal of causes from the State courts to the United States court, it is ordered that proceedings in this court be stayed, and that the clerk of this court certify the same to the U. S. court, with a transcript of the indictment and all the orders and proceedings had in the case.

THE STATE OF ALABAMA, *Lawrence County:*

I, R. Y. Goodlett, clerk of the circuit court in and for said county and State aforesaid, hereby certify that the foregoing is a correct transcript of the proceedings had in case of The State *vs.* Lucy Gilchrist, including organization of grand jury and bond for appearances of witnesses, and all orders of court.

Witness my hand this 26th day of May, 1876.

R. Y. GOODLETT, *Clerk.*

In the circuit court of the United States for the northern district of Alabama.

THE President of the United States of America to the marshal of said northern district of Alabama, greeting:

You are hereby commanded that you take the body of Lucy Gilchrist into your custody, alleged to be detained by William T. Couch, sheriff and jailer of Lawrence County, in the State of Alabama, by whatsoever name she may be charged, with the cause of her detention, before the honorable William B. Woods, judge of the United States circuit court, at the city of Huntsville, in the northern district of Alabama, forthwith to be dealt with in said circuit court according to law and the order of said circuit court.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this the 2nd Monday of October, A. D. 1876.

Teste:

A. W. McCULLOUGH,
Clerk U. S. Circuit Court Northern District of Ala.

Issued April 14th, 1877.
Received April 14th, 1877.

R. P. BAKER, *U. S. Marshal.*

Executed April 16th, 1877, by taking the body of Lucy Gilchrist into my possession as herein commanded, and now have her in my custody.

R. P. BAKER, *U. S. M.*,
By D. N. COOPER, *Deputy.*

THE UNITED STATES OF AMERICA,
Northern District of Alabama:

Be it remembered, that heretofore, to wit, on the 21st day of April. A. D. 1877, it being a day of a regular term of the circuit court of the United States for the northern district of Alabama, begun and held at the United States court-rooms in the city of Huntsville, in said district, on the first Monday of April, A. D. 1877, and of the Independence of the United States of America the one hundred and second year, present, the Hon. John Bruce, judge of district court, presiding, the following proceedings was had and entered of record on the minutes of said circuit court, to wit:

The State of Alabama *vs.* Lucy Gilchrist.—1097.

Comes the defendant in her own proper person and by counsel, and no prosecutor appearing for the State of Alabama, and it appearing that due notice had been given, come a jury of good and lawful men, to wit, C. C. Swoop and eleven others, who are duly elected, empaneled, and sworn, who return their verdict: "We the jury find the defendant not guilty."

It is therefore considered by the court that said defendant, Lucy Gilchrist, go hence without day.

United States of America, northern district of Alabama.

I, A. W. McCullough, clerk of the circuit court of the United States of America, in and for said district, do hereby certify that the above and foregoing is a true, full, and complete copy of the proceedings had in the case of The State of Alabama *vs.* Lucy Gilchrist, as fully as the same does appear of record in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court at office in the city of Huntsville, in said district, this 19th day of February, A. D. 1883.

[SEAL.]

A. W. McCULLOUGH,
Clerk of U. S. Circuit Court.

CASE OF WILLIAM RICHARDSON.

THE STATE OF ALABAMA, *Lawrence County:*

Be it remembered that heretofore the following proceedings have been had in the circuit court of Lawrence County, Alabama, to wit:

THE STATE OF ALABAMA, *Lawrence County.*

Be it remembered on this the 31st day of July, 1874, we, J. H. McDonald, judge of the probate court, W. T. Simmons, sheriff. and R. Y. Goodlett, clerk of the circuit court, all of said county and State, in pursuance of the statutes in said cause made and provided, assembled at the office of the clerk of the circuit court for the purpose of drawing a grand jury to serve at the September term, 1874, of said court for the year 1874, of which said drawing the following is an exhibit:

Names.	Residence.	Occupation.
Robert Byars	Moulton	Farmer.
Jas. A. Milam	Landersville	"
Geo. V. Attwood	Mt. Hope	"
John Urling	Moulton	"
Jas. H. Livingston	Oakville	"
Reason Young	Landersville	"
Wm. D. McDaniel	Moulton	"
Geo. W. McNutt	Oakville	"
W. S. Eyster	Moulton	"
Jas. L. Stevens	Moulton	"
David B. Barrett	Oakville	"
J. P. Craig	Landersville	"
S. H. Radford	Mt. Hope	"
J. W. Sandlin	Landersville	Merchant.
A. J. Shelton	Moulton	Farmer.
John E. Steenson	Mt. Hope	"
Jas. D. Pickens	Mt. Hope	"
W. H. Bowling	Landersville	"

STATE OF ALABAMA, *Lawrence County:*

We, the undersigned, certify that the foregoing list of names, drawn for Grand Jurors for the September term, 1874, for the circuit court of said county, is a true exemplification of names drawn as aforesaid.

J. H. McDONALD, *J. P. C.*
W. T. SIMMONS, *Sheriff.*
R. Y. GOODLETT, *Clerk.*

THE STATE OF ALABAMA, *Lawrence County:*

To the sheriff of Lawrence County, Alabama:

We command you to summon the following good and lawful men, citizens of said county, to serve as grand jurors at the Sept. term, 1874, of the circuit court of said county:

Names.	Residence.	Occupation.
Robert Byars	Moulton	Farmer.
Jas. A. Milam	Landersville	"
Geo. V. Attwood	Mt. Hope	"
John Urling	Moulton	"
Jas. H. Livingston	Oakville	"
Reason Young	Landersville	"
W. D. McDonald	Moulton	"
Geo. W. McNutt	Oakville	"
W. S. Eyster	Moulton	"
Jas. L. Stevens	Moulton	"
David B. Barett	Oakville	"
J. P. Craig	Landersville	"
J. S. Radford	Mt. Hope	"
J. W. Sandlin	Landersville	Merchant.
A. J. Shelton	Moulton	Farmer.
John E. Steensom	Mt. Hope	"
Jas. D. Pickens	Mt. Hope	"
W. H. Bowling	Landersville	"

Herein fail not, and have you this writ of venire facias at the office of the clerk of said county three days previous to the next term of said court with your return thereon.

Witness my hand this 31st day of July, 1874.

R. Y. GOODLETT, *Clerk.*

Endorsed: Executed September 10th, 1874.

J. T. SIMMONS, *Sheriff.*

Upon a call of the venire facias of the grand jury the following-named persons appeared: W. H. Bowling, J. H. Livingston, J. W. Sandlin, J. D. Pickens, J. A. Milam, Robert Byars, W. S. Eyster, R. Young, S. H. Radfood, G. W. McNutt, A. J. Shelton, J. E. Steensom, J. B. Craig, D. B. Barrett, and W. D. McDonald—making fifteen in number. Thereupon the court appointed W. H. Bowling foreman, who being duly sworn diligently to inquire and true presentment make of all indictable offences committed or triable in this county, &c., the rest of said jurors being duly sworn well and truly the oath of their said foreman to observe and keep, &c., received the charge of the court and retired with their bailiff, W. J. Gibson, who was duly sworn to consider of their findings.

Circuit court, September term, 1874.

THE STATE OF ALABAMA, *Lawrence County:*

The grand jury of said county charges that before the finding of this indictment William Richardson unlawfully and with malace afore throught did assault Schuyler Parshall with the intent to murder him by shooting at him with a pistol against the peace and dignity of the State of Alabama.

JOSEPH C. BAKER,
Solicitor of Lawrence County, Ala.

A true bill.
No prosecuter.

W. H. BOWLING,
Foreman Grand Jury.

Witnesses:
S. Parshall, S. Gibson, Thos. Dannaviunt, Dr. A. J. Sykes.
Filed in office 15th day of Sept., 1874.

R. Y. GOODLETT, *Clerk.*

THE STATE OF ALABAMA, *Lawrence County:*

We, William Richardson (col.), and Ferdinand L. Hammond, Pery L. Harrison, agree to pay the State of Alabama seven hundred and fifty dollars ($750) unless the said William Richardson (col.) appear at the next term of the circuit court of Lawrence County, Alabama, and from day to day thereof, and from term to term thereof, until discharged by law, to answer a charge pending in said court against him foran assault intent to committ murder Schuyler Parshall.

his
WILLIAM + RICHARDSON.
mark.
F. L. HAMMONDS.
P. L. HARRISON.

Attest:
W. T. SIMMONS.
October 3d, 1874.
Bond approved October 3d, 1874.

W. T. SIMMONS, *Sheriff.*

Circuit court.

THE STATE OF ALABAMA, *Lawrence County:*

To Hon. W. B. WOODS, *Judge, &c.:*

The petition of William Richardson, a colored man, showeth to your honor that he is, as he understands the facts, to be indicted in this county & charged with having assaulted with intent to kill one Schuyler Parshall, who is a white man & a man of prominence & influence, residing in the said county, &c., the keeper of a hotel or tavern in Courtland, & has much close connection thereby with the white comunity. Petitioner is advised and so charges the facts to be that said Parshall has made many times a statement of his own version of the alleged facts of the case and greatly to the prejudice of the petitioner in the premises and to such an extent as causes to show that petitioner shot at said Parshall without any authority, excuse of palliation for the same; & petitioner insist that such was an statement & version of the facts of the case, and that thereby the cause of the petitioner has been greatly prejudiced & damaged in the eyes of the community to such an extent that petitioner, as he thinks, is advised, &c., so verily believes and is satisfied in his opinion and judgement that he can not certainly have a fair, impartial trial in said county. He is not guilty in manner or form as charged as he understands, believes, and is advised the law and facts to be.

Your petitioner asks an order & judgement of this court granting and changing the venire for the trial of the said case to the next nearest county from these objections, and that the trial of the said case may be removed to some other county than Lawrence, when petitioner may, if possible, have a fair trial. He is satisfied that let his trial come off where it may under the present organization of the administration organs of justice in the State a fair trial is hereby possible. He asks an order of this court to change the venire of the trial of his said cause to some other county.

his
WILLIAM + RICHARDSON.
mark.

THE STATE OF ALABAMA, *Lawrence County:*

Came William Richardson, colored, into open court this eight day of April, 1875, and made affidavit that the petition as above set out positiveley is true, and the other matter he believes to be true.

Sworn to in open court.

R. Y. GOODLETT, *C. C. C.*

At April term, 1875, was ordered by the court that this cause be continued.

At October term, 1875, the following proceedings were had, to wit:

Circuit court, Lawrence County, October term, 1875, and 18th day of Oct., 1875.

THE STATE OF ALABAMA, *Lawrence County:*

The State of Alabama, plaintiff, against William Richardson (a colored man), charged by indictment in said State court with having assaulted Schuyler Parshall with intent to kill and murder one Schuyler Parshall, in said county and State of Alabama.

In the above case which is not yet come, but is pending in the circuit court of Lawrence County, and State of Alabama, your petitioner, William Richardson (a colored man), petitioning, charges and states that by reason of his being a colored man, and that the great prejudices existing against him as such colored man, and existing in said county and State, he can not, as he verily believes, is advised, and so charge the truth to be, have a fair and impartial trial, and in said State court where said prosecution is yet pending, his legal right of defense secured to him in his defense in the trial of said prosecution and intended by law to be secured to him by the laws of the State providing for the equal civil rights of all citizens of the United States, and to the ends of a fair and impartial trial of said cause and prosecution and defense, and to be secured to him his civil rights in such trial, he asked that said cause and the trial thereof be removed to the circuit court of the United States, to be holden at the city of Huntsville, in said State, at the next regular term thereof. Said county of Lawrence is within the circuit of said United States court, and petitioner asks that a transcript of the proceedings being had in the said circuit court of the county of Lawrence and State of Alabama shall be promptly made out by the clerk of said State court with all the proceedings in said cause, and furnish to petitioner that the same may be filed in the circuit court of the United States, according to the act of Congress in such cases made and provided.

his
WILLIAM + RICHARDSON.
mark.

Attest:

R. Y. GOODLETT.

THE STATE OF ALABAMA, *Lawrence County:*

This day came William Richardson (colored), the above petitioner, who makes this oath that the above petitioner is true as set forth.

Sworn to and subscribed by affiant in open court, this 18th day of October, 1875.

R. Y. GOODLETT, *Clerk.*

Whereupon the following order was had, to wit:

The State of Alabama *vs.* William Richardson.

Transferred to the circuit court of the United States at Huntsville on petition of defendant under act of Congress.

THE STATE OF ALABAMA, *Lawrence County:*

I, R. Y. Goodett, clerk of the circuit court in and for said county and State aforesaid, hereby certify that the foregoing is a correct transcript of The State *vs.* William Richardson, as appears from the record on file here in office.

Witness my hand this 20th day of November, 1875.

R. Y. GOODLETT,
Clerk Circuit Court, Lawrence County Alabama.

Circuit court United States.

APRIL 14TH, 1876.

The State of Alabama vs. William Richardson.

In this cause the State of Alabama by counsel moves the court that the entry of jury & verdict in the cause for the defendant to set aside, and that the said cause be reinstated on the docket of this court for trial for the following reasons, viz: (1) Because in fact no jury was impanelled, the defendant was not arraigned, nor trial, no issue of law nor fact was made up nor submitted to the court nor jury; no nolle prosequi was asked of the court nor assented to by any one who represented the said cause, nor who had nor claimed to have authority to represent the State of Alabama, nor the said cause, nor any one who was prosecuting, nor who ever had been prosecuting the said cause. (2) No counsel represented the said cause was or had been in court to take charge of the said cause, and the same was wholly unrepresented. And the reasons for the same are the following: Joseph C. Baker, esq., an attorney of this court, and who was at the time of the transfer of said cause to this court, departed this life about the 14th day of March, 1876. That said Baker resided in Lawrence County, Alabama, from the circuit court for which county this cause was transferred to this court, was the solicitor for said county of Lawrence, and the law officer of the State of Alabama for said county and was to attend this court to prosecute said cause in this court, as he had been prosecuting the same in the circuit court of Lawrence County, Alabama, and that his death prevented the necessary preparation of the cause after its transfer to this court, and also prevented said Baker from being present at this term of this court and representing the State of Alabama in the prosecution of said cause, and that Thomas M. Peters, esq., an attorney of this court, has also been employed in this cause to assist in representing the State of Alabama in said cause, and that he has been closely engaged in this circuit court of Lawrence County, wherein he resides, in attendance to his professional engagement as a practicing attorney in said court. That said accusation of The State of Alabama *vs.* William Richardson is a grave offense and should be investigated in and by this court, and that the same would of had been properly represented in this cause and in a state of readiness for trial but for the death of the solicitor of the State of Alabama for the county of Lawrence.

DAVID P. LEWIS,
Att'y for State of Alabama.

In open court, personally, S. Parshall, who, being sworn in due form of law, deposes and says that the facts stated in the above motion are true and that the death of Joseph C. Baker, his being solicitor for the State of Alabama, his representation of said cause, his intention to attend this court for the prosecution of said cause, the employment of Thos. M. Peters, esq., the cause of his absence as stated in the above motion are true to his knowledge of this affiant.

Sworn to and subscribed before me this 14th day of April, 1876.

S. PARSHALL.

Subscribed & sworn to before me this 14th day of April, 1876.

A. W. McCULLOUGH,
Clerk Cir. Court.

The State of Alabama *vs.* William Richardson.

Comes the defendant and moves this the court set aside the continuance granting the plaintiff on the 12th day of October, 1876, and for grounds of this motion states the following: Said continuance was granted in the absense of defendants, when defendant was not present in court, and without his knowledge and consent or permission.

The prosecution is without foundation in law and facts, and is malicious, being instigated and carried on by one Schuyler Parshall to gratify malicious and malignant feelings he has towards the defendant. Defendant is a poor man, with a wife & children depending upon him for their daily bread.

Defendant is, by the continuance this case in court, kept from his work, and in this way defendant's family are made to suffer.

Defendant now has in attendance upon this court a witness, James J. Blackmore, who resides in Memphis, Tennessee, by whom defendant can prove his entire innocence of the charge in this cause preferred against him. Wherefore defendant moves the court to set aside said order of continuance that he may have a fair and speedy trial, as is guaranteed by the Constitution and laws of the United States.

his
WILLIAM + RICHARDSON.
mark.

Sworn and subscribed before me this 20th day of October, 1876.

A. W. McCULLOUGH, *C. C. C.*

Be it remembered that heretofore, to wit, on the 11th day of April, 1876, a day of the regular term of the circuit court of the United States for the northern district of Alabama, the Hon. John Bruce presiding as judge of said circuit court, the following proceedings were had and entered on the minutes of said court, to wit:

The State of Alabama *vs.* William Richardson.

Comes the defendant by counsel, and no prosecutor appearing, come a jury of good and lawful men, who return a verdict in favor of said defendant. It is therefore considered by the court that the said defendant go hence without delay.

And afterward, to wit, on the 14th day of April, 1876, a motion was filed in said cause in words and figures as follows, to wit:

Circuit court of the United States.

APRIL 4TH, 1876.

The State of Alabama *vs.* William Richardson.

In this cause the State of Alabama, by counsel, moves the court that the entry of jury and verdict in this cause for the defendant be set aside, and that the said cause be reinstated on the docket of this court for trial for the following reasons, viz:

1st. Because in fact no jury was empanelled, defendant was not arraigned nor tried; no issue of law or fact was made up nor submitted to the court or jury; no nol prosequi was asked of the court nor assented to by any one who represented the said cause or who had or claimed to have authority to represent the State of Alabama or the said cause; nor any one who was prosecuting nor who ever had been prosecuting the said cause.

2nd. No counsel representing the said cause was or had been in court to take charge of said cause, and the same was wholly unrepresented, and the reasons fore the same are the following, viz: Joseph C. Baker, esqr., an attorney of this court, and who was at the time of the transfer of said cause to this court, departed this life about the 14th day of March, 1876. That the said Baker resided in Lawrence County, Alabama, from this circuit court from which county this cause was transferred to this court, was the solicitor for said county of Lawrence and the law officer of the State of Alabama for said county, and was to attend this court to prosecute said cause in this court as he had been prosecuting the same in the circuit court of Lawrence County, Alabama, and his death prevented the necessary preparations of the cause after its transfer to this court, and also prevented said Baker from being present at this term of this court and representing the State of Alabama in the prosecution of said cause. And that Thomas M. Peters, esqr., an attorney of this court, had also been employed in this cause to assist in this representing the State of Alabama in said cause, and that he has been closely engaged in the circuit court of Lawrence County where he resided attending to his professional engagements as a practicing attorney in said court. That the said accusation of The State of Alabama *vs.* William Richardson is a grave offense and should be investigated in an by this court, and the same would have been properly represented in this cause and in a state of readiness for trial but for the death of the solicitor of the State of Alabama for the county of Lawrence.

DAVID P. LEWIS,
For the State of Alabama.
LEWIS E. PARSONS,
For motion.

In open court personally appears S. Parshall, who, upon being duly sworn in due form of law, deposes and says that the facts stated in the above motion are true, and that the death of Joseph C. Baker, esqr., his being solicitor for the State of Alabama, his representation of said cause, his intention to attend this court for the prosecution of said cause, the employment of Thomas M. Peters, esqr., and the cause of his absence as stated in the above motion are true to the knowledge of this affiant.

Sworn to and subscribed before me this 14th day of April, 1876.

A. W. McCULLOUGH, *Clerk.*

Filed the 14th day of April, 1876.

A. W. McCULLOUGH, *Clerk Cir. Court.*

And afterwards, to wit, on the 29th day of April, 1876, the following proceeding was had and entered on the minutes of said circuit court, to wit:

The State of Alabama *vs.* William Richardson.

In this cause a motion having been entered on the motion docket of this court on the 14th day of April, 1876, to set aside the action of the court in this cause on the 11th day of April, 1876, as shown by the entry thereof, and reingtate said

cause on the trial docket of said court, and it appearing to the satisfaction of the court that notice of said motion was served on the day said motion was filed on one of the attorneys who represent said defendant in this cause, and the said motion being read to the court, and on argument of counsel, it is therefore considered by the court that said entry of jury and verdict made in this cause having been made in the absence of any attorney having authority to represent the State of Alabama, and the same was made without the empannelling of any jury for the trial of said William Richardson, and without the arraignment of said William Richardson, and without the reading of the indictment or any paper in said cause and without the introduction of any evidence either for the State of Alabama or for the defendant; and it further appearing that the attorney for the State of Alabama who had represented the State in the commencement of said prosecution and while pending in the circuit court of Lawrence County, departed this life on the 14th day of March, 1876, and the court being satisfied that the said entry of jury and verdict was unadvised and without a knowledge of the facts of the case as shown by said motion, and the affidavit accompanying and verifying the same, it is therefore ordered, adjudged, and dereed that the said as of jury and verdict heretofore entered in this cause be, and the same is hereby, annulled, set aside, revoked, and held for naught, and that the said cause be and the same is hereby reinstated on the trial docket of this court as though the said entry of jury and verdict had never been made.

And afterwards, to wit, on the 12th day of October, 1876, an order was made as follows, to wit:

The State of Alabama *vs.* William Richardson.

Comes the parties, by their attorneys, and on motion of counsel for the defendant this cause is continued until the next term of this court; and thereupon, on motion of the counsel for the defendant, leave is granted for the petition in this cause to be amended.

And on the 14th day of April, 1877, the following order was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Come the parties, by their attorneys, and on motion of the defendant and for good cause shown, it is ordered by the court that the cause be continued.

And on the 18th day of October, 1877, the following order was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Comes the parties by their attorneys; comes also the defendant in his own proper person, and on motion of defendant counsel leave is granted to take the deposition of a witness residing in the State of Texas, subject to all legal objections, and this cause is continued on application of defendant's counsel until the next term of this court.

On the 26th day of April, 1878, the following order was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Comes the defendant in his own proper person and by his counsel, and on his motion it is ordered by the court that this cause be continued.

On the 11th day of October, 1880, the following was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Comes the State of Alabama, by District Attorney William H. Smith, esqr., and on his motion it is ordered by the court that an alias capias be awarded for the defendant.

[Conditional judge set aside.]

On the 12th day of October, 1880, the following order was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Come the parties by their attorneys, and on motion of defendants' counsel, and upon a showing deemed satisfactory to the court, that the conditional judgment taken at the former day of this term of this court be, and the same is hereby set aside.

Remanded.

On the 19th day of October, 1880, the following order was made and entered on the minutes, to wit:

The State of Alabama *vs.* William Richardson.

Come the parties by their attorneys, and on motion of plaintiffs' counsel and for good cause shown, it is ordered by the court that this cause be remanded to the State court.

UNITED STATES OF AMERICA, *Northern District of Alabama:*

I, A. W. McCullough, clerk of the circuit court of the United States of America, in and for said district, do hereby certify that the above and foregoing is a true, full and complete copy of the proceedings had in the case of the State of Alabama *vs.* William Richardson as fully as the same does appear of record in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, at office in the city of Huntsville, in said district, this 20th day of February, A. D. 1883.

A. W. McCULLOUGH,
Clerk of U. S. Court.

Contested Election—Sessinghaus vs. Frost.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Friday, March 2, 1883.

The House having under consideration the contested-election case of Sessinghaus *vs.* Frost—

Mr. WHEELER said:

Mr. SPEAKER: On the 17th of March, 1882, I had the honor to address the House upon a subject that was partially judicial in its character. I then expressed my views, the force of which has strengthened day by day, and what I now say will at least in part involve an endeavor to reiterate the principles I advocated nearly twelve months ago. I will repeat the words I then used:

Fixed rules based upon legal principles should be established and adhered to so that decisions of Congress would become adjudications as binding and dignified as the opinions and decrees of the highest courts of our land.

We are called upon to determine the

HIGHEST RIGHT KNOWN TO OUR SYSTEM OF GOVERNMENT.

We are to determine a question of representation. It is a greater question than the elective franchise. It is to ascertain and to decree under our oaths as judges and jurors which of two contending parties was elected a member from the third district of Missouri.

Article 1, section 4 of the Constitution of the United States says:

The times, places, and manner of holding elections for Senators or 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.

Under this provision of the Constitution, and under laws enacted pursuant thereto,

THE SITTING MEMBER WAS DECLARED ELECTED,

and the sovereign power which he represents has certified such to be the case, and for two years, with credit to himself and his constituency, he has occupied a seat as the Representative from the third district of Missouri.

If Mr. Frost did not receive the greatest number of legal votes cast he would be the last man in this House to wish for a moment to retain a seat to which another had been elected.

The statutes of the United States provide the means of ascertaining with unquestioned accuracy the number of votes cast for each party at each poll, and this evidence will be adopted by Congress in the place of the sworn returns of the election officers, and if said proof shows that another than Mr. Frost received the greatest number of votes, then I pledge myself to vote to seat that person in this Hall, without regard to his political views or party affiliations.

THE LAWS OF THE UNITED STATES PROVIDE

that this proof shall be taken by written deposition, and that evidence thus presented to Congress by written depositions shall determine which party has a right to the seat now being considered.

Section 105 of the Revised Statutes provides that the contestant shall give the contestee notice in writing and "shall specify particularly the grounds upon which he relies in the contest."

Section 106 provides that the contestee shall—

answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he rests the validity of his election.

Sections 108 to 120 then provide that each party shall take testimony to sustain his allegations and to assail the allegations of his competitor, and section 121 provides that—

The testimony to be taken by either party to the contest shall be confined to the proof or disproof of the facts alleged or denied in the notice and answer.

I will now read sections 122 and 127:

SEC. 122. The officer shall cause the testimony of the witnesses, together with the questions proposed by the parties or their agents, to be reduced to writing in his presence and in the presence of the parties or their agents, if attending, and to be duly attested by the witnesses respectively.

SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall when the taking of the same is completed and without unnecessary delay certify and carefully seal and immediately forward the same by mail addressed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia.

Evidence by deposition is in derogation of common law. It is only by virtue of statute that such evidence can be used in any judicial tribunal.

The supreme court of Pennsylvania, using the language which we find in every elementary work on evidence, said:

The taking of testimony by deposition is at best but a very imperfect way of arriving at the truth; every precaution should, therefore, be taken to guard against abuses.

I approve of this expression and think that evidence taken with disregard of the statutory requirements should not be received.

The provisions of the judiciary act of 1789, which correspond with the provisions of sections 122 and 127 of the Revised Statutes, are in these words:

And every person deposing as aforesaid shall be carefully examined and cautioned and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence. And the depositions so taken shall be retained by such magistrate until he deliver the same with his own hand into the court for which they are taken, or shall, together with a certificate of the reasons as aforesaid of their being taken, and of the notice, if any, given to the adverse party, be by him, the said magistrate, sealed up and directed to such court.

The provision that the deposition must be reduced to writing in the presence of the officer, and the provision regarding the sealing and transmission of depositions, are common to the contested-election law and the judiciary act of 1789. Observe, however, that the law regarding contested elections makes it the duty of the commissioner to immediately forward the evidence by mail.

Observe, also, that the law regarding contested elections states that the

OFFICERS WHO TAKE TESTIMONY SHALL CERTIFY THE SAME.

Our forefathers who framed the judiciary act in 1789 did not think it necessary to state that commissioners should add their certificate to depositions taken by them, as such a verification was admitted by every one to be an essential requisite to papers claiming validity, and therefore they seem to have omitted such a provision, but even without such a requirement the Federal courts have never allowed a deposition to be

read or used in evidence when the certificate of the commissioner was defective, much less if it was omitted.

It is obvious, therefore, that decisions of the Federal courts on the provision of the judiciary act for the writing out of the depositions and with regard to their being certified by the commissioners, and the transmission of evidence by said commissioners to the Clerk of the House of Representatives, will be authoritative in cases which may come before Congress under the corresponding provision of the statute relating to contested elections. I will read from Bell *vs.* Morrison, 1 Peters, 351. Judge Story, delivering the opinion of the court, held—

That, under section 30 of the judiciary act, a deposition is not admissible if it is not shown that the deposition was reduced to writing in presence of the magistrate.

In Edmonson *vs.* Barrett, 2 Cranch C. C., 228, the plaintiff's attorney offered in evidence on the trial the deposition of John Marshall, of Charleston, South Carolina, taken before Hon. John Drayton, district judge of the United States.

I will read the certificate of the judge, which was in the following words.

DISTRICT OF SOUTH CAROLINA, *ss:*

On this 28th day of May, 1818, personally appeareth the under-named deponent, John Marshall, of Charleston, merchant, before me the subscriber, John Drayton, district judge of the district aforesaid, and being by me carefully examined, cautioned, and sworn in due form of law to testify the whole truth and nothing but the truth, relating to a certain civil cause, &c., &c., he maketh oath to the deposition above written, and subscribes the same in my presence, the said deposition being first reduced to writing by the deponent.

The attorney for the defendant objected to the deposition on the ground that the judge had not certified that it was reduced to writing in his presence, as required by section 30 of the judiciary act of 1789.

The attorney for the plaintiff contended that it was to be presumed to have been so written because the law required it.

But the court unanimously sustained the objection and rejected the deposition.

I will now read from the case of Pettibone *vs.* Derringer, 4 Wash., 215, tried in the circuit court of the United States for the third circuit at Philadelphia, in 1818, before Justice Washington, of the Supreme Court of the United States, and District Judge Peters.

It will be observed that objection was made on the trial to the introduction of a deposition on the ground that the officer who took that deposition had not certified that it was reduced to writing by the witness in his presence. The court sustained the objection.

The words I read from the decision are:

That a deposition taken under the thirtieth section of the judiciary act can not be used unless the judge certifies that it was reduced to writing either by himself or by the witness in his presence.

I next read from the case of Rayner *vs.* Haynes, Hempst., 689, decided by the United States circuit court for the ninth circuit, in 1854.

It appears that defendant's attorneys offered certain depositions in evidence to which plaintiff objected on the ground that the magistrate failed to state that the depositions were reduced to writing in his presence; and the objection was sustained by the court.

I will now cite the House to the case of Cook *vs.* Burnley, 11 Wall., 657. It appears that in the course of the trial the defendants offered to read a deposition taken under section 30 of the judiciary act. There was no certificate by the magistrate that he reduced the testimony to writing himself, or that it was done by the witness in his presence. The deposition was excluded by the district court. Upon appeal to the Supreme Court of the United States, that tribunal said:

There is no certificate by the magistrate that he reduced the testimony to writing himself, or that it was not done in his presence, which omission is fatal to the deposition.

In Baylis *vs.* Cochrane, 2 Johnson (New York), 416, Chief-Justice Kent, delivering the opinion of the court, said:

The manner of executing the commission ought not to be left to inference, but should be plainly and explicitly stated. It would be an inconvenient precedent and might lead to great abuse to establish the validity of such a loose and informal system; matters which are essential to the due execution of the commission ought to be made to appear under the signature of the commissioners. Among these essential matters is the examination of the witness on oath by the commissioners, and the reducing of his examination to writing by them, or at their instance and under their care.

I will read a case to show the exacting character of the practice of the circuit court of the United States upon this subject of evidence by deposition. There was at the time no law in Pennsylvania requiring the deposition to be reduced to writing in the presence of the officer. There was no rule of court to that effect. The only regulation on the subject was a rule of court requiring the deposition to be taken before a justice. It is the case of Summers *vs.* McKim (12 S. & R.). I read the opinion as delivered by Judge Tilghman, page 404:

The third bill of exception contains two distinct points. The first point is on the admissibility of the deposition of George Leech; several exceptions were made to this evidence, but there was one which was decisive; and, as it involves a principle of great importance in practice, I am glad that an opportunity is offered to the court of settling it. This deposition was taken under a rule of court before a justice of the peace of Clearfield County, but it was drawn up in the city of Lancaster from the mouth of the witness by Mr. Hopkins, counsel for the defendant, and then sent to Clearfield County and sworn to there. Now, although the character of the counsel in the present instance puts him above all suspicion of unfair dealing, yet it would be a practice of most dangerous tendency if depositions so taken were to be admitted as evidence.

The counsel of the party producing the witness is the last person who should be permitted to draw the deposition, because he will naturally be disposed to favor his client, and it is very easy for an artful man to make use of such expressions as may give a turn to the testimony very different from what the witness intended. I know that depositions are sometimes taken in this manner by consent of parties; and when the counsel on both sides are present the danger is not so great; but in the present case there was no consent, nor was the counsel of the plaintiffs present. The rule of court is that the deposition shall be taken before a justice; it ought, therefore, to be reduced to writing from the mouth of the witness in the presence of the justice, though it need not be drawn by him; and in case of difference of opinion in taking down the words of the witness, the justice should decide. In chancery, if the counsel of one of the parties draws the deposition before the witness goes before the commissioners, it will not be permitted to be read in evidence. (1 How. Ch., 360.) This certainly is a good rule; the taking of testimony by deposition is, at best, but a very imperfect way of arriving at the truth; every precaution should, therefore, be taken to guard against abuses. It is very clear to me that the mode in which the deposition of George Leech was taken is subject to great abuse, and should be put down at once. I am of opinion, therefore, that it was very properly rejected.

These decisions show that the law is scrupulously particular in demanding that

THE SPOTLESS INTEGRITY OF DEPOSITIONS

shall be preserved. It is sensitive to the highest degree in considering a complaint such as we find here. Even in mere matters of form it demands the most exact compliance with such formalities as the various statutes may require.

I will call attention to a few cases in which motions to suppress depositions were sustained where mere formal rules were disobeyed:

A commission which had been executed and returned was set aside because it had been opened by one of the officers of the Government before it came into the hands of the clerk. (United States *vs.* Price's Administrator, 2 Washington Circuit Court Report, page 356.)

The law requires the deposition taken under act of Congress to be retained by the officer until he deliver the same into court, or shall, together with a certificate of the reasons for taking it, &c. (Shankwiker *vs.* A. Reading, 4 McLean's Reports, page 240.)

Independently of all other grounds, the court are of the opinion that the fact of the depositions not having been opened in court is a fatal objection. (Read *vs.* Thompson, 8 Cranch, 70, J. Story.)

Though a deposition be taken under a stipulation, waiving all objections as to the form and manner of taking, it must still be returned to court in all respects as required by law. (1 Brown's Admiralty Reports, page 66.)

In the case of Beverly *vs.* Burke (14 Georgia, 70) the court uses these words:

In deciding as we do, we establish no new rule. We hold that the case presented to us falls within a rule already well settled, and that rule simply is that there must be no circumstances of unfair advantage obtained by one party over the other in having testimony taken by depositions. * * * Many written cases may be found in which it has been held that such depositions should always be taken in good faith. I content myself with referring to but one. In Beau *vs.* Quimby (5 New Hampshire, 98) the court says: "The invariable rule by which this court is governed in the admission of depositions is not to receive any which have not been taken fairly and with the utmost good faith."

There is no limit to the cases that I find in the Supreme Court and the circuit courts of the United States, but the cases I have read illustrate very fully the principle which I invoke. I will, however, cite a few cases which are quite as strong as those I have read: United States *vs.* Smith, 4 Day, 121; Railroad Company *vs.* Drew, 3 Woods C. Ct., 692; Beale *vs.* Thompson, 8 Cranch, 70; Hunt *vs.* Larpin, 21 Iowa, 484; Williams *vs.* Chadbourne, 6 Cal., 559; Stone *vs.* Stillwell, 23 Ark., 444.

The time during which I am permitted to occupy the floor for the purpose of presenting my views in this case is so short that I shall devote myself principally to calling the attention of the House to the

CHARACTER OF THE EVIDENCE

upon which the contestant relies.

I have read the above authorities to the House as the basis of my argument to show that under the rules of Congress it is impossible with propriety to proceed with this cause.

I find (pages 10–25 of the RECORD) a motion to suppress the evidence, supported by uncontradicted affidavits; at least I may say that no material point in said affidavits appears to be controverted. I find the most of these affidavits dated in December, 1881, and the greater part of the balance dated in January, 1882. The grounds upon which Mr. Frost bases his motion to suppress the depositions offered by the contestant, are:

I. That without his knowledge or consent, and without the knowledge or consent of his counsel, since the taking of the same by the notary, they have been out of his care, custody, and possession, and were not safely kept and preserved as required by law.

II. That since the taking of the same they have been in the possession of strangers to the proceedings, who were in no wise under the control of said notary.

III. That they have been left open and exposed on tables in the office of the counsel for the contestant, and by him, and by his office boy, and by strangers to the case, read, handled, written upon, and altered.

IV. That all of said depositions since the taking thereof have been withdrawn from the care of the notary by one of the counsel for contestant, and were in his office, part for many days and in part for many weeks, and were by him mutilated, changed, and altered.

V. That the alterations and changes made were material, in this, that a large portion of contestant's case was concerning the accuracy of the registration lists, both with regard to the names and residences of voters, and the alterations in the spelling of a name or the number of a house, to make which full opportunity and license was given by the notary,

and which alterations might serve the purpose of contestant in establishing the validity of votes for himself or impeaching votes for contestee.

VI. That for the reasons stated in the accompanying affidavits the integrity of said depositions has been destroyed.

For the purpose of investigating the character of the changes alluded to in this motion, a committee was appointed consisting of Mr. DAVIS of Missouri and Mr. RITCHIE to examine the depositions and to ascertain if it was a fact that contestant's attorney had written upon them and made changes, as charged.

Each of these gentlemen took a portion of the very voluminous depositions, and found the fact to be true that the counsel for the contestant had written upon them.

Mr. DAVIS, in a hurried examination, found over one hundred instances of Metcalfe's marginal writings, and in each and every instance the body of

THE TESTIMONY WAS ALTERED

to conform to the marginal direction.

Upon the report of Messrs. DAVIS and RITCHIE, both of whom were upon the Committee on Elections, an investigation was ordered and the notary who took the depositions was summoned to Washington as a witness for the purpose of comparing the evidence before the House with his original stenographic notes, but upon his arrival he stated that he could not make the comparison demanded. He had destroyed the original notes of testimony. It further appeared that he had destroyed these "original notes" after he knew, both from personal information and from the newspapers of Saint Louis, that the integrity of his depositions was attacked.

The developments revealed that all the voluminous depositions, which, according to law, should have been sealed and certified by the notary and by him sent to the Clerk of the House not later than March or April, were as late as and even after the 18th of August being

MANIPULATED AND ALTERED BY THE CONTESTANT'S ATTORNEY.

Let me ask this honorable body if they can allow a fellow-Representative to be driven from this Hall by such evidence as this? Do not the authorities show that it would not be received in any court, even in a civil suit where a right of property of the smallest value was in controversy; and that being true, how can it be made the basis for determining a right and a question of the greatest possible magnitude?

If the facts I have recited and the laws I have read have no effect upon you, gentlemen of the opposition, where is the

VIOLATION OF OFFICIAL INTEGRITY

regarding the determination of election cases to end? When is your party, gentlemen, to cease its work of decapitation? Have you become crazed by excesses? Have you become drunk carousing with power? Have you lost the reason with which God endows all men?

I will beg that you will allow me to carry you back to the scenes you enacted on this floor in May, June, and July of last year; and in doing this I beg to assure you it is not in an unkind spirit or in a spirit of recrimination.

This session of Congress is almost over. We are all soon to part, many of us never to meet again; and in these last moments I do not desire, I am not willing, to say one word which would leave unpleasant memories. But I would not be doing my duty to you and to the country did I not, as a sentinel on the watch-tower, warn you of the dangers to our system of government if the will of the people, as expressed by their votes, is thus

REVERSED BY THE ARBITRARY ACTION

of a Republican majority.

In reviewing and recalling to your mind some of the features in the cases decided by you last summer, I shall hope that you will be so shocked at the enormity of what occurred that you will hesitate before proceeding with the case now being urged for consideration. Remember, my friends, that—

While the lamp holds out to burn,
The vilest sinner may return.

So, also, the most extreme Republican who has

SUBORDINATED ALL RIGHT AND PRINCIPLE TO PARTY EXPEDIENCY

can now, while the lamp of the Forty-seventh Congress still glimmers, return from the errors to which he has been led by party devotion, and close his career with an act of justice to a party opponent. Can you do it, gentlemen? Can you rise to such a height? It is well worth an effort to try. It would be a

CROWN OF GLORY TO A DYING PARTY;

you could all your lives point back to your action to-day and refute the charge that in a question of party it was impossible for a Republican to be just.

In illustration of the course pursued by this Congress in regard to election cases I will make some allusion to the contest in the eighth district of Alabama, with which, being personally interested from having had forced upon me the rôle of "contestee," I am of course familiar. In so doing I shall confine myself to the unanimous conclusion arrived at by all the members of the committee except those belonging to the partisan majority. This conclusion was reached by them after a careful and exhaustive study of the evidence. From my own familiarity with the case I am convinced that their statements regarding the evidence and their enunciation of the principles contained therein are correct.

The four Democrats of the Committee on Elections state in their report that the evidence in said case shows that on November 2, 1880, when the polls closed, 12,808 legal votes of legal voters had been polled for the contestee.

Although fifteen lawyers assisted the contestant in taking evidence, and nearly a thousand witnesses were summoned to testify for the contestant, not one of said votes was proven to be in any way otherwise than legal in all respects.

The report by these sworn Democratic Congressmen also shows that there were polled for the contestant less than 11,000 votes of legal voters, showing the contestee's majority to have been fully 2,000. This report was signed by these four Democrats, Mr. BELTZHOOVER of Pennsylvania, Mr. DAVIS of Missouri, Mr. ATHERTON of Ohio, and Mr. MOULTON of Illinois; and this report is the only report which was signed by any one.

With such uncontroverted facts I felt it my duty to defend the cause before Congress and to use every possible effort to vindicate the assailed rights of the people.

In July last, soon after the contestee was unseated, Mr. CALKINS, the Republican chairman of the Committee on Elections, in answer to the charge that the reports of his committee were partisan decisions in violation of law, and not sustained by the evidence, and that they were the mere decrees of a Republican caucus,

ADMITTED THAT HIS REPORTS WERE PARTISAN

and not judicial. But he said his committee were not alone to blame, as his party both in and out of Congress had persistently demanded that they should admit the contestants, whom the party had decided to favor with their support.

Mr. CALKINS also said he would favor a law removing contested-election cases from Congressional committees to a court as the only way to secure judicial decisions, and he further said that owing to the pressure made upon election committees to make partisan decisions without regard to law and justice he would never again be a member of an election committee.

When the great Democratic party presented the issue to be determined by the American people at the election of November 7, they issued millions of copies of a campaign book in which they plainly set forth the action of the Republican party in the Forty-seventh Congress. It was the

SHAMEFUL AND ARBITRARY ACTS OF THIS CONGRESS

which were passed upon and condemned by the American people at the late election that resulted in an overwhelming and irretrievable defeat of the Republican party.

In that book they state the facts regarding this case, and on page 31 they use these words:

Lowe vs. Wheeler.—The decision of the House in unseating Wheeler and installing Lowe as Representative from the eighth Congressional district of Alabama is, without doubt, the most arbitrary and shameful act of the first session of the Forty-seventh Congress.

It is not stated that this was only as shameful as the other shameful acts of the Forty-seventh Congress which were so severely condemned by the people from Massachusetts to California and from the lakes to the Gulf, but they say it was the most shameful of all the shameful acts of this Congress.

I respectfully submit, therefore, that the Democracy has been sustained and defended—

First. By Democratic members of the Elections Committee who signed a report saying that the contestee was elected by over 2,000 majority.

Second. By Mr. CALKINS, the Republican chairman of the Committee on Elections.

Third. By all the Democrats in Congress who were so shocked at the course pursued by the Republicans that every measure in their power was employed to frustrate the consummation of these acts.

Fourth. By the national Democratic party, who made this illegal conduct an issue, yes, a

MAIN ISSUE OF THE NATIONAL CAMPAIGN,

and stated it to be the most shameful of all the shameful acts upon which they asked a decision of the people.

Fifth. Finally the Democratic party was sustained by the American people at the polls on November 7, when in determining these issues they held aloft the Democratic banner and like a cyclone swept the country from lake to gulf and from ocean to ocean, including in the defeated hosts the members of Congress who were most prominent in the enactment of this disgraceful proceeding, namely, Mr. HAZELTON of Wisconsin, Mr. THOMPSON of Iowa, Mr. ROBESON of New Jersey, Mr. JONES of Texas, and Mr. BURROWS of Michigan.

It is not improper for me to here assert that I never knew of the intention of the committee to allude to me until the book fell into my hands after the campaign commenced.

I do not wish to be understood as insinuating that the country was in the slightest degree influenced in the elections last November by any knowledge of or interest in this particular case. On the contrary, I emphatically state that it did not and could not have been at all considered,

but I insist that the violation of law and the infraction of parliamentary precedent and the trampling of right and justice under foot which characterized the Republican majority in this House caused a distrust in the minds of the people which determined this great change. The striking down of the constitutional and parliamentary

RIGHTS OF MINORITIES

by a change in the rules of the House of Representatives, which appeared to be done solely to enable the Republican majority to unseat a few Democrats upon forged testimony, was very properly denounced in the scathing protest which was signed and placed in the records of this House, May 29, 1882. I read from the CONGRESSIONAL RECORD, page 4326:

Whereas the minority of this House have heretofore, under the rules of the House, successfully resisted the efforts of the majority to consider the case of Mackey *vs.* O'Connor, because a proper hearing has not been granted to the contestee by the Committee on Elections as to the allegations of forgery and fraud in the evidence submitted by the contestant; and

Whereas the minority have offered to proceed to the consideration of the case as soon as said allegations have been duly investigated; and

Whereas the majority, in order to prevent and avoid such an investigation, have proceeded to change the rules, in a manner not provided for in the rules by which alone they can or ought to be changed; and

Whereas the Speaker has made a ruling which justifies a proceeding unknown to the principles of constitutional and parliamentary law and subversive of the rights of the minority: Therefore,

The undersigned, representatives of the people, hereby protest against the proceedings of the majority and the rulings of the Speaker as unjustifiable, arbitrary, and revolutionary, and expressly designed to deprive the minority of that protection which has been established as one of the great muniments of the representative system by the patient and patriotic labors of the advocates of parliamentary privilege and civil liberty.

ABRAM S. HEWITT.	SAM. J. RANDALL.
DANIEL ERMENTROUT.	S. S. COX.
J. FRED. C. TALBOTT.	J. C. S. BLACKBURN.
MORGAN R. WISE.	JORDAN E. CRAVENS.
L. C. LATHAM.	H. G. TURNER.
MILES ROSS.	GIBSON ATHERTON.
HENRY S. HARRIS.	FETTER S. HOBLITZELL.
H. A. HERBERT.	JOS. WHEELER.
G. W. HEWITT.	WM. S. HOLMAN.
R. P. BLAND.	J. R. TUCKER.
WM. MUTCHLER.	W. C. WHITTHORNE.
JOHN S. BARBOUR.	BEN. LE FEVRE.
A. A. HARDENBERGH.	J. A. McKENZIE.
BENTON McMILLIN.	WM. A. J. SPARKS.
GEO. W. LADD.	WM. C. OATES.
S. M. STOCKSLAGER.	C. M. SHELLEY.
W. G. COLERICK.	R. L. GIBSON.
JAMES K. JONES.	GEO. C. CABELL.
CHAS. B. SIMONTON.	GEO. W. CASSIDY.
W. R. MORRISON.	E. C. PHISTER.
J. G. CARLISLE.	W. S. ROSECRANS.
ALBERT S. WILLIS.	JAMES MOSGROVE.
W. H. HATCH.	J. FLOYD KING.
J. PHELPS.	A. M. BLISS.
P. HENRY DUGRO.	J. J. FINLEY.
WM. R. COX.	J. PROCTOR KNOTT.
JAS. W. SINGLETON.	JNO. W. CALDWELL.
R. JNO. ELLIS.	WM. M. SPRINGER.
R. GRAHAM FROST.	R. H. M. DAVIDSON.
VAN H. MANNING.	H. L. MULDROW.
GEO. D. WISE.	GEO. L. CONVERSE.
A. M. SCALES.	J. D. C. ATKINS.
JNO. F. HOUSE.	S. W. MOULTON.
PHIL. B. THOMPSON, JR.	GEO. W. GEDDES.
JNO. B. CLARK, JR.	G. H. OURY.
OLIN WELLBORN.	MARTIN L. CLARDY.
ROBT. M. McLANE.	M. E. POST.
JNO. E. KENNA.	R. F. ARMFIELD.
JONATHAN SCOVILLE.	CLEMENT DOWD.
JOHN H. EVINS.	E. W. ROBERTSON.
G. D. TILLMAN.	R. WARNER.
J. S. RICHARDSON.	A. G. CHAPMAN.
D. WYATT AIKEN.	HUGH BUCHANAN.
PERRY BELMONT.	B. WILSON.
C. P. BERRY.	T. M. GUNTER.
N. C. BLANCHARD.	PHILIP COOK.
THOS. WILLIAMS.	ROBT. B. VANCE.
H. D. MONEY.	J. C. CLEMENTS.
LEWIS BEACH.	MARTIN MAGINNIS.
ROBT. KLOTZ.	GEO. AINSLIE.
GEO. T. GARRISON.	E. L. MARTIN.
OSCAR TURNER.	WM. E. ROBINSON.
JOHN H. REAGAN.	R. P. FLOWER.

From the very commencement of parliamentary proceedings the right and power accorded to the minority in a legislative assembly to stay the action of a bare majority upon any question was most jealously guarded.

The principle upon which this power was founded was this: The minority in taking upon themselves so grave a responsibility as to

STOP LEGISLATION

upon any subject assume that the legislation is not such as will be sustained by the people. They therefore arrest proceedings until at the next succeeding election the people may express their will.

In England this

ABSOLUTE VETO POWER

resides in the sovereign, who has the right at any time to dissolve Parliament and thus prevent the enactment of any law that the sovereign regards to be adverse to the interest of the government. An election immediately follows, which determines whether the people sustain the Parliament or the sovereign. In our country the President has power to veto any act passed by Congress, and after such veto it can only become a law by receiving the sanction of two-thirds of each House respectively.

In accordance with this principle the rules of the House of Representatives prescribe that a sufficiently

LARGE MINORITY

could by dilatory motions prevent any action on the part of the House and thus transfer the decision of the question to the people.

The circumstances under which the Republican party

DESTROYED THIS TIME-HONORED PRINCIPLE

of parliamentary law was this: The question was raised regarding the consideration of the contested-election case of Mackey *vs.* Dibble. The entire Democratic party resisted any action in the case, on the ground that Mr. Dibble had presented proof that every item of the testimony upon which the report of the committee was founded was false and forged. It is necessary to here state that the contest was originally against Mr. O'Connor, but after the death of the latter Mr. Dibble was elected and became the contestee. I will read the affidavit of the stenographer who took the testimony alluded to. It shows you have a perfect precedent for your present proceedings. I read from the CONGRESSIONAL RECORD, first session Forty-seventh Congress, pp. 4342–4344:

THE STATE OF GEORGIA, *Richmond County:*

Personally appeared before me, a notary public in and for the county of Richmond, E. H. Hogarth, who, being sworn, says that he was a resident of the city of Charleston, State of South Carolina, during the year 1881, up to the 30th of September; that deponent held the office of notary public during said time, and was a stenographer by profession; that he was employed by E. W. M. Mackey, esq., as stenographer and notary public in the contest between E. W. M. Mackey and M. P. O'Connor for a seat in the Forty-seventh Congress of the United States, and that deponent acted as stenographer and sometimes notary public in Orangeburgh County, in behalf of the Hon. M. P. O'Connor; that deponent took the testimony on the part of E. W. M. Mackey, esq., in the counties of Charleston, Orangeburgh, and Clarendon, with the exception of one or two depositions; that all of the testimony so taken by deponent as stenographer was transcribed from his stenographic notes in deponent's own handwriting, and testimony taken on behalf of E. W. M. Mackey, esq., was turned over to him in deponent's own handwriting, and such taken on behalf of the Hon. M. P. O'Connor was turned over in deponent's own handwriting to Robert Chisolm, jr., esq. This ended his (deponent's) connection with said testimony, except that afterward at various times he (deponent) signed certificates which were tendered to deponent by E. W. M. Mackey, esq., and also jurats at the foot of depositions; these deponent signed without comparison with his said stenographic notes, taking it for granted that said testimony was the same as furnished by deponent to said E. W. M. Mackey, esq.; that the said certificates were often presented to deponent for signature by said E. W. M. Mackey, esq., when deponent was otherwise employed, and that deponent did not have his stenographic notes at hand when he so certified said testimony; that deponent also certified the testimony taken on behalf of Hon. M. P. O'Connor in instances where deponent acted as notary public; that deponent did not forward any of said testimony to the Clerk of the House of Representatives, but turned same over to the respective parties named above; and deponent knows nothing of his personal knowledge concerning the forwarding of the same.

E. H. HOGARTH.

Sworn to and subscribed before me this 17th day of February, 1882.
[SEAL.] WM. W. MILLER,
Notary Public, Richmond County, Georgia.

I also read the affidavit of Mr. C. Smith, who it appears wrote the testimony by which Mr. Mackey sought to obtain a seat in Congress (RECORD, first session Forty-seventh Congress, p. 4344):

STATE OF SOUTH CAROLINA, *Charleston County:*

Before me personally came C. Smith, in response to a summons to testify as to certain matters in a contest entitled E. W. M. Mackey *vs.* M. P. O'Connor, and who, being duly sworn, says: "I was employed by E. W. M. Mackey to write out the testimony taken in his behalf in the contest between himself and Mr. O'Connor for a seat in the Forty-seventh Congress; this writing was done at the house of Colonel Mackey, and at the United States court-house, and at my room. The body of testimony was in the handwriting of E. H. Hogarth, stenographer and notary public, and there were interlineations, erasures, and portions of the original sheets were cut out and other sheets substituted, and sometimes left out entirely; that sometimes nearly a whole page was struck out by drawing a line across it; that the interlineations were in the handwriting of E. W. M. Mackey; that the copy made by me omitted the erasures and inserted the interlineations; that sometimes whole pages of this testimony in the handwriting of Colonel E. W. M. Mackey would be inserted, and of which there was no original in the handwriting of Mr. Hogarth, the notary public, that I saw; that sometimes when I returned the originals and my copy of the same, Colonel Mackey destroyed the originals by placing them in a stove, or destroying them by tearing them up; that in some instances the copy made by me was returned interlined, and I made fresh copy with such corrections; the interlineations last mentioned were also in the handwriting of Colonel E. W. M. Mackey; that the notary public, Mr. Hogarth, placed his seal and signature to the testimony as it was handed to him without making any comparison with the originals, as in many instances, as before stated, the originals had been destroyed, and also without making any comparison with his short-hand notes; that is, in every case in which I was present, my impression is that I saw him sign nearly all of the testimony, certainly more than half of it; that in the case of W. A. Zimmerman the testimony as copied by this deponent was submitted to him for his signature; that he declined to sign the same until certain corrections were made in it; that the testimony as submitted was not correct, and that unless the corrections were made he would not sign the same; that this testimony of Zimmerman's I returned to Mr. Mackey and I never recopied it; and it was not signed by Mr. Zimmerman when I returned it to Mr. Mackey; that in the case of Major T. A. Haguenin the testimony as copied by me was handed to him; he glanced over it and said, "I suppose it is all right," and signed it; that I may have submitted other testimony but can not now recall the other cases where I submitted them for signatures; that Mr. Hogarth in certifying these papers would certify a number of them at one time and without comparison as aforesaid; that I took a number of packages of the testimony to the express office and shipped them in the name of Mr. Hogarth to the Clerk of the House of Representatives; that the statements herein apply only to the testimony taken in Mr. Mackey's behalf. I know nothing about the testimony taken for Mr. O'Connor; that from the early part of January, 1881, and off and on during the summer months, and nearly up to the time that the last package of Mr.

Mackey's testimony was sent off, I was copying. That the packages hereinbefore mentioned as shipped by me were given to me by E. W. M. Mackey, and I handed to him the receipt for the same, the said receipt being in the name of E. H. Hogarth.

C. SMITH.

Sworn to before me this 16th day of February, 1882.

[SEAL.] H. L. P. BOLGER,
Notary Public.

As these affidavits prove beyond question that every particle of Mr. Mackey's

EVIDENCE WAS FALSE AND FORGED,

the Democratic members of Congress announced that they would, if necessary, resort to dilatory motions to prevent the use of said testimony, unless the Republican members would either investigate the truth of these statements in these affidavits or produce testimony in refutation thereof.

So determined, however, were the Republicans to drive Mr. Dibble, who was a Democrat, from this floor, and place in his stead Mr. Mackey, who was a Republican, that they changed the rules of the House, sweeping away every vestige of the rights of minorities in questions of this character, thus giving absolute power on these questions to a bare

MAJORITY OF ONE.

By this means they succeeded in slightly increasing their voting power in the House for this Congress, but, as they must now admit, at an expense that can only hereafter be estimated. And you, gentlemen of the majority, have certainly exemplified the truth of the saying, *Quem Jupiter, vult perdere prius dementat.* Promptly following your action in this case, you proceeded to unseat that grand old gentleman, General Finley, of Florida.

And this brings us again to the consideration of the case from the eighth district of Alabama, which was immediately taken up by this body. The circumstances under which this was done I read from the CONGRESSIONAL RECORD of June 1, 1882, page 4445:

ALABAMA ELECTION CONTEST—LOWE VS. WHEELER.

Mr. HAZELTON. I now call up the contested-election case of Lowe *vs.* Wheeler for present consideration.

Mr. KENNA. On that I raise the question of consideration.

The SPEAKER. The gentleman from West Virginia raises the question of consideration. The question is, Will the House now proceed to consider the contested-election case named by the gentleman from Wisconsin?

Mr. BLACKBURN. Upon that question I call for the yeas and nays.

Mr. WHEELER. I ask unanimous consent to make a statement which will occupy but a moment.

The SPEAKER. Is there objection? [Cries of "Regular order!"] The regular order is called for. The question is on ordering the yeas and nays.

Mr. SPRINGER. The gentleman from Alabama asks unanimous consent to make a statement.

The SPEAKER. The Chair has submitted that question, but will again submit it. The gentleman from Alabama [Mr. WHEELER] asks unanimous consent to make a statement. Is there objection?

Several MEMBERS. How long?

Mr. WHEELER. Not more than two or three minutes. [Cries of "Go on!"]

The SPEAKER. The Chair hears no objection. The gentleman from Alabama will proceed.

Mr. WHEELER. Mr. Speaker, twenty-eight days after the record in this case was printed, I was forced, against good objections as I thought which were offered, into the argument before the sub-committee. This case stands alone where such a hardship was inflicted upon the contestee in this House.

This case stands alone in this: that it is the only case where the argument was had before the committee when the only Democrat on the committee was necessarily absent.

This is the only case, too, Mr. Speaker, where the contestee's counsel was only allowed ninety minutes to argue a case involving more questions of law and fact than any other case before this House, and where the contestee himself was only allowed seven minutes to utter words in his own defense before that committee.

It is the only case where the contestee was forced into argument before his counsel or himself had prepared or printed a brief, or prepared argument before the sub-committee.

It is now proposed, Mr. Speaker, to force this case before the House on the very day the majority report is printed and sent to the House.

Again, sir, of the gentlemen who were selected by my friends to argue the case before the House, three are absent and the other is sick and confined to his room.

Finding that state of things, I yesterday selected other gentlemen to present this case to the House, and those gentlemen were unable until to-day to procure the reports in the case in order to ascertain what the facts were which they were to argue.

I do not think, Mr. Speaker, this House is going to subject any contestee to such hardship as that, to have his case brought up at this time. There is no reason why invidious distinction should be made against me from the beginning to the final termination of the cause.

I have a case which, if presented to this House, I know gentlemen, irrespective of party, will on their consciences be compelled to vote and say that this contestee was honorably and fairly elected to the position he now holds in this House. And I feel this House will not refuse a reasonable, moderate time for necessary preparation to be made to present this case to the House.

I thank you, Mr. Speaker, and the House for the unanimous consent to make this statement. [Cries of "Regular order!"]

Mr. CALKINS. May I be permitted to ask what time the gentleman wants?

Mr. WHEELER. I am informed the gentleman from Massachusetts [Mr. RANNEY] states that no man can learn the facts and make a respectable argument in two weeks. [Cries of "No!" and "Regular order!"]

The SPEAKER. The pending question is, Will the House proceed to consider the case of Lowe *vs.* Wheeler? The yeas and nays have been demanded.

I will now, by permission of the House, give some little account of this case so summarily brought before this body. In doing so I desire to repeat that my purpose is not to assail the motives of the members of the majority. I feel it my duty to make a statement of fact, in the hope that it may impress this House with the importance of returning to the old system, when election cases were decided with the same judicial fairness that is exercised in determining any other legal right, and not as these cases have been disposed of, solely as apparent party advantage seemed to dictate.

In order to attain a party end and to deprive Mr. Frost of his seat you have found it necessary to

NULLIFY THE ELECTION LAWS OF THE STATE OF MISSOURI,

and to declare that the registration in the third district of Missouri is not essential to a valid election.

The amount of fraud and riot this decision will create, time can alone determine.

Let me remind you, gentlemen, of a similar decision made by you less than twelve months ago.

Then for the purpose of unseating a Democrat you decided that registration in Alabama was not necessary to the validity of a vote, and already you have caused bloodshed by that iniquitous decision.

Soon after the publication of your report, an election was held in the city of Opelika, Alabama. The opponents to the Democratic party availed themselves of this principle of law as announced by you. They brought illegal voters to the polls, some having been imported from Georgia, and for six months the persons voted for under this illegal ruling of yours have been contending for the offices. You have all heard of the Opelika riots and the bloodshed which ensued. The members of the Republican party of this House are and will be held by God and the country accountable for all the suffering and death caused by the unfortunate events to which I have referred.

Let us look for a moment at your

DIAMETRICALLY OPPOSITE DECISIONS

upon the subject of registration.

The committee state (see pages 3, 4, and 16 of the report in the case of Bisbee *vs.* Finley) that the constitution of Florida commands:

That no person not duly registered, according to law, shall be allowed to vote.

They then cite many decisions to sustain them in their position, and they decide very properly, with great emphasis, that under such a law

A VOTE WITHOUT THE VOTER'S BEING REGISTERED IS ILLEGAL

and void, and they also say that if the proof fails to show that the vote was legal when cast, the omitted proof offered at the trial will not avail to make it legal.

The committee say (page 4):

The principle must likewise be maintained that the production of this evidence at the trial will not change the legal status of the voter, and thus make these votes in question legal votes. Such a decision would be at variance with a well-established principle of law, which forbids the making of an act valid at a subsequent period which at the time of its commission was void because prohibited by law.

The House will observe that the law of Florida uses the words that no person not duly registered according to law "shall be allowed to vote."

It would appear that the duty was thus imposed upon the inspector of allowing or of not allowing; and if a person endowed with all the other qualifications of a legal voter was by the inspector

ALLOWED TO VOTE,

it might be argued that this decision of the inspectors was final, and that the vote could not afterward be rejected; but the committee insisted that such a view was wrong, and that the reception of the vote by the inspector did not aid its validity.

The constitution of Alabama, however, is more emphatic. It says:

No one shall vote at any election unless he shall have registered as required by law.

In Alabama all the duty and responsibility of registration is imposed upon the voter himself, and all the most rigid rules might be applied here with the greatest propriety. The words are:

No one shall vote at any election unless he shall have been registered as required by law.

That is, no one shall vote in Alabama unless he has first appeared before the registrar and sworn before God to "support and maintain the Constitution and laws of the United States;" and in addition thereto has sworn to other facts, and has also registered and signed his name and given his residence and various other facts, all of which the law requires to be recorded.

Mr. Speaker, you will observe that we were trying so hard to encourage loyalty in Alabama that we would not allow any one to enjoy the sacred privilege of franchise until he had sworn to "support and maintain the Constitution of the United States."

Another somersault, Mr. Speaker. Party interests demanded it and the Republican members were ranged in a row, and the handsome chairman commanded "heels up—heads down," and the committee makes another judicial somersault, deciding, without a precedent in the world to sustain them, that to vote in Alabama "registration is not a prerequisite. It is not compulsory."

They mean, I suppose, that the

VOTER MAY REGISTER OR NOT,

as he pleases. The reasoning by which this conclusion was reached was, however, so untenable that the member of the committee from Massachusetts [Mr. RANNEY] declined to subscribe to it. He, however, was true as steel to party interests. He in effect said; "Gentlemen, I

can not exactly somersault with you, but I will break the force of the fall by making several small somersaults, and will range myself side by side with you at the final determination of the case."

I will now attempt to show you that the Massachusetts Solon would have done himself more credit had he stood by his associates.

In the Bisbee *vs.* Finley case the gentleman from Massachusetts [Mr. RANNEY] and the committee decide that under the law of Florida

POLL-LISTS CERTIFIED BY THE PROBATE JUDGE ARE GOOD EVIDENCE.

In this case they were introduced by a Republican against a Democrat.

In the Lowe *vs.* Wheeler case, the gentleman from Massachusetts [Mr. RANNEY], without any request or suggestion on the part of the contestant, decides that under the law of Alabama, which is substantially and almost precisely like the Florida law, a poll-list certified in precisely the same way is no evidence at all. More than this, he decides that a simple certificate of the probate judge is good for Bisbee against General Finley, but that under a similar law

POLL-LISTS ARE NOT GOOD EVIDENCE

for Wheeler, when in addition to having them certified precisely the same as those presented by Mr. Bisbee, he (Wheeler) also legally made a witness of the probate judge, who testified that the poll-lists were copies of the poll-lists of the precincts referred to; and worse still for Mr. RANNEY, the lawyer for the contestant, made objection to specific parts of the questions to the probate judge, omitting to object to that part of the question which asked him to designate the poll-lists, and therefore if there had been any valid objection (which there was not) the objection was waived; yet with all that Mr. RANNEY turned a full double somersault, thus proving himself much more of a judicial acrobat than any of his political brethren.

Now, a little later it became necessary in the Smith *vs.* Shelley case to slaughter General Shelley, whose sole offense was that he was a Democrat. The committee had already

SOMERSAULTED FROM THE DECISION

for Mr. Bisbee, and now they found they must get back to the Bisbee standpoint to oust General Shelley.

This, Mr. Speaker, required additional acrobatic skill, but party behests demanded the effort, and the gentlemen of the Elections Committee were equal to the emergency. I think I can now see the handsome captain of the committee arraying his forces and urging them to the effort.

In my imagination I now behold his Napoleonic air as he addresses them: "Gentlemen and patriots, you have done much, but much remains for you to do. You were selected by the generals of your party for great and grand purposes; let not your country and the great party of moral ideas be disappointed in their expectation. You were selected after three weeks of toil and investigation as the most worthy knights to wield the battle-ax and to slay the enemies of the God-like principles of Republicanism. You have charged and somersaulted forward. You have

DECIDED ONE WAY

nearly every principle of law; and then, my gallant soldiers, you have risen to the sublimity of greatness by deciding nearly all of these principles directly the other way, but a greater feat is necessary to be accomplished. The question now before us requires an acrobatic effort which appeals to every sentiment of greatness and grandeur. The eye of the general of the Congressional campaign committee is upon you. He has in his hands means which will determine your future promotion. With him rests the awful question whether you shall be among the chosen or among those cast into outer darkness. I therefore appeal to your courage. This question you have decided in one way for our brother from the land of flowers and oranges. You then turned a gallant somersault and

DECIDED IT PRECISELY THE REVERSE

for our brother from the beautiful valley of the Tennessee, but such things you have often done; somersaults and even double somersaults have ceased to elicit the highest applause, and now with one supreme effort of conscience and the physical system I call upon you to

TURN A DOUBLE BACK-SOMERSAULT

and forever restore to the party of moral excellence that country of sugar-cane and cotton where flow the murmuring waters of the Tombigbee, the Black Warrior and the silent current of the Alabama."

After this speech they all cried, "Ready!" and, at the command of their leader, all turned a double back-somersault, and this great question of the admissibility of a poll-list as evidence was

DECIDED THREE DIFFERENT WAYS

by the same men in the same session of Congress.

The same committee say in

ONE CASE TO BENEFIT A REPUBLICAN

that depositions are not good where the commissioner failed to stamp his seal upon them when he signed the certificate, notwithstanding that the depositions were taken in all other respects in the strictest compliance with the laws of Congress. In that case the depositions were taken pursuant to notice, duly served, the evidence written down in the presence of the commissioner, the depositions signed by the witnesses, the certificate of the commissioner properly attached and certified by him, and the depositions sealed up and transmitted by him to the Clerk of the House of Representatives.

The Revised Statutes, section 127, say that the commissioner taking depositions "shall certify and carefully seal and immediately forward the same," &c.

In Smith *vs.* Shelley the House committed itself to the principle that sealing the package that contained the deposition so that it would show that it had not been opened since it left the hands of the commissioner was not sufficient, but that under section 127 he should have stamped a seal on the deposition itself when he certified it.

In Strohbrand *vs.* Aikin the House decided that all the evidence taken by one of the parties could not be considered because it was taken before a United States commissioner, and such officers were not included among the enumerated officials that the statute said could take evidence.

Now, when it became necessary to deprive a Representative of his seat who belongs to the party in the minority all this is reversed.

In the case of Lowe *vs.* Wheeler to deprive a Democrat of his seat the same committee decide that

DEPOSITIONS WITHOUT A SEAL

are perfectly good.

Worse than this, they accept and use as good legal evidence mere fugitive papers, devoid of nearly every legal requisition, and upon such papers they drive a legally elected member from the halls of Congress.

Many of the papers referred to—

First. Were not signed by the witnesses, as required by law.

Second. They were not taken pursuant to notice, as required by law.

Third. They were not sealed, as required by law.

Fourth. The contestee was not allowed by the commissioner to cross-examine the witnesses, a right guaranteed to him by law.

Fifth. The deposition not only did not bear a seal to the certificate, but had not a certificate at all to which a seal could be affixed.

Sixth. Undisputed proof showed that the evidence was written by the attorney for the contestant, and written falsely by him.

Seventh. They did not show that the witnesses were sworn.

Among the

MANY GROSSLY ILLEGAL ACTS

and rulings that appeared in the report of the committee which was presented to this House by the gentleman from Wisconsin [Mr. HAZELTON] was the admission as evidence of certain papers, some of them false and forged and none of them such as would be received in any court of law where the smallest possible right of a citizen was in controversy. The proof showed that the man before whom it was pretended that the depositions were taken was not present, as imperatively required by section 127 of the United States Statutes, when the papers which the contestant had presented to Congress were written, and therefore that the commissioner could not from any personal knowledge be able to state that they contained what the witness stated when being examined; and uncontradicted evidence also showed that after the papers had been written out in long-hand they were materially changed; even questions asked by the contestee during his cross-examination of the witnesses had been changed, and the proof also showed that false or at least incorrect records had been inserted.

Under this state of things the commissioner (Mr. Figg) could not with propriety, and did not, put any certificate to any of the papers relied upon by the contestant, except to those taken by him on the last day, namely, March 16, 1881. He may have been, and probably was, present when that day's evidence was taken, and he attached his certificate to the evidence taken on that day; but he either refused or failed to put any certificate to any of the other papers that appear in the record and that the committee adopted as good evidence.

Without using these fugitive papers it would have been impossible to have made out a report such as the one presented; and as they had determined to

PUT IN THE CONTESTANT AT ALL HAZARDS,

they were compelled to make use of the best material that the facts of the case afforded, and to satisfy the conscience of the more scrupulous Republicans the less scrupulous or non-scrupulous ones were set up, or voluntarily set themselves up, to make untrue statements as to these important and to an honest man most decisive questions.

The gentleman from Wisconsin [Mr. HAZELTON], in his closing speech, after the previous question had been called, stated (CONGRESSIONAL RECORD, page 483):

There was a certificate on every one of the depositions but one.

It is astonishing that a man of intelligence should have made so

RECKLESS A STATEMENT,

and it is more astonishing that he should have made a statement which is just the reverse of fact and so detrimental to the case of the contestee in the closing speech when these incorrect statements of facts could not be refuted. Particularly is this extraordinary when it came from the same lips which uttered these words (see CONGRESSIONAL RECORD, page 479):

In the exercise of that sovereign power we came here to-day to pass judicially upon this contested election case coming from the eighth Congressional district of the State of Alabama, to decide honestly and fairly, and upon all the evidence and upon all the law, which of these two gentlemen, the contestee, Mr. Wheeler,

or the contestant, Mr. Lowe, is entitled to the seat in controversy. In other words, we came here to determine the honest will of the people of that Congressional district, and we come to its consideration in the light of justice and of fairness and under the obligation of our oaths as members of this great legislative body.

It is very fortunate that this statement was made by the gentleman from Wisconsin [Mr. HAZELTON], as the course pursued by him from the beginning to the end of the case indicated that he was willing to trample law under foot, pervert facts, misstate evidence, and give credence to perjury and forgery to attain the great party purpose of trading off this seat for a few Greenback votes.

I had defended the gentleman and his party from aspersion by stating that I had credible evidence that before the Republicans knew the facts of my case their leaders had agreed to deliver my seat into the hands of the Greenback party, and as payment therefor the Greenback party had

AGREED TO SUSTAIN THE REPUBLICAN PARTY

in most of its important measures, and I endeavored to show that the enormities practiced by the Elections Committee were owing to this fact, and that the Republican party was in this difficulty. To decide my case rightly would compel them to violate a solemn agreement with their Greenback allies, and I argued that it was this and not a preference to do wrong which induced their action.

In emphatic denial of the statement of the gentleman from Wisconsin [Mr. HAZELTON] that "there was a certificate on every one of the depositions but one," I assert that the facts are and the record shows that every one of the seventeen pretended depositions which are found printed in the record of the case, from the beginning of the printed record up to page 197, have no certificate of any kind nor any pretension to a certificate.

I also make the same assertion regarding every one of the six pretended depositions printed in the record from page 206 to 265.

I also make the same assertion regarding an additional six pretended depositions printed in the record from page 302 to 330.

I also make the same statement regarding the fifteen pretended depositions printed in the record from page 328 to 398.

I also make the same statement regarding the two pretended depositions printed in the record from page 404 to 413.

I also make the same statement regarding the three pretended depositions printed in the record from page 443 to 456, and these are the forty-nine pretended depositions which were referred to in the motion to recommit found on pages 4501, 4502, 4503, and 4504 of the CONGRESSIONAL RECORD, first session Forty-ninth Congress.

I assert that there was nothing in the record to show that the pretended evidence of said pretended witnesses was taken as required by the laws of Congress.

Take one of these forty-nine illegal papers, called by the contestant depositions. Take that of William Wallace, page 215. The heading reads as follows:

William Wallace, being duly sworn to tell the truth, the whole truth, and nothing but the truth, by Robert W. Figg, esq., before whom this examination is being held, deposes and says as follows:

Then follows a series of questions and answers, and among them is a statement by the witness that he can not write, and finally at the end we see the words:

his
WILLIAM + WALLACE.
mark.

As to who put the words there the record is silent. The statute of Alabama says that—

Signature or subscription includes mark when the person can not write, his name being written near it and witnessed by a person who writes his own name as a witness.

And the supreme court of Alabama has decided that such an affix as appears to the paper above mentioned is not a signature at all.

So far from having proof that these pretended depositions were taken as required by law, the proof is positive that they

WERE NOT LEGALLY TAKEN.

It shows that, in violation of the Federal statute (section 122)—

First. They were not written out in the presence of any person authorized by law to act as commissioner, and were not duly attested in his presence, as required by section 122.

They were not certified and sealed and transmitted by mail to the Clerk of the House of Representatives as required by section 127.

The proof shows that many changes were made in the depositions after they had been taken, and many other wrongs and errors were committed. These facts may have prevented the commissioner from attaching a certificate, as he certainly could not have truthfully attached a proper certificate to them. I also assert that the one hundred and ten papers called depositions had no certificate of any kind whatever except as follows:

Signed before me on the day and year above written.
ROBERT W. FIGG, *N. P.*

THE AFFIDAVIT.

The committee in more than one case committed themselves to the proposition that parties to election cases must place their evidence before the committee as required by law.

The chairman distinctly stated in his speech of July 20, 1882, that otherwise—

You simply turn the committee into legal advisers of the parties litigant.

After committing themselves to that principle they, so far as the record shows, without any application from the contestant, take the matter in their own hands, and without the knowledge of the contestee they themselves send nearly a

THOUSAND MILES TO GET AN EX PARTE AFFIDAVIT.

To use the language of the member of the committee from Wisconsin [Mr. HAZELTON]—

We sent down there to the officer and got a certificate.

The paper which the gentleman from Wisconsin [Mr. HAZELTON] calls a certificate was the main pillar upon which the case of the contestant rested. Without that he had not a particle of legal evidence to maintain the material allegations of his notice of contest, and the committee did not have a particle of legal evidence to maintain the material allegations of their report.

The same gentleman says:

It was sworn to there and it comes back here, and not only covers that deposition, but covers other depositions in the case.

A few days before the case was called the contestee heard of this paper and called daily upon the clerk of the committee and asked for it. He was told by the clerk that he

HAD NO SUCH CERTIFICATE;

that it had not arrived; contestee's last application to the clerk of the committee was the day the case was being argued before the House, and the clerk repeated that no such paper was in the hands of the committee. After the case had been argued, and after the previous question had been called and while the chairman of the sub-committee who made the report was closing his speech; after the mouth of every member of the House but his had been closed and to make that closing effectual and hermetical; after the gentleman who had the floor had refused to be further interrupted, this remarkable paper was for the first time produced. It contained several sheets of paper; contestee asked to see it, but before he had read ten lines it was called for; and all that the Democrats in the House were allowed to know concerning said paper were the statements regarding it made by the gentleman from Wisconsin [Mr. HAZELTON], and it was not until thirty-four days after the contestee was driven from the halls of Congress that this side of the House was

PERMITTED TO KNOW

what that important paper contained. Suspecting that it was a piece of forgery or perjury the contestee asked, as the RECORD shows (see CONGRESSIONAL RECORD, Appendix, page 483), three different times "to have it read," and three different times gave as a reason for having it read that "the clerk of the committee said there was nothing of the sort here [or there]."

Yet while the contestee was earnestly but respectfully appealing to the gentleman from Wisconsin and the House for information as to what was contained in this paper, which was to deprive him of the seat to which he had been fairly and honorably elected, it was given to the reporter with the words: "Here, reporter, take this and print the whole of it." [Laughter.] See RECORD, Appendix, page 483.

The paper

WAS WITHHELD UNTIL THIRTY-FOUR DAYS

after the contestee had been unseated, and then for the first time it came to light. He first saw it on July 10, and I here assert that said paper which the gentleman from Wisconsin [Mr. HAZELTON] says foreclosed the contestee, and which he referred to as "covering all the cases," and to which he alluded in these words:

And not only covers that one deposition but every other deposition in the case and ends the question—

this clinching document, for which the same gentleman said his "committee sent down there [to Alabama] and got," and which no Democrat was allowed to see—I assert, Mr. Speaker, that the essential and material statements in said paper were the opposite to the truth; they were untrue, they were false; and therefore I assert that the paper was either a

PIECE OF FORGERY OR A PIECE OF PERJURY.

In other words, if the paper was sworn to by Robert W. Figg, as is alleged, it was perjury.

If it was not subscribed and sworn to by said Robert W. Figg it was forgery. Therefore the incontrovertible fact exists that a paper was used which was either perjury or forgery to deprive a member of this House of his seat as a representative of the people.

The record which it is claimed was made by Mr. Figg shows that the certificate made by him and printed on page 1263 of the record in the case of William M. Lowe *vs.* Joseph Wheeler.

DID NOT RELATE TO ALL THE DEPOSITIONS

taken before him as notary public in said case. It required no other proof to establish this fact, but I have sworn proof which I will read to further sustain this proposition. It is an affidavit of the clerk of the Committee on Elections, together with my own affidavit. The rec-

ord and the proof show beyond question that said certificate was only attached to four depositions.

The certificate referred to, printed on page 1263 of the record, reads:

In the eighth Congressional district of Alabama, Madison County, at Huntsville.

I, Robert W. Figg, a notary public in and for said county and State, before whom the foregoing depositions have been taken, do hereby certify that the said witnesses are known to me to be the identical persons named in the notice to contestee, and subpœnas thereunto attached, and said witnesses were first duly sworn by me to speak the truth, were examined as above stated, touching a cause pending before the House of Representatives of the Congress of the United States of America, wherein William M. Lowe is contestant and Joseph Wheeler is contestee for a seat therein; that their evidence was taken down in their own language by Charles A. Buell, stenographer, was fully approved and attested by said witnesses in my presence on the days, respectively, as shown above in said depositions. And that I am not of kin or counsel to either of the parties in said cause, nor in any way interested in the result thereof.

In witness whereof I hereunto set my hand and official seal of office, in the city of Huntsville, district, county, and State aforesaid, on this the 16th day of March, A. D. 1881.

[SEAL.] ROBT. W. FIGG, *Notary Public.*

The notice referred to in the above certificate, which was the only notice pursuant to which the deposition was taken to which the said certificate was attached, reads:

Pending in the House of Representatives of the United States.

William. M. Lowe, contestant *vs.* General Joseph Wheeler, contestee.

To General Joseph Wheeler, contestee:

You are hereby notified that on the 16th day of March, 1881, I will begin, between 8 o'clock a. m. and 3 p. m., and continue from day to day, to take testimony in the above-named cause, before Robert W. Figg, at the United States court-rooms, in Huntsville, in the county of Madison, State of Alabama, and shall examine the following-named witnesses, and many others: James H. Bone, William M. Lowe, Richard H. Lowe, Joseph H. Sloss, Huntsville, Alabama.

DAVID D. SHELBY,
Attorney for Contestant.

(Indorsed:) William M. Lowe *vs.* Joseph Wheeler. Notice. (R. H. L., Exhibit No. 1.)

Executed by serving a copy of the within notice on Joseph Wheeler, contestee, on this the 10th day of March, 1881.

R. H. LOWE.

No. 97.

It will be observed that this certificate states that it refers only to the four depositions named in the notice; therefore it could not by any possibility legally or in any way whatever include any others.

I will read the alleged affidavit of Robert W. Figg, which was used to deprive me of my seat, and will then read the affidavit of Mr. Paul, who was the clerk of the Committee on Elections, to which I add my own affidavit, and I request the Public Printer to print them side by side. The Figg affidavit I take from the CONGRESSIONAL RECORD, first session Forty-seventh Congress, Appendix, page 483.

Here, Mr. Reporter, take this and print the whole of it. [Laughter.]

The certificate is as follows:

Circuit court of the United States for the northern district of Alabama.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, A. W. McCullough, a United States commissioner of said court, Robert W. Figg, who, being duly sworn, deposes and says: That the certificate signed by him, and printed at page 1263 of the record in the case of William M. Lowe *vs.* Joseph Wheeler, was duly made by him and was attached to and relates to all of the depositions taken before him as notary public in said cause, to wit: The depositions of Thomas W. White, record, page 37; William L. Goodwin, record, page 42; Nicholas Davis, record, page 47; Joseph H. Sloss, record, page 55; James A. Pickard, record, page 116; Robert Brandon, record, page 128; Thomas B. Hopkins, record, page 129; Lockhart Bibb, record, page 137; George W. Maples, record, page 140; William L. Christian, record, page 143; Robert J. Wright, record, page 147; Edward C. Lamb, record, page 149; William W. Hayden, record, page 151; Nathan Whittaker, record, page 153; Richard H. Lowe, record, page 156; John Hertzler, record, page 173; Lowe Davis, record, page 190; George Rugland, record, page 197; James Jones, record, page 200; John Kibble, record, page 202; Alex. Jamar, record, page 203; Pope McDaniel, record, page 206; William Wallace, record, page 215; Wade Blankenship, record, page 231; John Wesley, record, page 243; John H. Battle, record, page 248; Felix Forbes, record, page 252; William E. Matthews, record, page 294; Dr. John R. McDonald, record, page 297; Dickson Cobb, record, page 300; William M. Lowe, record, page 1226; Richard H. Lowe, record, page 1263; John Fennel, record, page 1264; Robert Lanier, record, page 1266; Sumner Fennel, record, page 1268; Stafford Holmes, record, page 1269; Ed. Davis, record, page 1270; Jerry Horton, record, page 1271; Lige Erwin, record, page 1271; Jordan Wan, record, page 1272; Braccus Eldridge, record, page 1272; Reuben Toney, record, page 1273; John Mason, record, page 1274; James Goovens, record, page 1274; Bill Owens, record, page 1275; Reuben Lankford, record, page 1276; Anthony Wilkins, record, page 1276; Charley Law, record, page 1277; Bill Holding, record, page 1277; Dick Horton, record, page 1278; Wash. Johnson, record, page 1279; Larkin Holding, record, page 1279; Coleman Williams, record, page 1280; Nat. Donegan, record, page 1280; Edmund Wiggins, record, page 1281; Jarrett Jones, record, page 1282; Richard Chapman, record, page 1282; Anthony Lipscombe, record, page 1283; Anthony Echols, record, page 1284; Levy Holding, record, page 1286; William Mendum, record, page 1287; Charles Anderson, record, page 1287; Wesley Wecden, record, page 1288; Frank Lightfoot, record, page 1289; Bascom Lightfoot, record, page 1289; Scip Shelby, record, page 1289; Albert Lanier, record, page, 1290; Cal. West, record, page 1290; Charles West, record, page 1291; Cagg Kelly, record, page 1292; Casey Baldridge, record, page 1292; Richard Farley, record, page 1293; John Landman, record, page 1293; John Brown, record, page 1294; William Grier, record, page 1294; Rufus Smith, record, page 1295; Davy James, record, page 1295; Henry McVay, record, page 1296; N. Shelley Harris, record, page 1296; Tyson Moore, record, page 1297; Madison Holding, record, page 1297; Charles Slaughter, record, page 1298; Joe Jamar, record, page 1299; Tom Smith, record, page 1299; Jim Lundy, record, page 1300; Randal Thompson, record, page 1300; George Chapman, record, page 1301; Edmond Patton, record, page 1301; Virgil McDaniel, record, page 1302; Daniel Taylor, record, page 1302; Edward Johnson, record, page 1303; George Ragland, record, page 1303; Boney Toney, record, page 1304; Mat. Madkins, record, page 1305; Washington Miller, record, page 1305; George Adams, record, page 1306; Caleb Toney, record, page 1306; Julius Ragland, record, page 1307; Wash. Lundy, record, page 1307; Charles Arnett, record, page 1308; Milton Lanier, record, page 1309; Richmond Toney, record, page 1309; Frank Martin, record, page 1310; Harrison Hunter, record, page 1310; Frank Madkins, record, page 1311; Thomas Cain, record, page 1312; Henry Williams, record, page 1312; John Lankford, record, page 1313; Nelson Dandridge, record, page 1313; Jackson Rogers, record, page 1314; Harrison Madkins, record, page 1314; Peter Kelly, record, page 1315; Henry Robinson, record, page 1315; Jesse McDonald, record, page 1316; Mingo Lanier, record, page 1317; Thomas Robertson, record, page 1317; Tom Abrams, record, page 1318; Richard Beadle, record, page 1318; Edmond Kelley, record, page 1319; Isham Fennell, record, page 1320; Calvin Jordan, record, page 1321; William Turner, record, page 1321; Abram Brown, record, page 1322; Add. Bond, record, page 1322; William Smith, record, page 1323; Ned Rice, record, page 1323; Riley Smith, record, page 1324; Jerry Lanier, record, page 1324; Andrew Tate, record, page 1325; Jeff. Kebbie, record, page 1326; Jim Carmichael, record, page 1326; Tom Gladdis, record, page 1327; Ben Lewis, record, page 1327; Henry Sullivan, record, page 1328; Jerry McDonald, record, page 1328; Preston Harbut, record, page 1329; James Clay, record, page 1330; Henry Kibble, record, page 1331; Chancy McCrary, record, page 1331; Burt Scruggs, record, page 1332; Crochet Lanier, record, page 1332; Tinsley Taylor, record, page 1333; Robert Jordan, record, page 1333; Robert Graves, record, page 1334; Scipio Ragland, record, page 1335; Joe Wiggins, record, page 1336; Frank Toney, record, page 1336; Major Toney, record, page 1337; Sam Gaines, record, page 1338; Moses Love, record, page 1339; Tobe Horton, record, page 1340.

ROBT. W. FIGG.

Subscribed and sworn to before me this 24th day of March, 1882.

A. W. McCULLOUGH,
U. S. Commissioner.

Mr. WHEELER. That is the first time our side ever heard of that.

I will also read the affidavit which flatly contradicts the material statements contained in the above paper. The House will please bear in mind that this paper I have just read purports to be an affidavit of R. W. Figg, the commissioner before whom it is alleged most of contestant's depositions were taken.

I will now read the affidavit of Mr. Paul, the clerk of the Committee on Elections, which shows that the material allegations in the Figg affidavit are false:

CITY OF WASHINGTON, *District of Columbia:*

Before me, Charles B. Beall, personally appeared Nathaniel S. Paul, who, being duly sworn, says that during the latter part of December, 1881, and January, 1882, and several succeeding months of 1882, he was the clerk of the Committee on Elections of the House of Representatives. That it was a portion of his duty to open the packages of evidence in the various contested-election cases which were presented to the House.

That on Saturday, December 31st, 1881, he opened the packages containing evidence in the case of Lowe *vs.* Wheeler. That the evidence in behalf of contestant, Hon. William M. Lowe, contained a great number of depositions, each of which depositions were separate by themselves and not in any way fastened to each other. His recollection is that there were some sixty or more packages or parcels of separate or single depositions of contestant. By examining the printed record he sees that the numbers he placed on the said packages or separate parcels were in most instances printed in the record, and with these numbers to refresh his memory, he says: That the deposition of Thomas W. White, record Lowe *vs.* Wheeler case, page 37, was separate and was not attached to any other deposition; and that the deposition of William L. Goodwin, page 42, was separate and was not attached to any other deposition; and that the deposition of Nicholas Davis, page 47, was separate and was not attached to any other deposition; and that the deposition of J. H. Sloss, page 55, was separate and was not attached to any other deposition; and he makes the same statement with regard to the deposition of James A. Pickard, page 116, and Robert Brandon, page 128; Thomas B. Hopkins, page 129; Lockhart Bibb, page 137; George W. Maples, page 140; William L. Christian, page 143; Robert J. Wright, page 147; Edward C. Lamb, page 149; William W. Hayden, page 151; Nathan Whittaker, page 153; Richard H. Lowe, page 156; John Hertzler, page 173; Lowe Davis, page 190; Pope McDaniel, page 206; William Wallace, page 215; Wade Blankenship, page 231; John Wesley, page 243; John H. Battle, page 248; Felix Forbes, page 252; William E. Matthews, page 294; Dr. John R. McDonald, page 297; and Dickson Cobb, page 300. He also states that with regard to the depositions printed on pages from 1264 to 1340 of the record in the case of Lowe *vs.* Wheeler and which are marked as rebuttal testimony were most of them small depositions consisting of only one sheet each, and that several of such depositions were fastened together so that all of said depositions (in all about one hundred and nineteen depositions) were made up into five packages, but none of said packages were in any way attached to the deposition which is printed in the record upon the pages from 1226 to 1262, inclusive, and including the first two-thirds of page 1263. This deposition of thirty-seven and two-thirds pages was a separate package by itself and was by me marked No. 95.

NATHANIEL S. PAUL.

Subscribed and sworn to before me this 25th day of January, A. D. 1883.

[SEAL.] CHAS. B. BEALL,
Notary Public.

CITY OF WASHINGTON, *District of Columbia:*

Before me, Charles B. Beall, personally appeared Joseph Wheeler, who, being sworn, says that he was present on December 31, 1881, when the depositions referred to in the above affidavit were opened and prepared to be sent to the printer by Nathaniel S. Paul. Affiant has carefully read the above affidavit and he states that he knows the facts therein stated to be true. Affiant further states that the pretended certificate on page 1263 of the record was attached to the deposition of William M. Lowe, and it was not in any way attached to any one of the other depositions referred to in the above affidavit of Nathaniel S. Paul. Affiant further states that he was present at Lanier's store on January 25, 1881, when the depositions of George Ragland, page 197, and James Jones, page 200, and John Kibble, page 202, and Alex. Jamar, page 203, were taken, and affiant states that Robert W. Figg, esq., was not present nor anywhere near the room when said depositions were taken." Affiant further states that said depositions were not taken before said Robert W. Figg.

JOSEPH WHEELER.

Subscribed and sworn to before me this 25th day of January, A. D., 1883.

[SEAL.] CHAS. B. BEALL,
Notary Public.

It is here proven that the Republican party must for all time bear the odium of having deprived a regularly elected member of this body of his seat and a hundred thousand people of their representative rights upon papers which were never allowed to see the light until after the previous question had been called and after the mouth of every Democrat had been closed, and then in addition it must bear the terrible odium of the crushing exposure that every material point upon which they relied in these papers was basely false, and that every essential thing which they claimed was proven by them was in every

respect untrue, and that, therefore, the papers thus secretly held back were either

PERJURIES OR FORGERIES.

I will now say one word regarding the unwarranted and unjust decision of the Republicans of the committee regarding——

The SPEAKER. The time of the gentleman has expired.

Mr. MOULTON. How much time have I remaining?

The SPEAKER. The gentleman has fifteen minutes.

Mr. WHEELER. The gentleman from Pennsylvania [Mr. MILLER] yielded me five minutes of his time.

The SPEAKER. The gentleman has not now the floor to yield time to any one.

Mr. MOULTON. I yield to the gentleman two minutes.

Mr. MILLER. I will yield the gentleman five minutes of my time.

MOORESVILLE BOX.

Mr. WHEELER. The record, page 816, in the Lowe *vs.* Wheeler case, shows that one of the State officers of election was a Democrat and the other two were Greenbackers or Republicans, and that all the Federal officials were Greenbackers or Republicans. This evidence is given by a witness who states the following as his reasons for knowing the politics of these persons:

I have lived in that beat for the last thirty-three years; have been a justice of the peace for thirty-one years; have been deputy tax collector for the last ten or twelve years; was census enumerator last year and have visited every house in the beat, and know every person who has been in the beat for any length of time. I have also acted as deputy assessor and have been a merchant.

And in reply to a question by Colonel Lowe's attorney, says:

My facilities for knowing were that I knew all the people down there and talked with them, and learned their political sentiments and what they were going to do, and it was no guess-work with me.

The law of Alabama says that the poll-lists shall be made in duplicate, each being made at the same time by different clerks. Both poll-lists are originals, and each stands with equal dignity as evidence. The law directs that one be sent with the returns to the probate judge, who becomes its custodian, and that the other be sealed up in a box with the ballots and placed in the hands of one of the inspectors, who becomes its custodian, for the special and only purpose of its being called for to be used as evidence in case that the election is contested.

The probate judge of Limestone County was placed on the stand as a witness, and testified that the inspectors of Mooresville box (two of them being opposed to the Democratic party) did not send any poll-list to him with the returns. We then summoned the inspector of the election who was the custodian of the other poll-list. He appears before the commissioner, takes out the poll-list, and swears that it is the original poll-list of Mooresville box for the election in question, and that he is the custodian of said poll-list. We proved by that poll-list that 189 persons voted at that election who were not legal voters. This includes minors, convicts, and other persons who had not registered. We proved by the probate judge that the list of registered voters we presented included all the registered voters of the box, including the men who were registered on November 2, 1880, and we proved by Mr. Martin that 75 more persons were on the poll-list than there were on the registration-list. The vote returned at that box was—Wheeler 90, Lowe 619.

We prove positively the names of the 90 persons who voted for Wheeler, all of whom were legal voters in every respect. We then prove positively that 189 illegal voters cast their votes for Mr. Lowe, leaving many more regarding whom nothing could be learned, showing that they were fictitious names assumed by colored men who voted a second or third time, or that they were the names of men who were imported for the purpose of illegal voting.

With this positive, overwhelming, and uncontradicted evidence of fraud, Mr. McCrary and all law writers say one of the following rules must be adopted:

First. Reject the poll, which would have made a change in my favor of 529 votes.

Second. Deduct all from him who has a majority at the poll, which would have changed the vote in my favor 189 votes.

Third. Deduct the illegal votes pro rata, which would have changed the vote in my favor 137 votes.

This last rule was adopted by the gentleman from Massachusetts [Mr. RANNEY] in the Bisbee case.

It did seem that we had everything essential to prove a fraudulent election at this poll established beyond question, and the cross-examination of the witnesses had only made their evidence, if possible, more conclusive.

The report submitted by the gentleman from Massachusetts [Mr. RANNEY] sweeps away with one stroke of the pen all the evidence by which it proved 189 illegal votes for the contestant.

He says, because the inspectors of Mooresville box (two of them being Greenbackers) failed to send a poll-list to the probate judge, that—

The conduct of the inspectors is the subject of grave distrust, and "the alleged discrepancies" are so great that the rejection of the evidence is fully warranted.

In other words, the remarkable principle of law is announced that at a box where a majority of the State officers and all of the Federal officers of election are Greenbackers, and where the duty is neglected of sending the poll-list to the probate judge, and therefore an obstacle is interposed which made it difficult to prove that 189 illegal votes were cast for the Greenback candidate, the failure of duty on the part of Greenback officials subjects the Democratic officer of election to such grave distrust that his evidence will not be regarded as worthy of credit; and it is also laid down that as so great an amount of fraud has been perpetrated in favor of the Greenback candidate, therefore the Democrat can not be trusted, and "the rejection of his evidence is fully warranted."

Here are two valuable principles of law established:

First. The fact that a violation of law on the part of the Greenbackers justified their Republican allies in refusing to consider any testimony from Democrats which would expose the fraud.

Second. While the court might consider a case where the proof shows one or two illegal votes for a Greenback ally, yet where the uncontradicted proof shows so stupendous a fraud as the counting of 189 votes of illegal voters for the Greenbacker, the magnitude of the fraud is so great that it elevates the case to a dignity which the great party of moral ideas regards as worthy of the most sublime admiration.

This second principle is simply an enunciation of the doctrine now fully established in some of our moral-idea courts, namely, when a poor, ragged, hungry devil steals a piece of bread or cheese he shall be imprisoned, but when a well-clothed and well-fed man steals from fifty thousand to a million dollars he shall be worthy of all honor.

This, Mr. Speaker, is one of the results arrived at by this eminent judge of the modern Athens of modern Greece.

I will now make some allusion to the report submitted to this House by this gentleman [Mr. RANNEY] in the case of Jones *vs.* Shelley during this session. The report appears to be based solely upon a memorial which purports to have been presented to the Committee on Elections by a colored man, calling himself John W. Jones, who claims to have been a candidate for a seat in the Forty-seventh Congress from the fourth Congressional district of Alabama at the election held November 7, 1882. The report based upon the memorial of said Jones claims that certain returns were rejected and not counted by the county commissioners, and the report says:

Some of the returns were rejected by the county commissioners; some because the poll-lists were not duly certified by the inspectors, and some because no registration-lists of electors registered on the day of the election at the polls were not returned, although it did not appear that there were any such.

The report now before the House apparently admits that the poll-lists referred to were not certified, and that the registration-lists were not returned by the inspector as required by law, and the allegations of the report show that the county canvasser had no proof that a fair election had taken place. It is most probable they had been studying a decision by a distinguished judge and a member of Congress. They probably had before them the report of Mr. RANNEY, of Massachusetts, in the case of Lowe *vs.* Wheeler. In that case Mr. Wheeler had introduced the probate judge of Jackson County as a witness. The judge, on his oath, produced copies of a great number of poll-lists, each of which he certifies to be "a full, true, and complete exemplification of the poll-list of said beat."

The judge then testifies that the poll-lists he presented in evidence were the poll-lists of the beats as stated and certified by him. The opposing lawyers enter an objection to a part of the questions and answers thereto, but make no objection whatever to the poll-lists or the evidence of the judge regarding them. Therefore if any objection existed it was waived by the act of contestant's attorney. The gentleman from Massachusetts [Mr. RANNEY] says that poll-lists so thoroughly proven as these were "can not be regarded as proof." (See twenty-first line, page 35.)

Now, there was no proof before the gentleman from Massachusetts [Mr. RANNEY] that the poll-lists in the Lowe *vs.* Wheeler case were not certified by the inspectors, and the presumption is that they were.

Inspectors very frequently write the returns and poll-lists on the same paper, and when one sheet is too small several sheets are pasted together, making one large paper, and they at the same time certify as to the poll-list and tally-sheet and the returns.

It has always been the custom for probate judges or other officials who by law are made the custodians of returns to certify to the result of the election in their county by extracting the essential information from the various returns which have lawfully come to their possession, and from them compiling the results in one paper, which is usually, when practicable, put in tabulated form.

For instance, when a probate judge presents to Congress a certified statement of the returns from his county, he does not send up a certified copy of each return from the various precincts, each of which is certified by the inspectors of such precincts (and each of which may and frequently does contain the tally-sheet and poll-lists), but he takes all these returns, satisfies himself that they are correct, extracts from them what is necessary, and then taking what he has extracted compiles a tabulated statement, and he certifies this to be a correct return of the votes

cast in the county, and no one has ventured to say that such a return is not evidence of what it purports to recite.

Of course, if there were mistakes or errors of any kind this return would be assailed and impeached, but certainly the burden of proof is upon the other side to show that the return is not correct. If a copy of the poll-list is required of the probate judge he copies the poll-list out and certifies it to be a copy of the poll-list.

If a copy of the returns is required of him he copies the returns out and certifies it to be a copy of the returns.

In neither case is it necessary for him to include the certificates of the inspectors or anything else beyond what was required of him. In the case of Lowe *vs.* Wheeler we see this is the course pursued with regard to the certified papers put in evidence by Mr. Lowe. We see on pages 464 to 470 of the record just such compiled statements of the votes of the several counties, and in none do we see any return certified by any inspectors.

In this case Judge Talley, adopting this plan, first certifies that each poll-list is the poll-list of the precinct referred to.

This is all the proof which is required by law. It is all that the committee has required of contestants.

Mr. Wheeler might have stopped there, but it seems he did not stop; he takes the deposition of Judge Talley, and the judge testifies that the poll-lists he puts in evidence are the poll-lists of the precincts he certifies them to be; but, as before stated, what makes it stronger, the opposing lawyers enter a long objection to the questions propounded to Judge Talley, but said objection does not in any way refer to the poll-lists or make any objection to them; therefore it is clear that even if valid objections existed they were waived when objections were made to other parts of the question without making any objection to the part of the question which asked for evidence regarding the poll-lists.

The poll-list which the gentleman from Massachusetts [Mr. RANNEY] says the county commissioner declines to regard as proof had less than one-hundredth part of the evidence of validity which was possessed by the poll-lists which under a similar law the gentleman from Massachusetts [Mr. RANNEY] says "can not be regarded as proof;" and for the purpose of argument on this point I will not make any insinuation that he was actuated by partisan motives in the Lowe *vs.* Wheeler case, but I would say if he was right in that case then eminently one hundred fold more right were the county commissioners in the Jones *vs.* Shelley case.

The minority of the committee, in their report in answer to Mr. RANNEY, say:

> The continuous cry of fraud against elections in the South is itself becoming a fraud. On this theory the Elections Committee, consisting of eleven Republicans and four Democrats—a majority of two-thirds and one to spare—vindicated the fundamental principles of republican government at the last session by unseating General Shelley, who had been elected by over 3,000 majority. They vindicated the same great and essential principles by ousting Mr. Finley, Mr. Dibble, Mr. Wheeler, Mr. Tilghman, and others, but their appeal to the country resulted in ousting the ousters, and returned to their places again most of the victims of this unholy crusade with an overwhelming Democratic majority at their back.

I will now refer to another inconsistency.

In the case of Bisbee *vs.* Finley, the committee decided (RANNEY'S report, page 19) that a return of election "not signed by the officers of election is illegal, and no votes stated therein can be counted."

In this case a Democrat received ten times as many votes as the Republican, and the committee deduct the votes from the official count; thus deducting ten Democratic votes to one Republican vote.

In the case of Lowe *vs.* Wheeler, from Alabama, where the law was substantially and almost precisely the same as the Florida law, the committee turn a somersault and reverse this decision, and count a poll for a Greenback Republican, upon a paper purporting to be a return which showed that all the votes were for the Greenbacker and none for the Democrat; and this, too, when there was not a particle of proof that any election at all was held at that precinct.

Now, I insist that the committee was

WRONG IN ONE OR THE OTHER OF THESE DECISIONS;

and I ask, how can the honorable gentleman whose interests are involved repose confidence in and expect fair play from a committee which presents to this House two reports the same week, yes, the same day, one exactly the reverse of the other? I might go on and show that they turned other somersaults in like decisions in the cases of Lynch *vs.* Chalmers and Smith *vs.* Shelley.

There is, in fact, but one thing in which we find the committee consistent; they were consistent in deciding nearly every essential question against the Democratic member.

I would like to be able to acquit the gentleman from Wisconsin [Mr. HAZELTON] of

INTENTIONALLY DOING ME INJUSTICE,

but the course he pursued makes it impossible for me to do so.

Information as to when my case would be argued, and the nature of the decision of the sub-committee and many other facts first came to me through the headquarters of my opponent, and not directly from the committee. In nearly every case the full thirty days were allowed the contestee to prepare his brief. If in any case this was proper, my case was eminently the one where it should have been granted, because the voluminous record was such that in less time the preparation of a brief was impossible. Yet with all these facts and the additional fact that it was impossible for the brief to be printed within the time, the sub-committee curtly refused an extension, and ordered that the argument should be commenced; and although the committee allowed contestant's attorney all the time of the first sitting and nearly two hours at the second sitting, they refused to allow contestee's attorney a moment beyond ninety minutes, and cut the contestee off in his argument after he had spoken less than seven minutes.

Worse than that. During the argument on nearly every point the committee indicated that they fully agreed with several principles and conclusions of law and fact which the lawyers of the contestee announced, which of course caused them to cease arguing points admitted by the court; and yet in their report they decided all these points contrary to the intimation given during the progress of the argument.

All that was said during the hearing of the case by the committee was taken down by a stenographer, and I therefore give the exact words.

Mr. Shelby, one of the attorneys for Mr. Lowe, during his argument made this remarkable and unwarranted assertion:

> So far as regards the ballot and counting, Congress has made up its mind on it and taken the control of it from the State.

Neither the chairman nor any one else could see any law to justify such an erroneous assertion, and the chairman [Mr. HAZELTON] said, in an interrogative and sarcastic manner:

> Has absorbed that special branch of the question; that is your idea?
> Mr. SHELBY. Yes, sir.

Mr. Shelby then went on trying to argue that decisions of the Supreme Court upon State laws which had for their purpose the regulation of commerce were applicable to State laws which regulate elections, apparently thinking that the lawyers on the committee were ignorant that their utter inapplicability was evident from the fact that the Constitution of the United States specially gives Congress, not the States, the power "to regulate commerce;" and that the same authority directs that the "manner of holding elections for Representatives shall be prescribed in each State by the Legislature thereof."

While it is true that Congress is authorized to alter such regulations, yet it is also true it has not done so, except by stating that elections shall be by ballot, and that in certain cases certain persons shall not be proscribed from voting.

To meet this view Mr. Shelby read as follows:

> The act of Congress relied on is that of the 17th February, 1793, providing for the enrollment and license of vessels engaged in the coasting trade. The force and effect of this act was examined in the case of Gibbons *vs.* Ogden (9 vol., pages 210, 214), and it was there held that vessels enrolled and licensed in pursuance of it had conferred upon them as full and complete authority to carry on this trade as was in the power of Congress to confer.
> Mr. HAZELTON. Nobody denies that that is the law.

This was said in an impatient manner, indicating that while no one denied it, yet it had no applicability to the election law. In his argument Mr. Shelby had read a part of the Siebold case, and unfortunately admitted the untenability of his position by stumbling on these words:

> The paramount character of these laws made by Congress has the effect to supersede those made by the State as far as the two are inconsistent and no further.

This showed at once that the laws of Congress did not supersede the laws of a State unless there be a conflict. The committee adjourned after hearing Mr. Shelby and at the next meeting, after, as before stated, giving the contestee's attorney ninety minutes, they listened with great attention to Mr. Jones, another of Mr. Lowe's lawyers. This gentleman, finding himself overwhelmed with the proof that more than a thousand illegal unregistered voters voted for Colonel Lowe, insisted that registration was not required of voters by the constitution and laws of Alabama, and in support of that view he asserted that it had been the practice of the people to vote in Alabama without registering.

The contestee gave Colonel Lowe full and due notice of these illegal unregistered voters in his answer, which was served on Colonel Lowe, December 16, 1880.

He charged that two thousand persons who voted for him were not registered, and that they did not have the right to vote for the reason they were not registered.

Many of these illegal, unregistered voters were persons who were not residents of the State, or they were minors only 17 to 19 years of age, or they were convicts, and therefore not permitted to register, or they were persons who had registered under another name, or they were persons who lived in other precincts and therefore could not register in the precincts where they voted; and some were persons who declined to register for the reason that they feared it would tend to call the tax-collector's attention to their names and thus make it more difficult to avoid the poll-tax. Many of them were illegal voters for reasons other than because they were omitted from the registration-list.

The contestee, during the forty days which the law gave him to take evidence, took the evidence of the probate judges, and he served notices on the contestant that he would place the registration-lists and poll-lists

in evidence, and he did so place them in evidence, and took proof regarding said registration-lists and poll-lists.

The witnesses gave the names of hundreds of persons who voted for Colonel Lowe, and who were not registered.

The contestee then placed certified and sworn copies of the registration-lists and poll-lists in evidence, and the contestant did not prove that a single one of these unregistered voters had been deprived of the full opportunity to register.

He did not do this, because he could not do it.

Colonel Lowe's lawyer knew that the charge of the contestee was true, and he therefore, as a last resort, having no other ground to stand upon, urged that the constitutional provision was a nullity, and it was not the practice to register.

I give his exact words as taken down by the stenographer:

Mr. RANNEY. Has it been the practice of the people there to vote without registering?

Mr. JONES. Yes, it has been the practice.

Mr. HAZELTON then said:

Did they have to make an excuse for not registering?

This question was not answered.

I had placed before the committee undisputed evidence that the illegal voters had voted for my opponent. I will refer to the pages of some of the evidence which proved

HOW ILLEGAL VOTERS VOTED.

Mr. McKernachan testified, page 969, that 25 of these illegal voters voted for Mr. Lowe, at Florence, November 2, 1880, and when a witness for Mr. Lowe, page 1391, he testified that he saw the name of William M. Lowe on the ballots when they were handed to the inspectors.

Gilbert Johnson, page 967, testified that 50 of these illegal voters voted for Mr. Lowe for Congress. His testimony is positive and uncontradicted. He gives the name of each person, and testifies that they voted for Mr. Lowe for Congress.

Quintus Jones, page 1081, gives the names of 189 of these illegal voters, and testifies that each and all of them voted for William M. Lowe for Congress, November 2, 1880.

A. D. Lewis, pages 892 and 893, and W. K. Houston, page 895; H. C. Hyde, page 900; Benjamin Jones, pages 962, 963; George W. Miller, pages 509½ and 510½ Oliver H. Reid, page 1131; J. Milton Gray, page 1132; W. D. Burnett, page 1159, gave the names of more than 100 of these illegal voters, and they testified positively that each and all of these persons voted for William M. Lowe. Twenty-two of Mr. Lowe's witnesses each swears that they voted for Mr. Lowe at Meridianville box No. 2, and all of these persons are proven to be illegal voters. We might search further, but here we have cited the House to direct, positive, and uncontradicted evidence that over 1,000 of these illegal voters voted for Mr. Lowe. We insist that more positive, direct, unimpeached evidence regarding at least 1,000 of the persons could not be imagined. It is primary evidence, and besides it is frequently corroborated by two and sometimes three witnesses, some of the witnesses being those of Mr. Lowe, and in no instance has Mr. Lowe's array of lawyers been able to contradict this direct and positive evidence in a single instance or with reference to a single voter.

In his effort to reply to that evidence, Mr. Jones said (I take it from the stenographer's notes):

Now, what is the best thing to be done? Call the alleged illegal voter and ask him how he voted? If he declines to answer, then you can introduce your secondary evidence; but you must first lay the foundation. They have not done so in this case.

Mr. RANNEY. Is this evidence you speak of what you consider primary evidence?

Mr. JONES. Yes.

Mr. RANNEY. That does not answer my designation of it.

Mr. Jones attempted to evade the answer, and the chairman, Mr. HAZELTON, said:

What a man knows and sees another man do, do you not call that primary evidence?

Mr. Jones did not reply but turned the matter off and attacked some registration-lists because they were printed with type instead of being written with a pen.

The question was then asked:

Mr. RANNEY. Do the printed names correspond with the poll-list?

Mr. JONES. No, sir.

Mr. RANNEY. Are the names on the poll-list not in the registration-list?

Mr. JONES. A good many of them are not.

Mr. HAZELTON. Now, why is it when these witnesses are brought up and inquiry made whether they are legal voters and their names are not on the registration, why is it that their names are not on the registration-list?

Mr. JONES. I can not say.

Mr. HAZELTON also said in the course of the argument:

When there is no legal registration there can be no legal voting.

The proceedings before the committee which sat, or at least ought to have sat, as a court, and which were taken down by a stenographer as the words fell from the lips of the parties, show that the committee admitted the correctness of the principles of law which governed the contestee's case, and in the report written by Mr. RANNEY after the argument was over he admitted that unregistered men were illegal voters and that their votes ought to have been deducted.

But he says the pleading does not justify it because the contestee did not set up non-registration as a ground for attacking the polls. Now, I will read what the contestee does set up. Here are the exact words of Mr. RANNEY:

Contestee does not set up a want of legal registration as vitiating the election in any precinct; but alleges that persons not registered had no right to vote, and that all votes cast by such were illegal and must now be rejected.

Now, the minority report says that in making this statement Mr. RANNEY is mistaken. The following allegations are contained in the answer of contestee:

Contestee alleges that at the following precincts of Lawrence County, namely, Courtland, Red Bank, Avoca, Wolf Spring, Mount Hope, Kinlock, Landersville, Hampton's, Oakville, and Hillsborough, 450 persons were allowed to vote, and did vote, for contestant, who did not have a right to vote, for the reason that they had never been registered as required by law.

The proof shows that there was no legal registration at any of these precincts, and therefore all these should be rejected from the count, because where there is no legal registration there can not be legal voting.

I say that there can not be a more explicit statement that there was no legal registration than what has been read with regard to the Courtland precinct, and the same allegations are made with regard to other precincts; and if that position is sustained it would elect the contestee by over 3,000 votes instead of 2,000, as is shown by not counting these men whose names do not appear at all upon any list of any kind whatever.

This left the House but one of two positions to take. If the poll and registration lists were legal, then they were proof as to who registered and who voted, and as to who voted without being registered; and if they were illegal, if the registration was illegal, or was not as required by law, then, as the chairman of the sub-committee on elections that tried this cause asserted more than once during the argument, the election at that poll was null and void, and the result ought not to be counted. The only answer to that proposition is the one made by Mr. RANNEY, that we did not set up that point in the answer.

After that position was shown to be without foundation, and after it was shown that the point was clearly stated in the answer of the contestee, and that Mr. RANNEY was mistaken, it did seem as though there was no ground for maintaining the position taken by the committee.

The evidence presented by the contestee was in all respects legal and primary.

We also find that the probate judge of Lawrence County testifies in due and legal form that the registration-lists he attaches to his deposition are the registration-lists of Courtland precinct.

We also find in the record duly certified copies of the original registration-lists of the persons registered on November 2, 1880, at the following precincts:

	Page.
Madison	625
Meridianville, No. 1	642
Meridianville, No. 2	642
Whitesburgh	655
Colliers	685
Oakland	945
Florence	941
Cherokee	436
South Florence	427
Mount Hope	1171
Landersville	1177
Hampton's	1182
Red Bank	1186
Avoca	1198
Wolf Springs	1198
Maysville	609
Cluttsville	584
Brickville	1186
Moulton	1177
Centre Star	938
Cave Springs	954
Courtland	1153

All this positive evidence is not in any way contradicted by Mr. Lowe. This positive and primary proof that these men to the extent we claim are not registered stands without an atom of proof to controvert or contradict it.

The certificate of the probate judge, under his seal of office, is all that is necessary, and is all that is usual, but it will be seen that the contestee has in many cases gone beyond that and proved by evidence that the registration-lists were correct and complete.

The correctness of the lists is not denied or questioned.

Mr. RANNEY, of the committee, says it is possible that these certified registration-lists do not contain the names of all the voters. He says men may have moved away, and their names may have been stricken from the rolls, and after that they may have returned. We insist that even if this were so, such parties would be compelled to register again, and we insist that the certified and sworn reports of the probate judges imply absolute veracity, and without proof to impeach them they must be taken as absolutely true.

The law did not require any further proof than this, but for our own satisfaction we procured certificates from the probate judges of the counties of Lauderdale, Madison, Jackson, Limestone, and Lawrence, which state as follows:

The lists of registered voters which were furnished Joseph Wheeler to be used as evidence in the contested-election case of Lowe vs. Wheeler were taken from the original registration-lists. The registration-lists had been increasing at every election, or nearly every election, and have therefore been constantly accumulating since the registry commenced in 1875. The persons who died and those who had removed and those who had become disqualified were included in the lists, and these lists having been accumulating for more than five years accounts for the large number of names on the registration-lists, and it shows why the number of registered voters at the various precincts exceeded the number of persons who vote at said precincts.

The next point considered in the committee was Courtland box No. 2. I will read the unanimous decision of the Democrats of the committee and House regarding this poll:

At Courtland precinct (the same place where the proof shows that there was no legal registration, and that one hundred and eighty unregistered persons cast illegal votes for William M. Lowe) the preponderance of evidence decidedly shows that none of the inspectors were supporters of the party which sustained Mr. Wheeler, and Mr. Lowe's witnesses are compelled reluctantly to admit that they violated the law which required them to count the ballots immediately on the closing of the polls, and that they pretended to be occupied for nine hours in counting about 500 ballots, and then put the counted and uncounted ballots together in a rough box, and that one of their number took the box off and kept it until the next day, when a box was returned which contained some ballots which they counted in an illegal manner, and made a report that Mr. Lowe had received 419 votes, and that Mr. Wheeler had received 111 votes.

The proof also shows that this report was false, as the witnesses admit that Mr. Wheeler was polling a large vote (quite as large as that polled by Mr. Lowe) and some of the witnesses testified that he (Wheeler) polled two or three times as many votes as were counted for him.

Mr. Wheeler has proven, by uncontradicted and uncontroverted evidence of Republicans as well as Democrats, that over 200 persons voted for him at that box.

Mr. Wheeler's allegation with regard to this poll conforms to the proof, and we conclude that the box should not be counted.

We respectfully submit that we have never seen a case where the integrity of a ballot-box was more emphatically and essentially impeached, and where justice called louder for action.

While on this subject I will mention that in 1880 the vote at both Courtland boxes as returned was: Lowe 611, Wheeler 235; and at Courtland box No. 2 it was: Lowe 419, Wheeler 111. Notwithstanding the difficulty of proving how persons voted, I beg to remind the House that I was enabled to lay before it positive proof that at my election in 1880 at least 225 legal votes were cast for me at Courtland box No. 2, while only 111 were returned, and I further proved that 189 illegal voters voted for my opponent; but then this remarkable committee, without any reason to justify their action, did not give me the benefit of the proof. The evidence shows that the sheriff of the county was my bitter political opponent, and at the election which returned me to this body not one of the inspectors at the two Courtland boxes were Democrats, and yet the vote at both boxes was, Wheeler 350, and for my opponent 282.

It should also be remembered that at Mooresville box the vote returned in 1880 was: Wheeler 90, Lowe 619. We proved that 215 of the 619 votes were illegal, and that more votes were counted than were on the registry.

There have been three elections since, and the opposition vote has been 200 less than the illegal vote returned in 1880.

So also with regard to the vote at Triana. We proved over 200 illegal votes for my opponent at that box, and also proved that at the election which preceded that of November, 1880, the vote of the opposition was 200 less than that reported in November, 1880.

There have been three elections since; and at each of these elections the opposition vote has been at least 200 less than the illegal vote of 1880.

When Courtland box No. 2 came up for discussion before the committee, Mr. Jones's only reply to the overwhelming proof against him was that the man who kept the box in his room, unlocked, during the night after the polls closed and before the votes were counted, was a Democrat; and therefore, says Mr. Jones, General Wheeler had no right to complain.

To this assertion Mr. PAUL, a Readjuster on the committee, made the following characteristic reply. I will give his exact words:

You are not sincere in saying that a man can not complain of a wrong done him by a man who has been a member of his party.

Mr. PAUL was right in this opinion, but Mr. Jones was wrong in his statement that the man who had the box all night was a Democrat. The proof shows that at previous elections he had opposed the Democratic party, and I assert that at elections since the one in question he has been a most earnest and active worker against Democratic candidates.

With all this, the committee make a report in which they accord to the contestant substantially everything he asks; yes, I believe everything which his brief claims, whether supported by allegations of his notice or not—even when proven by perjury, even when sustained by documents and exhibits which the evidence before the committee showed to be forged, even though based upon papers which were not depositions, and even though based upon no evidence whatever.

And after thus making out the contestant's case, the committee sweep away the uncontradicted, primary, and overwhelming proof of the contestee, which showed his majority to be at least 2,841, with scarcely a comment. They say:

The contestee has adduced a great mass of testimony and presented briefs of extraordinary length, but has, in our opinion, failed to sustain his case. His proofs fail to sustain his allegations. In regard to minors and non-residents, the mere statement of a witness that an elector is one of this class seems to be the sole reliance of the contestee. This is not sufficient.

For the benefit of this and future generations I will state the character of evidence which this extraordinary tribunal refuses to consider. The facts proven by the samples of evidence I give were not in any way questioned, and no evidence was introduced to in any manner contradict them. I will read the exact words of witnesses:

John Wilson was not a resident of Alabama; he lives in Tennessee, and he never pretended to claim this as his home.

Wesley Phillips was a non-resident of the State of Alabama; he lives in Tennessee.

Squire Holsten was a non-resident of the State of Alabama; he lives in Georgia, and is an illegal voter.

John O'Neal was a non-resident of the State of Alabama; claims his home in Georgia.

Berry Blair was a non-resident of the State of Alabama; lives in Tennessee; was an illegal voter.

The witnesses also testified that all the non-residents whose names they gave voted for William M. Lowe, and all these names are found on the poll-lists.

We could go on with these details, but space forbids.

It is evidence of this character which the majority of the committee say is "not sufficient." They also say "His (Wheeler's) proofs do not sustain his allegations."

Could it be possible to give more positive proof than that? By this character of evidence we prove that eighty-one men who were working on the Shoals Canal and were residents of Tennessee and North Carolina and Georgia voted for the contestant. Certainly no one will contend that such a person is a legal voter under the laws of Alabama. And this evidence is not in any way controverted by any other evidence in the cause. But the majority report does not deduct a single one of these votes from the vote of the contestant.

Again, on the question of votes of minors. We allege in our answer that minors voted for Mr. Lowe at various precincts, and we put in proof of this character:

Mr. Lewis swears that Jack L. Armestead voted for Mr. Lowe; that he had known him for ten years, and when he first knew him he was not more than 6 or 7 years old. He also swears that Berry Coager voted for Lowe; that he had known him for twelve years, and when he first knew him he was not more than 6 years old.

On page 894 of the record I proved that James Chandler was only 18 years old. Also, page 899, that Robert Smith was only 20 years old, and that Ephraim Springer was only 20 years old. All of these persons the proof shows voted for Mr. Lowe.

This is the character of the uncontradicted evidence which I produce to show that minors voted for William M. Lowe.

By such evidence I proved that voters who were minors, their ages varying from 17 to 20 years, voted for Mr. Lowe; yet the majority report says that there is no evidence showing that these minors voted.

Then again, with regard to convicts. We prove by the magistrates who convicted certain men that they were convicted; and we prove also that they voted for the contestant.

Is it surprising that with all this overwhelming evidence in my favor I should have felt that Congress could not array sufficient members to vote me out of this Hall? I admit I felt confident that when the facts were known it would be impossible to draw the party line upon me. I know there were very many Republicans who desired to act conscientiously, but with all the pressure of party and the assertion of my opponent's friends that he would Mahonise Alabama, the execution of the caucus decree was inevitable. With all the party hope and desire for success in the South which would make up for losses they foresaw would befall them in the North, I now believe they would have voted my opponent in and myself out no matter what proof had been placed before them. It is hard to see how it could have been much more favorable to myself; but still, favorable as it was, a few words from a Republican committee were all that was necessary to dispose of the entire question.

It would be impossible, Mr. Speaker, at this time to enumerate all the wrong perpetrated in the preparation of and adoption of the report in that case, but to give some idea of them I will read the resolution to recommit which was supported by every Democrat in the House of Representatives. I will read from the RECORD, first session of the Forty-seventh Congress:

The SPEAKER. The regular order will be followed. The gentleman from Wisconsin moves the previous question. Pending that the gentleman from Illinois moves to recommit this case to the Committee on Elections with instructions.

Mr. SPRINGER. I offer the resolution which I send to the desk and ask the Clerk to read it.

The Clerk read as follows:

"LOWE VS. WHEELER.

"Whereas forty-nine papers called depositions which are offered in evidence by the contestant in this case were never certified to be depositions by any commissioner, nor certified in any way whatever; and

"Whereas fifty papers called depositions in this case have no signature recognized by law; and

"Whereas one hundred and twenty depositions offered by contestant in this case have nothing on them or connected with them to show that any one of the pretended one hundred and twenty depositions have any certificate further than the following words:

"'Signed before me on the day and year above written.

"'R. W. FIGG, *N. P.*'

"And whereas in taking thirty of these pretended depositions the commissioner refused to allow the contestee to cross-examine the witnesses in any way whatever, or to propound any questions to them in any way whatever; and

"Whereas fifty of said pretended depositions were taken pursuant to a false notice served upon contestee, said false notice stating that contestant would take evidence at or near Pleasant Hill, when the contestant intended to and did take said evidence at a place more than six miles from Pleasant Hill; and

"Whereas the record in this case shows that in taking said evidence the amanuensis who wrote said evidence did not write it down as it was given by the witnesses, but that he wrote it down to convey a meaning different from the meaning expressed by the witnesses; and

"Whereas in taking one hundred and ten of said pretended depositions the

commissioner refused to allow important, pertinent, and legal questions to be asked the witnesses——

"Whereas all these matters appear affirmatively in the record in this case, are not denied or questioned; and

"Whereas it is proven that some of these pretended depositions have been changed since the witnesses were examined; and

"Whereas certain exhibits used in evidence by contestant have been changed; and

"Whereas the above papers are the evidence upon which contestant relies to secure a seat in Congress; and

"Whereas the essential points in the report of the majority are based entirely upon the papers above mentioned; and

"Whereas none of said so-called depositions were taken as required by the laws enacted by Congress for taking depositions; and

"Whereas the House of Representatives of the United States should not deprive a member of his *prima facie* right to a seat except pursuant to law; and

"Whereas the contestee at as early a day as possible filed proper motions to suppress this pretended testimony; and

"Whereas the committee has failed to pass upon said motions——

"And whereas, after contestee's counsel had only taken ninety minutes to argue all facts and the law of the above cause, contestee himself, though requesting more time, was allowed but seven minutes to argue his cause before said committee: Therefore,

"*Be it resolved by the House of Representatives*, That this case be recommitted to the Committee on Elections, and that said committee be authorized to allow contestant to retake such of said illegal evidence as he desires to retake, and that upon the receipt of said evidence said committee again report said case to this House, and with further instructions to ascertain the number of tissue ballots, or ballots printed on tissue paper, cast for either party, as shown by the evidence, and to report a resolution giving the seat to the person who received the highest number of legal votes, after rejecting all such tissue ballots."

I desire to remark that in all I have said in this speech I do not wish to be understood as saying any word reflecting upon the contestant in this case.

My criticism is confined to those who manipulated his case and the committee who rendered the unwarranted decision. There is one matter, however, to which I ought to refer.

After the proof had revealed that certain papers filed in behalf of the contestant were devoid of integrity, and that they were false and forged, the reply was the publication of a falsehood regarding myself and some of those who assisted me in taking evidence. And although the record showed and now shows the utter and absolute falsity of every statement made which in any way charged by intimation or otherwise my friends who assisted me or myself with any action which was not strictly professional and honorable, yet certain newspapers—the National Republican, under its former management, the National View, and the New York Tribune—printed and published these falsehoods, and discreditable to them as it was, yet each and all of these papers declined to or at least did not correct the libels, although they were apprised of their absolute and utter falsity.

In reply to efforts at exculpation and excuse which have been made to the effect that all political parties are partisan, I desire to say that my investigations, which have been pretty thorough, show that decisions from Democratic election committees have been always based upon law and facts, and that the Republican party stands alone in making a party question out of a matter which should be decided solely on judicial grounds.

The Forty-sixth Congress was strongly Democratic. It decided a number of election cases, and all but one were decided in favor of men who were opposed in politics to the party in power. Bear in mind these cases I give were decided by a Democratic House of Representatives:

In the case of Horatio Bisbee *vs.* Noble A. Hull the committee reported for a Republican.

In the case of James McCabe *vs.* Godlove S. Orth the committee reported for a Republican.

In the case of J. C. Holmes *vs.* W. F. Sapp the committee reported for a Republican.

In the case of John J. Wilson *vs.* Cyrus C. Carpenter the committee reported for a Republican.

In the case of E. M. Boynton *vs.* George B. Loring the committee reported for a Republican.

In the case of Ignatius Donnelly *vs.* William D. Washburn the committee reported for a Republican.

In the case of Sebastian Duffy *vs.* Joseph Mason the committee reported for a Republican.

In the case of Anthony Eickhoff *vs.* Edward Einstein the committee reported for a Republican.

In the case of Andrew G. Curtin *vs.* Seth H. Yocum the House decided in favor of a Greenbacker; and only in the case of Jesse J. Yeates *vs.* Joseph J. Martin, as I remember the facts, did the committee report for a Democrat.

Just, Mr. Speaker, eminently just, have been the Democratic majorities of this House in their treatment and decision of contested elections; never were they actuated by blind party zeal in the adjudication of questions which by their very nature should be removed from the field of politics. Receiving its power from a free people, the efforts of the Democratic party have always been to guard their interests, their rights, and their honor. Conservative in all things, it has never felt itself prompted to set aside the right, and to practice the wrong, for party advantage. Would to God that as much could be claimed for the Republican party. But that party has for years gloried in the perpetration of frauds and injustice so stupendous that the political history of the most corrupt ages and nations furnishes only weak parallels to them; it is mired in the slough of party devices and wrongdoing. True to its nature and habits, it will now once more annul the clear rights of a member of this House, and will seat a man here in his stead who was never elected as a Representative to Congress, and who rests his claim to a seat here upon the overthrow of the election laws of his State, and upon less than worthless, upon perjured testimony.

No legal evidence has been adduced by the contestant in the case of Sessinghaus *vs.* Frost which could overcome the plurality of 197 votes with which Mr. Frost is credited; no part of that plurality was proven to have been fraudulent. But what of that? It required but the dictum of the majority of a partisan committee that this plurality of 197 votes should be wiped out by the acceptance of ballots which it was claimed had been offered on election day by a few ignorant people who help to make up the rabble and *sans-culottes* of the great city of Saint Louis, that diadem-crowned Queen of the West, enthroned upon the banks of the Mississippi where the current of the equally great Missouri does homage at her feet ere yet it loses itself in the Father of Waters.

I beg the House will not fail to observe that neither the contestant nor the committee pretend to overcome Mr. Frost's plurality by increasing the contestant's votes by votes actually cast. The committee do not make any such claim, but they base their report upon allegations that certain votes were refused.

The committee does not say that these men voted. It says their votes had been refused—refused by the judges of election; yes, and promptly so, as having been offered in violation of law.

But this difficulty costs the majority of that committee no trouble to overcome, for are they not "a law unto themselves?"

It would almost seem incredible that they could have the hardihood to urge this House to the adoption and execution of their recommendation to unseat Mr. Frost; a recommendation wholly arbitrary, wholly devoid of every fabric of legal evidence, wholly contrary to law, and it would seem that this House should spurn the incentive to unfairness and wrong which this recommendation so glaringly presents. But in the light of history, in the light of the experience which the minority has gained during the last two years upon this floor, no such thought will and can be entertained. True to its record and instincts, the majority of this House will within a short space of time deprive Mr. Frost of his seat and a constituency of a great State of its lawful Representative. The place which has so ably been filled by a man of talent and culture, by the bearer of a name ever illustrious in a State which boasts of noble and illustrious names, by the son of an officer whose valor on the battlefields of Mexico is recorded in the pages of the nation's history, the place heretofore filled by Mr. Frost is now to be given to an usurper, a fit representative of those persons by whose worthless testimony he claims admittance as a member of his House. His presence on this floor during the final hours of the Forty-seventh Congress will only be a reminder of the means by which his occupancy of the floor was acquired. And, Mr. Speaker, in closing I protest, in the name of our country, in the name of free government, in the name of the men who have stamped our institutions with the impress of their greatness, in the name of posterity, in the name of justice I protest, yes, most solemnly do I protest, against the perpetration of this great wrong, and I speak in this matter for the entire minority of the House. But in vain do I protest, in vain do I appeal to the conscience of the majority. The decree for the unseating of Mr. Frost has been issued, and its execution will not now be stayed.

Internal Revenue and Tariff.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the report of the committee of conference on the bill (H. R. 5538) to reduce internal-revenue taxation, and for other purposes.

Mr. WHEELER said:

Mr. SPEAKER: For five years the Republican party has promised the people of our country a reduction of internal-revenue taxation and material relief from the onerous system of tariff which for twenty years has oppressed them. More than forty years ago the speeches of Henry Clay and Sargent S. Prentiss abounded in assertions that the system of protective tariff which they then advocated was only a temporary expedient to sustain the infant industries of our country. The idea of a

PROTECTIVE TARIFF AS A PERMANENT INSTITUTION

in our country would at that time have caused a revolution. The orators and statesmen of those days assured the people that ten years was

the extreme limit during which the manufacturing interests of our country would require protection from foreign imports.

As far back as 1830 we were assured that within ten years we could with certainty safely reduce the tariff to a revenue basis. It was upon this principle that Mr. Clay provided for the gradual reduction of tariffs, which continued until the Republican party came into power in 1861. I give below, Mr. Speaker, a table showing receipts from customs during the last sixty-one years, also the amount of imports free of duty, the amount of imports upon which duty was collected, the total amount of imports, the rate per cent. upon dutiable goods, and the aggregate rate per cent. on all imports:

Year.	Receipt from customs.	Imports.			Per cent. on dutiable.	Per cent. on aggregate.
		Free.	Dutiable.	Total amount imported.		
1821	$18,475,704	$10,082,313	$52,503,411	$62,585,724	35.6	29.5
1822	24,066,066	7,298,708	75,942,833	83,241,541	31.7	28.9
1823	22,402,024	9,048,288	68,530,979	77,579,267	32.7	28.8
1824	25,486,817	12,563,773	67,985,234	80,549,007	37.5	31.6
1825	31,653,871	10,947,510	85,392,565	96,340,075	37.1	32.8
1826	26,083,862	12,567,769	72,406,708	84,974,477	34.6	30.7
1827	27,948,957	11,855,104	67,628,964	79,484,068	41.3	35.1
1828	29,951,252	12,379,176	76,130,648	88,509,824	39.3	33.8
1829	27,688,701	11,805,501	62,687,026	74,492,527	44.3	37.1
1830	28,389,506	12,746,245	58,130,675	70,876,920	48.8	40
1831	36,596,118	13,456,625	89,734,499	103,191,124	40.8	35.4
1832	29,341,176	14,249,453	86,779,813	101,029,266	33.8	29
1833	24,177,578	32,477,950	75,670,361	108,118,311	31.9	22.4
1834	18,960,706	68,393,180	58,128,152	126,521,332	32.6	15
1835	25,890,727	77,940,493	71,955,249	149,895,742	36.0	17.2
1836	30,818,328	92,056,481	97,923,554	189,980,035	31.6	16.2
1837	18,134,131	69,250,031	71,739,186	140,989,217	25.3	12.4
1838	19,702,825	60,860,005	52,857,399	113,717,404	37.8	17.3
1839	25,554,534	76,401,792	85,690,340	162,092,132	29.9	15.8
1840	15,104,791	57,196,204	49,945,315	107,141,519	30.4	14.1
1841	19,919,492	66,019,731	61,926,446	127,946,177	32.2	15.6
1842	16,662,747	30,627,486	69,534,601	100,162,087	23.1	16.6
1843	10,208,000	35,374,584	29,179,215	64,753,799	35.7	15.7
1844	29,236,357	24,766,881	83,668,154	108,435,035	35.1	26.9
1845	30,952,416	22,147,840	95,106,724	117,254,564	32.5	26.4
1846	26,712,668	24,767,739	96,924,058	121,691,797	26¼	21.9
1847	23,747,865	41,772,636	104,773,002	146,545,638	22¼	16.2
1848	31,757,071	22,716,603	132,282,325	154,998,928	24	20.4
1849	28,346,739	22,377,665	125,479,774	147,857,439	23	19.2
1850	39,668,686	22,710,382	145,427,936	178,138,318	25.2	22.3
1851	49,017,568	25,106,587	191,118,345	216,224,932	26	22.6
1852	47,339,326	29,692,934	183,252,508	212,945,442	26	22.2
1853	58,931,865	31,383,534	236,595,113	267,978,647	25	22
1854	64,224,190	33,285,821	271,276,560	304,562,381	23.5	21.1
1855	53,025,794	40,090,336	221,378,184	261,468,520	23	20.3
1856	64,022,863	56,955,706	257,684,236	314,439,942	25	20.3
1857	63,875,905	66,729,306	294,160,835	360,890,141	21.5	17.7
1858	41,789,621	80,319,275	202,293,875	282,613,150	20	14.8
1859	49,565,824	79,721,116	259,047,014	338,768,130	19	14.6
1860	53,187,511	90,841,749	279,872,327	262,166,254	19	14.7
1861	39,582,126	117,469,962	218,180,191	335,650,153	18.14	11.79
1862	49,056,398	69,136,705	136,635,024	205,771,729	35.90	23.84
1863	69,059,642	44,826,029	208,093,891	252,919,920	33.19	27.30
1864	102,316,153	54,241,944	275,320,951	329,562,895	37.16	31.04
1865	84,928,260	54,329,588	194,236,064	248,555,652	43.75	34.17
1866	179,046,630	69,728,618	375,783,540	445,512,158	47.65	40.19
1867	179,417,811	45,203,970	372,627,601	417,831,571	47.34	42.22
1868	164,464,599	29,379,149	342,245,659	371,624,808	48.05	44.25
1869	180,048,427	41,454,568	395,859,687	437,314,255	45.48	41.17
1870	192,578,265	46,508,795	415,845,856	462,354,651	46.37	41.71
1871	206,270,408	57,857,761	483,635,947	541,493,708	42.64	38.11
1872	216,370,287	61,040,902	579,327,864	640,338,766	37.34	33.77
1873	188,089,523	166,296,821	497,320,326	663,617,147	37.82	28.34
1874	163,103,834	180,117,061	415,748,693	595,865,754	39.20	27.54
1875	157,167,722	167,255,005	379,795,113	547,050,118	41.38	28.73
1876	148,071,985	156,298,594	320,379,277	476,677,871	46.21	31.06
1877	130,956,493	181,528,251	298,989,238	480,517,489	43.79	27.25
1878	130,170,680	171,099,579	295,773,267	466,872,846	44.01	27.88
1879	137,250,048	162,977,505	303,096,270	466,073,775	45.28	29.44
1880	186,522,065	208,301,863	459,652,883	667,954,746	40.57	27.92
1881	198,159,676	202,491,547	440,173,081	642,664,628	45.01	30.83
1882	220,410,730	210,579,007	514,060,567	724,639,574	42.87	30.41

I ask special attention to this table, and shall refer to it in the course of my remarks.

It was my earnest hope that the bill for the

REDUCTION OF THE CUSTOMS DUES

would be one for which I would be justified in casting my vote. In the discussion of this bill I repeatedly asserted, and I assert now, that I do not wish, and the people I represent do not wish, a law which will be destructive or even injurious to the interests and industries of any section of our land. I, however, endeavored to point out what I regarded as some of the inconsistencies and hardships contained in the various sections of the bill which was presented to us for our consideration. I also tried to explain how

INJURIOUS A HIGH PROTECTIVE TARIFF

was to the agricultural classes of the South and West. I appealed to this House to consider this question as a matter affecting material interests of all the people of a great country, and I begged that they would divest it of party influences and let a matter so purely one of business in its nature cease now and forever to be a party question. I endeavored to show that although you might succeed in building up interests which you sought to protect, yet in doing so you destroy other important industries which, if cherished, would be equally potent in enhancing the wealth of our country.

I have not in any remarks I have made gone so far as, in the language of Justice Miller of the Supreme Court, to say it is—

None the less a robbery because it is done under the form of law.

I have not, in the language of Sir Robert Peel, alluded to the monopolist as one—

Who, from less honorable motives, clamors for protection because it conduces to his individual benefit.

In all I have done I have sought to urge views which I felt were for the benefit of our whole people.

To show the country the straits to which the high protection men are driven, let me look back to the RECORD of February 8.

In reply to our argument that this iron tariff legislation was arranged in the interest of Pennsylvania, and that the South with her rich and abundant minerals, industrious and thrifty people, generous soil and healthy climate, could compete with the world, and that the legislation needed by us was of a character to facilitate and not to block the wheels of commerce—in reply to this, the gentleman from Pennsylvania [Mr. KELLEY] said:

I now ask the Clerk to read the marked passage of the slip I send up, which will serve to show how Alabama, if not Georgia, can produce iron lower than other States. Not only has she cheap land, abundant fuel, and all the elements of iron in extraordinarily close juxtaposition, but you will find she has practically re-established slave labor. The Clerk will please read.

The Clerk read as follows:

* * * * * * * *

"The abolition of slavery has created a class of black convicts in the South. In the old days these men would have been soundly whipped and set to work in the cotton-fields. Now they are tried and sentenced to long terms of hard labor. The policy of the State is to make the prison system self-supporting. To do this the convicts, both white and black, in Alabama are leased to the highest bidder. The highest bidders are the workers of the Pratt and Elyton coal-mines, near Birmingham. The price paid for this convict labor is about $12 per month."

To show the perversion of truth in this article I will read from page 9, report of the inspectors of the Alabama penitentiary from September 30, 1880, to September 30, 1882:

Table showing name of each contractor and number of convicts employed by each contractor.

Name of contractor.	Occupation.	Number of convicts employed.
Comer & McCurdy	Mining	45
J. W. Comer	Mining	47
Milner & Caldwell	Mining	39
R. J. Thornton	Mining and railroading	44
J. F. B. Jackson	Getting lime rock	30
H. Clay Armstrong	Getting cross-ties	26
Pratt Saw Mill Company	Saw-milling	14
Thomas Williams	Farming	123
Chas. T. Pollard, jr.	Farming	38
Farriss & McCurdy	Farming	37
B. S. Smith	Farming	9
B. B. Comer	Farming	28
N. J. Stallworth	Farming	4
Penitentiary (walls)	Walls	38
From sheriff (before delivery)		
Total		522

The report shows that of the convicts sentenced to the penitentiary, but one hundred and thirty-one are engaged in mining and forty-four are engaged in mining and railroading.

A recent law gives authority to our courts to sentence persons to hard labor and some of such cases are not included in the table; but it is a great perversion of fact to hold out to the world the idea that convict labor has any appreciable effect upon the cost of mining or iron manufacturing in Alabama.

The speeches made to us last winter when we were urged to cast our votes for the appointment of a tariff commission were fulsome in their assurances that the bill which would result from the investigations of such a commission would very materially lighten the burdens of the people, and from all that had been said on the subject we had a right to believe that after six months' work of a commission and six weeks' work of the Committee on Ways and Means the bill presented to the House would be one that would meet the approbation of the entire country.

I am compelled to say, Mr. Speaker, that the bill No. 7313, which was reported to this House by Mr. KELLEY on January 16, 1883, is not such a measure as we had the right and the hope to expect. I gave this bill, which consists of one hundred and forty pages, a most careful investigation; and I regret to say that while it certainly does reduce the revenue which would be derived from imports, it very

MATERIALLY INCREASES THE BURDENS OF THE PEOPLE.

It is true that an elaborate table was prepared by the Committee on

Ways and Means, in which they state their estimates of the probable duties which they hope will be collected under the bill. I will read the table, Mr. Speaker, and then will say one word to show the great error into which the gentlemen of the committee have fallen:

Schedules.	Merchandise imported during the fiscal year ended June 30, 1882.			House bill.		Duty estimated.	
	Values.	Duty received.	Average ad valorem rate.	Estimated amount of duty.	Average ad valorem rate.	Decrease.	Increase.
			Per cent.		*Per cent.*		
A. Chemical products	$21,517,169 08	$6,718,561 52	31.22	$5,932,031 36	27.56	$786,530 16	
B. Earthen-ware and glass-ware	13,822,043 29	6,693,257 96	48.42	7,852,646 03	56.81		$1,159,388 07
C. Metals	74,427,988 69	30,358,936 00	40.79	28,533,863 59	38.34	1,825,072 41	
D. Wood and wooden-wares	8,654,327 42	1,589,851 78	18.37	1,556,971 33	17.99	32,880 45	
E. Sugar	94,540,269 47	49,210,573 60	52.05	37,960,947 98	40.15	11,249,625 62	
F. Tobacco	8,216,132 12	6,000,961 42	73.03	5,982,263 76	72.81	18,697 66	
G. Provisions	47,949,546 34	12,148,583 86	25.34	11,713,090 48	24.43	435,493 38	
H. Liquors	10,560,401 03	7,416,301 54	70.23	7,415,934 91	70.22	366 63	
I. Cotton and cotton goods	34,868,044 49	13,482,167 94	38.67	13,954,958 82	40.02		472,790 88
J. Hemp, jute, and flax goods	33,578,076 59	9,844,652 69	29.32	9,773,927 17	29.11	70,725 52	
K. Wool and woolens	47,679,502 73	29,254,234 12	61.36	26,193,009 33	54.94	3,061,224 79	
L. Silk and silk goods	38,535,475 25	22,632,490 72	58.73	19,539,585 73	50.71	3,092,904 99	
M. Books, papers, &c	4,923,620 38	1,406,787 50	28.57	1,212,107 30	24.62	194,680 20	
N. Sundries	62,410,690 64	17,272,269 24	27.68	16,918,491 71	27.11	353,777 53	
Free-list— Chemicals / Sundries	4,962,369 89	1,365,998 69	27.53			1,365,998 69	
Total	506,645,657 41	215,395,628 58	42.51	194,539,829 50	38.40	22,487,978 03	1,632,178 95

Net decrease of revenue, $20,855,799.08.

NOTE.—In the estimate of duties under the House bill no account is taken of the abolition of duties upon packages, inland freights, charges, and commissions. It is not claimed that the column of estimated receipts, under the House bill, is an absolute exhibit of results as compared with the operations of the present law. That column merely shows what the receipts would be under the bill with the proposed rates substituted for existing rates and without considering changes made in classifications, changes made in the law, and without regard to conditions other than the changes in the rates of duty.

Let us look at one item in Schedule C. Our imports of articles contained in that schedule were last year $74,427,988.69; the duty collected was $30,358,936. The committee inform this House that they expect under the new rates proposed upon the articles in Schedule C to collect $28,533,863.59, only $1,825,072.41 less than was collected on said articles for the fiscal year ending July 1, 1882. To show the utter unreliability of these estimates I will first refer the House to lines 733, 734, 735, which fix the proposed tariff upon

IRON COTTON-TIES.

Under the present law the duty is 35 per cent. We imported last year to the amount of $723,868.21 and collected a duty of $253,333.87. This bill proposes to increase the duty from 35 per cent. ad valorem to a specific duty which the committee assumes to be 81.66 per cent. but which according to the present and average value of iron ties would be at least 100 per cent. This would be an absolute prohibition. No iron ties could be possibly imported with such a tariff tax as is proposed by the bill, and therefore no revenue whatever could be collected upon those articles by the Government. And yet the Ways and Means Committee, in order, it may be presumed, to create the impression that the bill they propose will give sufficient revenue, state to this House in their report that under the proposed tariff on iron ties they estimate that the annual duty collected by the Government will be $608,037.81.

Next, Mr. Speaker, take fire-arms, enumerated in lines 961 to 965, the duty by the present tariff is 35 per cent. ad valorem. Under the tariff proposed by the House bill, which is specific, and amounting in some cases to an

INCREASE OF AS MUCH AS 900 PER CENT.,

this committee report to the House that they estimate, under the proposed law, that the revenue to the Government will be $360,478.66.

Does it require any argument, Mr. Speaker, to show that a tax of from 300 to 900 per cent. is an absolute prohibition?

By what principle can this committee conceive of collecting such sum by a duty which is absolutely prohibitory? These are but two items, Mr. Speaker, and of these two items our total imports last year amounted to $2,178,782.84, which is but one two hundred and fiftieth part of the imports for the last fiscal year. If I had time to go through all the items of import for the last fiscal year, amounting as they do to $506,645,657.41, is it not clear that it would demonstrate that the estimate of the Committee on Ways and Means is very many millions above what would result from the practical operation of the bill which they propose?

The tariff bill passed by the Senate after a most elaborate discussion by that body, while it contained many objectionable features and was by no means the character of bill required by the condition of our country, yet it was so far preferable to the bill proposed by the House that many members of this body were

DISPOSED TO ACCEPT IT,

so that the commercial relations of our country should not be longer held in suspense.

The rules of this House required that the Senate bill should be placed before us in order that we might cast our votes, upon the question of concurrence in the Senate bill. I read from our Manual and Digest of Rules and Practice, page 245:

CONCURRENCE.

The question which first arises on a resolution, amendment, or conference report, is on concurrence. And as the negative of concurrence amounts to the affirmative of non-concurrence, no question is afterward put on the latter motion.

Under this rule the Representatives of the people are enabled to vote for a bill which comes from the Senate or from a conference committee and thus make it the law of the land, subject only to the action of the President. The Senate bill was not a Democratic measure, nor was it a low-tariff measure, nor even was it a bill providing for a revenue tariff. It was a bill prepared by a Republican committee, which was universally recognized as a

HIGH PROTECTIVE BODY

of Senators. Senator MORRILL, the father of the present onerous system, was the chairman of the Senate committee, and as far as could be observed from the Senate debates, the bill had his hearty and unqualified approval. Certainly it seemed to us that no one could be so extreme in his demands for protection as to say to the Representatives of the people, "You shall not even have an opportunity to cast your votes for this measure." What was our surprise, Mr. Speaker, and what was the astonishment of the people throughout the land to see an effort made by the Republican majority in this House to

DISFRANCHISE EVERY MEMBER

of the Representatives of the people in the Forty-seventh Congress.

On February 26—but six days before, under the provisions of the Constitution, this House would cease to exist—a gentleman from the Committee on Rules [Mr. REED] rose in his seat and said:

I desire to call up at this time the proposed amendment to the rules reported by the Committee on Rules and laid over.

After a colloquy, in which several members participated, the Speaker directed the proposed rule to be read. It was in these words:

During the remainder of this session it shall be in order at any time to move to suspend the rules, which motion shall be decided by a majority vote, to take from the Speaker's table House bill No. 5538, with the Senate amendment thereto, entitled "A bill to reduce internal-revenue taxation," and to declare a disagreement with the Senate amendment to the same, and to ask for a committee of conference thereon, to be composed of five members on the part of the House. If such motion shall fail, the bill shall remain upon the Speaker's table unaffected by the decision of the House upon said motion.

This proposed rule, Mr. Speaker, or rather proposed plan of procedure, for no proposition can be considered to be a rule of the House of Representatives which by its terms can only be once applied and which would be *functus officio* twenty-four hours after its adoption—a rule by its very definition, given to us by all writers, means something which is permanent, uniform, and universal—no proposition which has for its object the carrying out of a single purpose can under the most strained construction be defined as a rule of action.

I insist, Mr. Speaker, that this proposed rule is the grossest infraction of the rights of the Representatives of the people, and therefore of the people themselves, and one that has never before been presented to

a popular assembly which pretends to be guided by the rules of parliamentary law.

Notwithstanding its gross transgression of right, the proposition, miscalled a rule, was adopted by a Republican majority, and we are now called upon to consider the measure reported to this House by the committee of conference. It is entitled

"AN ACT TO REDUCE INTERNAL-REVENUE TAXATION."

It consists of one hundred and sixteen pages of printed matter, not one line of which was ever officially within the Hall where we stand until a few hours ago. And under this proposition from the Committee on Rules we are called to intelligently vote upon this measure within the next two hours, before it is possible for any member of this House to with the utmost rapidity glance over the pages. With the investigation I have been able to give the measure, I regret to say that the rates of duty fixed upon many items in the bill are

MUCH HIGHER THAN THEY WERE

when the bill originally passed the Senate.

And very many important items which are used by the poorer people of our land are fixed at a rate far above what was proposed by the House bill, which has been so universally condemned by the advocates of the farming interests of the people of the South and West. Some of the

RATES ARE HIGHER

than the Morrill tariff of 1862, higher than any recommended by the Tariff Commission, and higher than anything previously suggested by the Committee on Ways and Means of this House.

The chairman of the Ways and Means Committee, in the very beginning of his remarks, as if to prepare the country for

A GREAT DISAPPOINTMENT

in the amount of revenue which will be derived from this bill—because I insist, Mr. Speaker, that the revenue from imports will be many millions less than the estimates which the Committee on Ways and Means have submitted to this House—as if to prepare the country for this result, the member from Pennsylvania [Mr. KELLEY] says:

It is always difficult to estimate the effect of changes in import duties upon the revenues of the Government.

I do not agree with the distinguished chairman of the Committee on Ways and Means. If we seek to make an estimate with an eye single to

ARRIVING AT THE TRUTH,

the accuracy of our calculations will be very satisfactory to us and to the country. But if we allow ourselves to be biased and influenced by a desire to attain certain objects and figure up estimates not based upon reason, but solely for the purpose of attaining a certain object, we will be very apt to find that the result will be as suggested by the gentleman from Pennsylvania [Mr. KELLEY].

I shall tell the people who are wronged by this bill, when, as I fear, in a year from this time they will be in

PECUNIARY DISTRESS,

caused by the great error committed to-day by this House—I shall tell them it is not because of any difficulty in making estimates, but it was because the Republican majority of this House and the Committee on Ways and Means substituted

SOPHISTRY FOR REASON,

and evinced a desire to benefit a few hundred proprietors of manufactories at the expense of 12,000,000 of the producing classes throughout our country.

The first part of this bill, Mr. Speaker, is an internal-revenue bill, similar in many of its features to the one before this House during the first session of this Congress. It is true that there is a reduction in internal-revenue taxation, but the reduction is not upon articles which will give relief to the body of the people. More than one-fourth of the reduction is in the interest of the banks in our large cities; and while it relieves the people of greatest wealth to the extent of more than a million dollars,

NOT ONE FARTHING OF BENEFIT

accrues to the people who labor for their daily bread. Not a single official of the Internal-Revenue Department will be dispensed with, and the expense of collecting this tax, which now amounts to near five millions a year, will not be subjected to the slightest diminution. The whole machinery of internal taxation will continue with all its evils, oppressions, and impositions. The armies of informers and spies which have for twenty years perambulated our land, who have exercised their influence and given their time for party purposes, are retained in full force and effect.

I will here suggest, Mr. Speaker, that

THERE IS A LEGAL OBJECTION

to that portion of the bill which regulates the tariff. Any one who examines the source from which this portion of the bill emanates must admit that it is in clear violation of the Constitution. Section 7, article 1 of the Constitution, reads:

All bills for raising revenue shall originate in the House of Representatives.

This is a bill for raising revenue by tariff taxation, and let me ask,

WHERE DID THIS BILL ORIGINATE?

Not one line of it, as before stated, was ever in the House of Representatives until to-day. It is the Senate bill, letter for letter, modified, it is true, in a few words and phrases, by the committee of conference. But it is a bill which in truth and fact originated in the Senate of the United States. The highest courts of many of our States which have similar provisions in their constitutions have repeatedly decided that such a bill is clearly

UNCONSTITUTIONAL.

Let me, Mr. Speaker, briefly call attention to some clauses of the conference report where they have changed the bill so as to raise the tariff.

On page 38 there is

AN INCREASE OF 100 PER CENT.

on one of the compound elements of all galvanized iron or steel wire except fence wire, and on iron and steel wire rope and wire strand the increase is still greater.

On page 42 metallic pens are increased from 45 per cent. ad valorem, as proposed by the House bill, to 12 cents a gross, a specific duty equal to more than 100 per cent. ad valorem on many classes of pens used by the common schools and by all people of moderate means. On line 884, the same page, I find a verbal change, the word mineral being substituted for the word "metal." The effect of this I can not at this time fully explain in detail, but it is very clear that the term "mineral" is far more comprehensive than the term "metal," and would include many substances not included in the term "metallic substances." On line 891 there is

AN ENORMOUS INCREASE.

It is a change from 35 to 45 per cent. ad valorem upon an immense class of metal goods, which I will read:

Manufactures, articles, or wares, not specially enumerated or provided for in this act, composed wholly or in part of iron, steel, copper, lead, nickel, pewter, tin, zinc, gold, silver, platinum, or any other metal, and whether partly or wholly manufactured, 45 per cent. ad valorem.

I present a table arranged to show, first, some and probably most of the articles included in the paragraph just read; second, the value of importations of said articles last year; third, the duty collected on said importations; and fourth, the rate of duty under the present law.

Articles as classified in the impost schedule of the Bureau of Statistics.	Imported merchandise entered for consumption during the year ended June 30, 1882.		Present tariff.
	Values.	Duty collected.	Rate.
Brass, manufactures of, not otherwise provided for.	$400,477 14	$140,266 99	35 per cent.
Bronze or Dutch metal, manufactures of, not otherwise provided for.	787,770 70	275,719 75	35 per cent.
Eyelets of every description	1,483 00	216 66	6 cts. per M.
German silver, manufactures of	18,107 00	7,242 80	40 per cent.
Gold and silver manufactures, not otherwise provided for.	74,572 87	29,829 15	40 per cent.
Iron squares—			
Marked on one side	6 00	3 60	3 cts. per lb. and 30 per ct.
All other, of iron or steel	71 00	63 30	6 cts. per lb. and 30 per ct.
Iron, manufactures of, not otherwise provided for.	3,158,199 00	1,105,369 99	35 per cent.
Lead, manufactures of, not otherwise provided for.	2,449 05	857 17	35 per cent.
Music strings, of metal as the component of chief value.	5,937 00	1,781 10	30 per cent.
Pewter, manufactures of	2,923 00	1,023 05	35 per cent.
Skates, costing over 20 cents per pair	34,904 00	12,216 40	35 per cent.
Steel, manufactures of, or of which steel shall be a component part, not otherwise provided for.	1,280,179 59	576,080 66	45 per cent.
Total	5,767,079 35	2,150,570 82	

It will be observed that the average duty on all this five and three-quarter millions of importation is 37¼ per cent. ad valorem. The exact figure is 37.26.

The Senate bill fixed the rates at 35 per cent. ad valorem, but the

CONFERENCE REPORT RAISES IT 10 PER CENT.

and fixes the rate of duty to be collected on all those articles at 45 per cent. ad valorem.

The Committee on Ways and Means of this House coolly inform us that they estimate that 45 per cent. will yield a revenue of $2,595,185.71. In other words, just in proportion as the duty is increased the committee seem to estimate that the revenue will be increased.

This business management reminds me of the shop-keeper who marked up his goods to double prices and imagined he had doubled his fortune.

He forgot that he might have difficulty in finding purchasers at the increased prices, and the committee seemed to forget that with a 45 per cent. tariff importations would be less than they were at a 37½ per cent. duty.

Had I not seen

THE INFLUENCES WHICH CONTROL THE REPUBLICAN PARTY

in this House, and I might say the Republican party of the country, I should have been astounded to see in this bill a

REDUCTION OF THE TAX UPON SILKS,

which are only for the wealthy, and a largely increased tariff tax put on

LOW-PRICED COTTON GOODS

and bunting, which are used to clothe people in moderate circumstances.

Under the present law a very large amount of cotton goods is admitted under a tax of 35 per cent. ad valorem, and the bill proposed by the conference committee, now before this House, increased the tax on many of these articles to

40 PER CENT. AD VALOREM.

I will read lines 1240–1244:

On stockings, hose, half-hose, shirts, and drawers, fashioned, narrowed, or shaped wholly or in part by knitting machines or frames, or knit by hand, and composed wholly of cotton, 40 per cent. ad valorem.

Also lines 1249–1252:

Cotton laces, embroideries, insertings, trimmings, lace window-curtains, cotton damask, hemmed handkerchiefs, and cotton velvet, 40 per cent. ad valorem.

As near as I can ascertain more than $10,000,000 of the above enumerated articles were imported last year, upon which this increased tax is imposed. The reduction in the tariff tax on silk will, I think, exceed $3,000,000, and in keeping with this provision the present bill

REMOVES THE TAX UPON DIAMONDS ALTOGETHER.

For the year ending June 30, 1882, the value of imported diamonds as reported by the Bureau of Statistics was: Diamonds, rough or uncut, including glaziers' diamonds, $449,513; diamond dust or bort, $92,853; the total amount of importation of diamonds therefore being $542,366, and the duty collected on diamonds amounted to $54,236.60.

I have just received a very tastefully arranged circular from a firm largely engaged in the importation of diamonds, in which they say:

The wearing of diamonds is every year becoming more and more general among those who can afford them. This is a sign of refinement and of advancing high civilization.

Now, I do not choose to quarrel with these importers of gems on account of their conclusion that the "wearing of diamonds is an advance of high civilization or a sign of refinement." That question does not concern the law-maker in his measurement of taxation. I take issue with our friends, the importers of gems, and deny or much doubt that the wearing of diamonds is a sign of "refinement or of advancing high civilization."

I hold, and the entire Democratic party always have contended and always will contend, that, in a matter like this, if the $54,000 that is removed from the tax on diamonds was taken off

ARTICLES OF PRIME NECESSITY

that the poorest people in the country are compelled to buy, enabling them to spend that amount on the education of their children, it would do much more toward the advancement of refinement and high civilization than would result from brainless dandies having 10 per cent. more diamonds in their shirt-studs, rings, and other ornaments with which they are so glitteringly adorned. The country is assured, however, that this reduction of revenue is compensated by

AN INCREASE OF THE TAX UPON EARTHEN-WARE,

which is used by the people who have no influence with the Republican party of our country. There is another very serious objection to this bill. We have here a

COMPOUND DUTY UPON WOOLEN GOODS,

and an examination of the schedule shows that it will be a very large increase, and more particularly will this increase be severe upon all articles of wool wear of the cheaper class. All wool dresses for women's and children's wear are increased from 6 to 8 cents per square yard. I also call attention to a most unwarranted and unnecessary and, I may say, oppressive change in the articles enumerated in lines 1464–1471. This includes ready-made clothing and wearing apparel for children and ladies; the tax on these articles is

INCREASED FROM FORTY TO FORTY-FIVE CENTS

a pound, and an ad valorem tax from 35 to 40 per cent.

I will now, Mr. Speaker, read a series of six tables prepared from the census reports for the years 1850, 1860, 1870, and 1880, which present at a glance the progress of manufacturing interests in our country since 1850.

Table showing the progress of manufactures for the census years from 1850 to 1880, inclusive, showing number of establishments.

States and Territories.	1850.	1860.	1870.	1880.
Alabama	1,026	1,459	2,188	2,070
Arizona			18	66
Arkansas	261	518	1,079	1,202
California	1,003	8,468	3,984	5,885
Colorado			256	599
Connecticut	3,737	3,019	5,128	4,488
Dakota			17	251
Delaware	531	615	800	746
District of Columbia	403	429	952	971
Florida	103	185	659	426
Georgia	1,522	1,890	3,836	3,593
Idaho			101	162
Illinois	3,162	4,268	12,597	14,549
Indiana	4,392	5,323	11,847	11,198
Iowa	522	1,939	6,566	6,921
Kansas		344	1,477	2,803
Kentucky	3,669	3,450	5,390	5,328
Louisiana	1,008	1,744	2,557	1,553
Maine	3,974	3,810	5,550	4,481
Maryland	3,725	4,083	5,812	6,782
Massachusetts	8,852	8,176	13,212	14,352
Michigan	2,033	3,448	9,455	8,873
Minnesota	5	562	2,270	3,493
Mississippi	947	976	1,731	1,479
Missouri	2,923	3,157	11,871	8,592
Montana			201	196
Nebraska		107	670	1,403
Nevada			330	184
New Hampshire	3,211	2,592	3,342	3,181
New Jersey	4,207	4,173	6,636	7,128
New Mexico	23	82	182	144
New York	23,553	22,624	36,206	42,739
North Carolina	2,663	3,689	3,642	3,802
Ohio	10,622	11,123	22,773	20,699
Oregon	52	309	969	1,075
Pennsylvania	21,605	22,363	37,200	31,225
Rhode Island	864	1,191	1,850	2,205
South Carolina	1,430	1,230	1,584	2,078
Tennessee	2,887	2,572	5,317	4,326
Texas	309	983	2,399	2,996
Utah	14	148	533	640
Vermont	1,849	1,883	3,270	2,874
Virginia	4,740	5,385	5,933	5,710
Washington		52	269	261
West Virginia			2,444	2,375
Wisconsin	1,262	3,064	7,013	7,674
Wyoming			32	57
The United States	123,025	140,433	252,148	253,849

Progress of manufactures for the census years from 1850 to 1880, inclusive, showing amount of capital invested.

States and Territories.	1850.	1860.	1870.	1880.
Alabama	$3,450,606	$9,098,181	$5,714,032	$9,668,008
Arizona			150,700	272,600
Arkansas	305,015	1,316,610	1,782,913	2,953,130
California	1,006,197	22,043,096	39,728,202	61,243,784
Colorado			2,835,605	4,311,714
Connecticut	25,876,648	45,590,430	95,281,278	120,480,275
Dakota			79,200	711,428
Delaware	2,978,945	5,452,887	10,829,093	15,655,822
District of Columbia	1,001,575	2,905,865	5,021,925	5,552,526
Florida	547,060	1,874,125	1,679,930	3,210,680
Georgia	5,456,483	10,890,875	13,930,125	20,672,410
Idaho			742,300	677,215
Illinois	6,217,765	27,548,563	94,368,657	140,652,066
Indiana	7,752,402	18,451,121	52,052,425	65,742,962
Iowa	1,292,875	7,247,130	22,420,183	33,987,886
Kansas		1,084,935	4,319,060	11,192,315
Kentucky	11,810,462	20,256,579	29,277,809	45,813,039
Louisiana	5,032,424	7,151,172	18,313,974	11,462,468
Maine	14,699,152	22,044,020	39,796,190	49,984,571
Maryland	14,934,450	23,230,608	36,438,729	58,735,684
Massachusetts	88,940,292	132,792,327	231,677,862	303,806,185
Michigan	6,563,660	23,808,226	71,712,283	92,930,959
Minnesota	94,000	2,388,310	11,993,729	31,004,811
Mississippi	1,815,820	4,384,492	4,501,714	4,727,600
Missouri	8,576,607	20,034,220	80,257,244	72,507,844
Montana			1,794,300	899,390
Nebraska		266,575	2,169,963	4,881,150
Nevada			5,127,790	1,323,300
New Hampshire	18,242,114	23,274,094	36,023,743	51,112,262
New Jersey	22,293,253	40,521,048	79,606,719	106,226,593
New Mexico	68,300	2,008,350	1,450,695	463,275
New York	99,904,405	172,895,652	366,994,320	514,246,575
North Carolina	7,456,860	9,693,703	8,140,473	13,045,630
Ohio	29,019,538	57,295,303	141,923,964	188,939,614
Oregon	843,600	1,337,238	4,376,849	6,284,256
Pennsylvania	94,473,810	190,055,904	406,821,845	474,499,993
Rhode Island	12,935,676	24,278,295	66,537,322	75,575,943
South Carolina	6,053,265	6,931,756	5,400,418	11,205,894
Tennessee	6,527,729	14,426,261	15,595,295	20,092,845
Texas	539,290	3,272,450	5,284,110	9,245,561
Utah	44,400	443,356	1,391,898	2,656,657
Vermont	5,001,377	9,498,617	20,329,637	25,265,224
Virginia	18,109,143	26,935,560	18,455,400	26,968,990
Washington		1,296,200	1,893,674	3,202,497
West Virginia			11,084,520	13,883,390
Wisconsin	3,382,148	15,831,581	41,981,872	73,821,802
Wyoming			889,400	364,673
The United States	533,245,351	1,009,855,715	2,118,208,769	2,790,223,506

Progress of manufactures for the census years from 1850 to 1880, showing average number of hands employed.

States and Territories.	1850.	1860.	1870.	1880.
Alabama	4,936	7,899	8,248	10,019
Arizona			84	220
Arkansas	842	1,877	3,206	4,556
California	3,964	49,226	25,392	43,799
Colorado			876	5,074
Connecticut	50,731	64,469	89,525	112,915
Dakota			91	868
Delaware	3,888	6,421	9,710	12,638
District of Columbia	2,570	3,148	4,685	7,146
Florida	991	2,454	2,749	5,504
Georgia	8,368	11,575	17,871	24,875
Idaho			265	388
Illinois	11,559	22,968	82,979	144,727
Indiana	14,440	21,295	58,852	69,508
Iowa	1,707	6,307	25,032	28,372
Kansas		1,735	6,144	12,064
Kentucky	21,476	21,258	30,636	37,391
Louisiana	6,217	8,789	30,071	12,167
Maine	28,020	34,619	49,180	52,940
Maryland	30,212	28,403	44,860	74,942
Massachusetts	177,461	217,421	279,380	352,255
Michigan	9,344	23,190	63,694	77,591
Minnesota	63	2,123	11,290	21,212
Mississippi	3,154	4,775	5,941	5,827
Missouri	15,808	19,681	65,354	63,995
Montana			701	578
Nebraska		336	2,665	4,793
Nevada			2,859	577
New Hampshire	27,092	32,340	40,783	48,831
New Jersey	37,830	56,027	75,552	126,038
New Mexico	81	1,074	427	557
New York	199,349	230,112	351,800	531,533
North Carolina	44,601	14,217	13,622	18,109
Ohio	51,491	75,602	137,202	183,609
Oregon	285	978	2,884	3,424
Pennsylvania	146,766	222,132	319,487	387,112
Rhode Island	20,967	32,490	49,417	62,878
South Carolina	7,066	6,994	8,141	22,128
Tennessee	12,039	12,528	19,412	22,445
Texas	1,066	3,449	7,927	12,159
Utah	51	389	1,534	2,495
Vermont	8,445	10,497	18,686	17,540
Virginia	29,110	36,174	26,974	40,184
Washington		870	1,026	1,147
West Virginia			11,672	14,311
Wisconsin	6,089	15,414	43,910	57,109
Wyoming			502	391
The United States	957,059	1,311,246	2,053,996	2,738,950

Progress of manufactures for the census years from 1850 to 1880, inclusive, showing total amount paid in wages during the year.

States and Territories.	1850.	1860.	1870.	1880.
Alabama	$1,105,824	$2,132,940	$2,227,968	$2,500,504
Arizona			45,580	111,180
Arkansas	159,876	554,240	673,968	925,358
California	3,717,180	28,402,287	13,136,722	21,070,585
Colorado			528,221	2,314,427
Connecticut	12,435,984	19,026,196	38,987,187	43,501,518
Dakota			21,106	339,375
Delaware	757,584	1,905,754	3,692,195	4,267,349
District of Columbia	757,584	1,139,154	2,007,600	3,924,612
Florida	199,452	619,840	989,592	1,270,875
Georgia	1,709,664	2,925,148	4,844,508	5,252,982
Idaho			112,372	136,326
Illinois	3,204,336	7,637,921	31,100,244	57,429,085
Indiana	3,728,844	6,318,335	18,366,780	21,960,888
Iowa	473,016	1,922,417	6,893,292	9,725,962
Kansas		880,346	2,377,511	3,999,599
Kentucky	5,106,048	6,020,082	9,444,524	11,657,844
Louisiana	2,033,928	3,683,679	4,593,470	4,358,841
Maine	7,485,588	8,368,691	14,282,205	13,621,538
Maryland	7,403,832	7,190,672	12,682,817	18,904,065
Massachusetts	41,954,736	56,960,913	118,051,886	128,315,362
Michigan	2,717,124	6,735,047	21,205,355	25,318,682
Minnesota	18,540	712,214	4,052,837	8,613,194
Mississippi	771,528	1,618,320	1,547,428	1,192,645
Missouri	4,692,648	6,669,916	31,055,445	24,309,716
Montana			370,843	318,759
Nebraska		105,332	1,429,913	1,742,311
Nevada			2,498,473	461,807
New Hampshire	6,123,876	8,110,561	13,823,091	14,814,793
New Jersey	9,364,740	16,277,337	32,648,409	46,083,045
New Mexico	20,722	341,306	167,281	218,731
New York	49,131,000	5,446,759	142,466,758	198,634,029
North Carolina	2,383,456	2,689,441	2,195,711	2,740,768
Ohio	13,467,156	22,302,989	49,066,488	62,103,800
Oregon	388,620	635,258	1,120,173	1,636,566
Pennsylvania	37,163,232	50,369,165	127,976,594	134,055,304
Rhode Island	5,047,080	8,760,125	19,354,256	21,355,619
South Carolina	1,127,712	1,380,027	1,543,715	2,836,289
Tennessee	2,247,492	3,370,687	5,390,630	5,254,775
Texas	322,368	1,162,756	1,787,835	3,343,087
Utah	9,984	231,701	395,365	858,865
Vermont	2,202,348	3,004,986	6,264,581	5,164,479
Virginia	5,434,476	8,544,117	5,343,099	7,425,261
Washington		453,601	574,936	532,226
West Virginia			4,322,164	4,313,965
Wisconsin	1,712,496	4,268,708	13,575,642	18,814,917
Wyoming			347,578	187,798
The United States	236,755,464	378,878,966	775,584,343	947,919,674

Progress of manufactures for the census years from 1850 to 1880, showing value of materials used in manufactures.

States and Territories.	1850.	1860.	1870.	1880.
Alabama	$2,224,960	$5,489,963	$7,592,837	$8,470,206
Arizona			110,090	380,023
Arkansas	215,789	1,280,503	2,536,998	4,382,080
California	1,201,154	27,051,674	35,351,193	72,607,707
Colorado			1,593,280	8,777,262
Connecticut	23,608,971	40,909,490	86,419,579	102,769,341
Dakota			105,997	1,523,761
Delaware	2,864,607	6,028,918	10,206,397	12,828,461
District of Columbia	1,405,871	2,884,185	4,754,883	5,365,400
Florida	220,611	874,506	2,330,873	3,040,119
Georgia	3,404,917	9,986,532	18,583,731	24,010,239
Idaho			691,785	844,874
Illinois	8,959,327	35,558,782	127,600,077	289,826,907
Indiana	10,369,700	27,142,597	63,135,492	100,260,892
Iowa	2,356,881	8,612,259	27,682,096	48,704,311
Kansas		1,444,975	6,112,163	21,407,941
Kentucky	12,165,075	22,295,759	29,497,535	47,461,890
Louisiana	2,459,508	6,738,486	12,412,023	14,442,506
Maine	13,553,144	21,553,066	49,379,757	51,119,286
Maryland	17,690,836	25,494,007	46,897,032	66,923,630
Massachusetts	85,856,771	135,053,721	334,413,982	386,952,655
Michigan	6,136,328	17,635,611	68,142,515	92,852,969
Minnesota	24,300	1,904,070	13,842,902	55,660,681
Mississippi	1,275,771	3,146,636	4,364,206	4,669,658
Missouri	12,798,351	23,849,941	115,533,269	110,698,392
Montana			1,316,331	1,006,442
Nebraska		237,215	2,902,074	8,208,478
Nevada			10,315,984	1,049,794
New Hampshire	12,745,466	20,539,857	44,577,967	43,552,462
New Jersey	22,011,871	41,429,100	103,415,245	165,280,179
New Mexico	110,220	367,892	880,957	871,352
New York	134,655,674	214,813,061	452,065,452	679,612,545
North Carolina	4,602,501	10,203,228	12,824,693	13,090,937
Ohio	34,678,019	69,800,270	157,131,697	215,098,026
Oregon	809,560	1,431,952	3,419,756	6,933,336
Pennsylvania	87,206,377	153,477,698	421,197,673	462,977,258
Rhode Island	13,186,703	19,858,515	73,154,109	58,103,443
South Carolina	2,787,534	5,198,881	5,855,736	9,885,538
Tennessee	5,166,886	9,416,514	19,657,027	23,710,125
Texas	394,642	3,367,372	6,273,193	12,956,269
Utah	337,381	439,512	1,238,252	2,561,737
Vermont	4,172,552	7,608,858	17,007,769	18,330,677
Virginia	18,101,131	30,840,531	23,832,384	32,873,933
Washington		502,021	1,435,128	1,967,469
West Virginia			14,503,701	13,891,444
Wisconsin	5,414,931	17,137,334	45,851,266	85,796,178
Wyoming			280,156	601,214
The United States	555,123,822	1,031,605,092	2,488,427,242	3,394,340,029

Progress of manufactures for the census years from 1850 to 1880, showing value of products.

States and Territories.	1850.	1860.	1870.	1880.
Alabama	$4,528,876	$10,588,566	$13,040,644	$13,565,504
Arizona			185,410	615,665
Arkansas	537,908	2,880,578	4,629,234	6,756,159
California	12,862,522	68,253,228	66,594,556	116,227,973
Colorado			2,852,820	14,260,109
Connecticut	47,114,585	81,924,555	161,065,474	18,680,211
Dakota			178,570	2,373,970
Delaware	4,649,296	9,892,902	16,791,382	20,514,438
District of Columbia	2,690,258	5,412,102	9,292,173	11,882,316
Florida	668,335	2,447,969	4,685,403	5,546,448
Georgia	7,082,075	16,925,564	31,196,115	36,447,448
Idaho			1,047,624	1,271,317
Illinois	16,534,272	57,580,886	205,620,672	414,864,673
Indiana	18,725,423	42,803,469	108,617,278	148,006,411
Iowa	3,551,783	13,971,325	46,534,322	71,045,926
Kansas		4,357,408	11,775,833	30,790,212
Kentucky	21,710,212	37,931,240	14,625,809	75,483,377
Louisiana	6,779,417	15,587,473	24,161,905	24,205,183
Maine	24,661,057	38,193,254	79,497,821	79,825,393
Maryland	33,043,892	41,735,157	76,593,613	106,771,393
Massachusetts	157,743,994	255,545,922	553,912,568	631,511,484
Michigan	11,169,002	32,658,356	118,394,676	150,692,025
Minnesota	58,300	3,373,172	23,110,700	76,065,198
Mississippi	2,912,068	6,590,687	8,154,758	7,495,802
Missouri	24,324,418	41,782,731	206,213,429	165,384,005
Montana			2,494,511	1,835,867
Nebraska		607,328	5,738,512	12,627,336
Nevada			15,870,539	2,179,626
New Hampshire	23,164,503	37,586,453	71,038,249	73,978,028
New Jersey	39,851,256	76,306,104	169,237,732	254,375,236
New Mexico	249,010	1,249,123	1,489,868	1,284,846
New York	237,597,249	378,870,939	785,194,651	1,080,638,696
North Carolina	9,111,050	16,678,698	19,021,327	20,084,237
Ohio	62,692,279	121,691,148	269,713,610	348,305,390
Oregon	2,236,640	2,976,761	6,877,387	10,879,982
Pennsylvania	155,044,910	290,121,188	711,894,344	744,748,045
Rhode Island	22,117,688	40,711,296	111,418,354	104,163,621
South Carolina	7,045,477	8,615,195	9,858,981	16,738,008
Tennessee	9,725,608	17,987,225	34,362,636	37,074,886
Texas	1,168,538	6,577,202	11,517,302	20,719,928
Utah	291,220	900,153	2,343,019	4,324,992
Vermont	8,570,920	14,637,807	32,184,606	31,354,366
Virginia	29,602,507	50,652,124	38,364,322	51,910,692
Washington		1,406,921	2,851,052	3,250,134
West Virginia			24,102,201	22,867,126
Wisconsin	9,293,068	27,849,467	77,204,326	128,245,480
Wyoming			765,424	898,494
The United States	1,019,106,616	1,855,861,676	4,232,325,442	5,369,667,706

I want now, Mr. Speaker, to call special attention to some lessons taught us by these tables. From 1850 to 1860, with a gradually decreasing tariff upon all articles manufactured in this country, the

INCREASE IN MANUFACTURED PRODUCTS

was from one to almost two billions of dollars—an increase of 100 per cent. From 1870 to 1880, with a tariff tax from two to three times larger than it was during the decade from 1850 to 1860, we have only increased the value of our products from four and one-fourth billions to five and one-third billions; and what is more instructive for us is the fact that nearly all of this increase is found in the new States of the Union and in the States which have but recently commenced developing their industries and resources.

The value of manufactured products in Rhode Island and Vermont, which almost

DOUBLED UNDER A SMALL TARIFF DUTY

from 1850 to 1860, has actually decreased in amount under the high protective tariff during the period from 1870 to 1880; and I ask the House also to observe that the products of manufactures in Massachusetts which increased 70 per cent. from 1850 to 1860, increased but about 10 per cent. from 1870 to 1880, and the States of New Hampshire, North Carolina, Pennsylvania, Vermont, Mississippi, and Louisiana, in which the value of manufacturing products increased in value 100 per cent. from 1850 to 1860 scarcely made any appreciable increase from 1870 to 1880. Are not these facts matters which have been overlooked by the people at large when they have listened to the false cry and the

FALSE ASSERTION

that just so as you increase the tariff tax you benefit and encourage the manufacturing industries of our country?

I hope and trust, Mr. Speaker, that the cloud which menaces the financial horizon of our country may pass away. I hope and trust that the great energy and perseverance of our people may overcome the evils which Republican legislation has inflicted upon our country, but I very much fear that the strain put upon our financial structure will be too great and that there will be a break, a fall, and a crash. Republican legislation is

BUILDING UP A TREMENDOUS AUTOCRACY

and plutocracy—a great body of people whom it is sought to have supported by percentages levied upon the hard earnings of the people. The laboring masses are rapidly learning of this great wrong that has supported

THOUSANDS UPON THOUSANDS OF PEOPLE IN IDLENESS

for twenty years under the decrees and laws enacted by the Republican party. And now, when they ask for relief from the burdens of taxation too onerous for them to bear, you see a Republican Congress enact a law increasing the tax upon nearly everything used by the laboring people—you see the same law remove the taxes from silks worn by the wealthy, from perfumeries only used by the pleasure-seeking idler, from wine only purchased by people of the same class; and, to cap the climax of wrong, you see that, pursuant to demands from this same class of people, all tax is taken from diamonds which none but the most wealthy can enjoy.

Mr. Speaker, I intentionally refrained from making any remarks upon the wood schedule, as I saw the gentleman from Michigan [Mr. HORR] and the gentleman from Kansas [Mr. ANDERSON] were handling the lumber question with sufficient earnestness to develop its feature sufficiently for us all to understand the matter.

I have not had time to give it a very careful study, but as lumber business is governed by the same rules which control other interests, the injectment of a little common sense will not be out of place in exposing the sophistical tendency toward which the argument finally traveled.

The gentleman from Michigan [Mr. HORR], whose lectures are always amusing,

CONCEDED A STRONG POINT.

He says:

Another reason why lumbering is more expensive in Michigan than in Canada is that the price of many articles used in this business is much higher than in Canada. For example, on horses alone we pay a large duty; I do not remember the exact rate, but I know that on teams I once bought it was about $40 to each horse—$80 to $100 on a team. This is what we have to pay in order to get a span of Canadian horses into the United States.

Now, his argument is this: Horses haul lumber; horses are subject to a tariff tax of $80 to $100 a team. This makes lumber cost more in Michigan than in Canada. Then we must have a protection of $2 per thousand on lumber.

This same argument will apply to nearly everything.

Because of a duty on iron ore we must have a high duty on pig-iron.

Because of a duty on pig-iron we must have a higher duty on bar-iron.

Because of a higher duty on bar-iron we must have increased duty on steel.

Because of a duty on wood which is made into handles for tools used to make machinery we must have an increased duty on machinery.

Because of the duty on steel and the increased duty on machinery we must have an increased duty on pens, knives, razors, screws, trace-chains, iron ties, and every other article.

Because of a duty—but, Mr. Speaker, we need not carry this any further. I could keep on and on in this matter. The climax need not stop at manufactured articles. We could carry it on almost without limit, but this is sufficient to show where these extreme protection arguments lead.

Mr. Speaker, there is very much to be admired in the earnest, persistent determination of the New England character. Notwithstanding their sterile soil, ungenial climate, and the absence of mineral wealth, they by energy,

SELF-RELIANCE, AND RESOURCES

have, in spite of their natural disadvantages, made New England the most prosperous section of our country. They have made a garden on Plymouth Rock. They have commanded the very waters to do their bidding and run their machinery. They have invented everything, from the cotton-gin to the telephone, and from war monitors which cost a million dollars to wooden nutmegs which are sold to confiding people two for 5 cents.

When a boy I was told how both of two Yankee lads got rich trading jackets while locked alone in a room.

The chance for a fair divide which the rest of mankind has even in an open trade with people trained in such a school of incisive acuteness can be imagined and is somewhat illustrated in the anecdotes as well as in the history of our country.

You have all heard the story of the hunt between the Yankee and the Indian.

They traveled together until coming to a hill they agreed to separate and meet on the other side, where they would divide the game. Upon reaching the spot the Indian had a fine wild turkey and the Yankee had a crow; and with the same complacency which the chairman of the Committee on Ways and Means presents this bill the Yankee offered the following equal (?) share to the Indian: "You may take the crow and I will take the turkey, or I will take the turkey and you may take the crow." The Indian scratched his head, looked at the birds earnestly for a moment, then, looking up, said: "You no give me turkey 't all."

Now, when I, like the Indian, looked earnestly into the matter and failed to see how protection on cotton-seed oil benefited us, the distinguished gentleman says:

If gentlemen on the other side of the House generally say that they desire to have cotton-seed oil made free I will yield to their wishes.

Now, here is the proposition: You may have $1.50 worth of protection on cotton-seed oil and we will take $100,000,000 on iron; or we will take $100,000,000 protection on iron and you may take $1.50 protection on cotton-seed oil.

Here is the whole question: Take a dollar and a half or take nothing. All we require of you is that for this dollar and a half you of the South give up all your principles of tariff for revenue and give in your adhesion to our principles of tariff for protection.

The chairman of the Committee on Ways and Means again says:

By some accident the duty on cotton-seed oil was reduced or dropped. We heard from the cotton-growing country that a great wrong had been done.

Now, the idea advanced is this: We have made the trade. Protection on iron for us; protection on cotton-seed oil for you. It is a bargain with a consideration, and therefore valid. I will give exact words:

Now, if the gentlemen on the other side of the House generally say that they desire—

to give up the consideration—

I will yield to their wishes.

I will here, Mr. Speaker, say one word in reply to the five separate speeches made by the chairman of the Committee on Ways and Means upon this question. When my investigations revealed that our greatest market for cotton-seed oil was in the ports of the Mediterranean, and that Trieste, which is but a few days' travel from the cotton-fields of Egypt and India, purchased largely from us, I admit that I could not see the logic of this 30 cents a gallon on an article which we never have imported. After a diligent search I found its origin in the law of July 14, 1870. I will read from page 265:

On sesame oil or cenne oil and cotton-seed oil, 30 cents a gallon.

For twelve years this law has remained on the statute-books.

I could not possibly see any use for protection on crude cotton-seed oil, but I did think it might possibly be a good plan to encourage the inauguration of factories in this country for making an imitation of olive oil. I knew that Europe bought our crude oil and after subjecting it to a process returned it to us in the form of salad or olive oil.

I thought that possibly we could make something of the same character in Memphis, New Orleans, Mobile, Savannah, and other cities near our cotton-fields. And as these articles made in Europe could be returned to us under the name of such oils and similar fluids as are almost exempt from duty it appeared to me that our legislation ought to be framed to meet this status.

I wrote, therefore, to persons who were interested in cotton-seed mills, asking if they could not add to the enterprise of cotton-seed oil manufacture the more lucrative one of converting the oil into something that would answer for a table oil, and if that were done, suggested the striking out line 230, which reads:

Oil, cotton-seed, 30 cents per gallon—

and amending line 379, which now reads:

Oils, olive and nut, as salad oil, 60 cents per gallon—

by adding after the word "oil" the words:

And all preparations of which cotton-seed oil is an ingredient.

This I felt might be of benefit to the South, and might enable us to build up a new industry. Every reply but one to my letters emphatically concurred with me, and were positive in expressing the opinion that a tax of 30 cents a gallon on raw cotton-seed oil was of not a particle of benefit to the South or to any interest in the South.

The president of a large mill, a very intelligent gentleman, by merest accident throws a flood of light on this matter. He says:

I, as a manufacturer of crude oil, am perfectly willing to see it on the free-list. Why other crude manufacturers hold different views from those entertained by me may be accounted for, possibly, by the fact that they are interested in the refineries of this country.

Bear in mind that the refineries are in the North, I believe largely in Rhode Island, and when by our high tariff we have provoked retaliatory laws on the part of foreign nations, thus destroying our market in those countries, our Rhode Island refiner has fewer competitors in his purchase of crude oil. Five other oil manufacturers wrote me that the cotton-seed-oil tax was of no benefit to them.

The secretary of the Memphis company wrote that—

After getting as full an expression from the oil-mills of this and other places as possible on the subject, I write to say that they agree fully with your views.

All this goes to illustrate what the North calls a fair division of the benefits to be derived from tariff taxation.

I want to say the South has had this sort of divide long enough. The North has taken the turkey and has given us the carrion for twenty years, and I for one don't want the cotton-seed oil protection, and I believe all the best informed people are with me.

Now comes another insult to our intelligence. They say we will make another even, fair divide. We will take a

PROTECTION OF 100 PER CENT. ON TRACE-CHAINS

and iron ties which you planters use, and about the same on cotton-factory machinery which you have to buy; but in return therefor we give you protection on common cotton yarns and common cotton cloth. You manufacture common yarns and common domestic and we have put a duty on such things to the amount of from 25 to 50 per cent.

One word upon this tariff on common cotton goods and yarns. My letters from cotton manufacturers confirm my statements that we can and do find a market in England for our goods, side by side with the products of English factories. Could anything further be said to show the absurdity of this tariff duty? If we can make cotton goods and undersell the English spinners in their own country, then how could they compete with us in our own?

That distinguished protectionist from Michigan [Mr. HORR] probably arranged this *quid pro quo*.

In reply to the assertion that "the only thing the South wants is to be let alone," and that "she (the South) can take care of herself," Mr. HORR said:

It is not best for you to be let alone. That is not what you want.

* * * * * * * *

You may not know yourselves what you want. A man outside can always tell what the people away off want better than they can themselves.

Now, Mr. Speaker, the spirit which animates the Northern people could not be better expressed nor could it come from more appropriate lips.

For a century the Puritan and his descendants have insisted that they

KNEW MORE ABOUT OTHER PEOPLE'S BUSINESS

than they knew themselves.

That distinguished gentleman, Oglethorpe, came and founded a colony in my dear native Georgia. He came with a spirit of liberty, and the first law he prescribed was that all people should be free; that slaves should not be landed on the shores of Georgia, and that servile labor should be unknown in this new land of freedom.

For twenty years this was the statute of the colony of Georgia, but the Puritan of Connecticut and Rhode Island said, "You do not know what you want,"

YOU NEED SLAVES,

and our ships and our New England slave-traders will furnish them to you."

The persistent Yankee overcame our scruples and subdued our prejudices, over-rode our judgment, and we yielded and allowed him to flood us with slaves.

When we made our constitution we sought to prohibit this unnatural and as we thought unchristian traffic; but again New England with fervor said, "You do not know what you want," and we again

SUCCUMBED TO THEIR PERSISTENCY

and reluctantly consented to provisions which gave them slave traffic until 1808, and in less than a quarter of a century from its limitation by constitutional provision these same persons, while enjoying the fruits of this traffic,

COMMENCED DENYING OUR RIGHT

to the use of this class of property.

I have heard much said, Mr. Speaker, since I have been a member of this House regarding filibustering. If a Democrat offers an amendment the cry comes that he is

FILIBUSTERING

and delaying legislation.

Who was it, Mr. Speaker, who filibustered and called "no quorum" and retarded important business during the tedious details of counting by tellers after an amendment had been defeated, had been defeated by only two votes, which sought to reduce the tariff on sugar?

It was the gentleman from Pittsburgh, from the blazing furnaces of Allegheny County, where a cloud of smoke by day and a pillar of fire by night has for half a century illumined the horizon; where the sound of a thousand hammers night and day beats out untold wealth, every dollar of which is due to the tariff laws which the Allegheny gentleman denounced.

This amendment which the gentleman [Mr. BAYNE] fought for, and to prevent the defeat of which he inaugurated filibustering tactics, would have caused an enormous reduction in our tariff revenue. Mr. BAYNE'S amendment reduced the revenue of the Government to the amount of $27,653,365.25. The tariff law upon sugar is for revenue, and not to give bounty and protection to Southern planters.

This amendment was upon a class of sugar of which we imported last year 1,925,586,170 pounds, and upon that class of sugar we last year collected a revenue of $46,909,176.95. The entire crop of cane sugar raised in the United States last year was not greater than 170,000,000 pounds, and of the class of sugar under consideration it was but about 150,000,000 pounds.

Therefore, for

ONE POUND OF SUGAR WHICH RECEIVES PROTECTION, TWELVE AND THREE-QUARTER POUNDS

pay duty to the Government; and for three and a half millions which it is claimed go to the sugar-planters and laborers in the way of protection, forty-seven millions are paid into the Treasury on that class of imports.

Now, I can simply say to the distinguished gentleman that this side of the House is anxious to

REDUCE THE TARIFF ON SUGAR

the moment such a reduction will be consistent with the necessary revenue to carry on the Government, and already we have reduced the tariff on sugar very materially; but I will with great respect submit that there is no member of the House that this filibustering mantle would fit with less grace than it would the distinguished gentleman from Pittsburgh. The course pursued by him could have been adopted with more propriety by any other of the two hundred and ninty-one members of this House.

I will now say one word regarding the internal-revenue part of the bill. It commences with the words

TO REDUCE INTERNAL TAXATION.

And this attractive heading, I regret to say, covers a mass of hideous wrongs and inconsistencies and oppressions.

It will be with feelings of sorrow that I shall be compelled to return to my constituents and inform them that while there is but little in the proposed law which commends it favorably to them, there is a great deal that it contains which is very objectionable and to which I can not give my support. I will read the first ten lines, Mr. Speaker, which follow the enacting clause:

That the taxes herein specified imposed by the laws now in force be, and the same are hereby, repealed, as hereinafter provided, namely: On capital and deposits of banks, bankers, and national banking associations, except such taxes as are now due and payable; and on and after the 1st day of July, 1883, the stamp tax on bank-checks, drafts, orders, and vouchers, and the tax on matches, perfumery, medicinal preparations, and other articles imposed by Schedule A following section 3437 of the Revised Statutes.

This sweeps away a revenue of millions, more than nine-tenths of which is a relief to banks, corporations, and wealthy manufacturers. In order to show who is benefited by the latter part of the clause I will read these figures, which I take from the census reports for 1880 regarding chemical products. The figures I will read show the amount of capital employed in that industry in four States and the total in the United States. They also show the annual amount of wages paid and the total amount produced of such articles:

States.	Amount capital employed.	Annual amount paid as wages.	Annual value of products.
New York	$20,141,586	$2,901,960	$29,805,614
Pennsylvania	18,349,930	2,151,799	20,884,991
New Jersey	7,371,400	1,172,654	9,499,577
Massachusetts	6,828,473	953,784	10,604,662
Total for four States	52,691,389	7,180,197	70,794,844
Total for United States	85,394,211	11,840,704	117,377,324

The figures I have tabulated need no explanation. They clearly show that the clause relating to medicinal preparations is in

THE INTEREST OF THE ESTABLISHMENTS OF FOUR STATES

where nearly two-thirds of them are located.

It is very evident that so much of the bill as I have read will be of

no material benefit to that portion of the land whose property was destroyed and whose industries were crushed by the war. These provisions will make no appreciable change in the price of articles which no longer require a 1 or 2 or 4 cent stamp attached to them. A 25-cent bottle of medicine without a 1-cent stamp will still sell for 25 cents, and a bottle or package of medicine which formerly sold for $1, and upon which we found a 4-cent stamp, will still be sold at the same figure.

The gentlemen on the other side of the House, as an answer to all objections to this bill, have repeatedly called our attention to the word matches, and they seem to think taking a 1-cent tax from a box of matches is all the relief people from the rural districts ought to demand.

A prudent, economical family will make a box of matches last them a month, and if all the reduction accrued to the consumer the extreme benefit he would derive would be 12 cents a year. But, Mr. Speaker, it will not accrue to the consumer. The appeal for a removal of this tax did not come from the people. It came from the manufacturers. The census tells us that the capital invested in that industry now amounts to $2,114,850, and the products last year amounted to $4,668,446, nearly all of which is confined to the Northern States, Ohio alone manufacturing to the amount of $935,529.

The consumer will find that this 1 cent deduction will mostly if not entirely add to the profits of those who urged the change which we are discussing.

I trust my allusion to Ohio will not be construed as indicating that I have any jealousy or ill-feeling regarding that grand old State. On the contrary, I rather concur with those who think we owe her a debt of gratitude. She has given us three Presidents; has offered us a dozen more, and, as if never tiring of good deeds, she still generously tenders so bountiful a quota that we need have no apprehension of being without a President not only during our own lives, but including the full terms of the lives of the youngest of our children.

Ohio has given us the most versatile and most talented member of this House, my valued and esteemed friend, Mr. COX.

Ohio has given us—but, Mr. Speaker, I will not tarry. The history of Ohio and what she has done is recorded.

Removing the license tax of $5, now charged to farmers who sell tobacco to their laborers, is a mockery when we consider that for this $5 reduction, the tax the average planter pays now on other articles is increased at least $500.

The great mass of thinking people will never tolerate a political organization which forces upon the country a law removing or reducing taxes upon bankers, tobacco-chewers, and people who use perfumeries and other articles which are not essential to the ordinary purposes of life.

What the people demand is substantial reduction upon the necessities, not the luxuries, of life.

There is very much more that ought to be said on this important subject, but as the question has been ably argued by other gentlemen on this side of the House I will close this imperfect analysis of this bill, the general effect of which upon the interests of the whole people is greater than that of any other measure considered by this Congress or any other Congress for many years.

Lee vs. Richardson.

Ὀψὲ Θεοῦ μῦλοι ἀλέουσι τὸ λεπτὸν ἄλευρον.

SPEECH

OF

HON. JOSEPH WHEELER,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, March 3, 1883,

On the contested-election case from the first Congressional district of South Carolina.

Mr. WHEELER said:

Mr. SPEAKER: I regret in these closing hours of the Forty-seventh Congress to see the purposes for which we came here neglected and to see the last night of the session consumed in an effort to consider a case where the seat of a member of this body is contested. The people have

A RIGHT TO EXPECT THAT

much shall be done during these last days of Congress. They expect us at least in these expiring hours to make efforts in their interest, and there are many measures that demand and ought to have our attention.

We ought to consider the

EDUCATION BILL.

We have the startling fact presented to us that 6,239,958 of our fellow-citizens are unable to read or write, and yet the House refuses to take steps to correct so great an evil.

We are reflecting upon the whole country when we allow the bill to lie dormant which would grant a meager pension to the

BRAVE MEN WHO CARRIED THE FLAG

that floats over this Dome from the Rio Grande to Buena Vista and from Vera Cruz to the City of Mexico. The valor of these men gave this country a wealth which has enabled it to pension 400,000 soldiers, all, or nearly all, of whom are younger than the ten or twelve thousand men who would be benefited by this bill.

Then, too, Mr. Speaker, the passage of the bill to do tardy justice in rectifying the wrongs done to Fitz-John Porter would be a very proper work for Sunday morning. But that measure is allowed to lie on the table while the call of the House and vote after vote is repeated, in the efforts which have absorbed the thoughts of the majority of this House. The responsibility of these occurrences during the twelve hours which have elapsed since 6 o'clock last night rests entirely with you gentlemen of the left. Excuse me if I give expression to the thought suggested by this word "left," that far as you were "left" in November, 1882, the signs of the times indicate that still farther behind will you be "left" in November, 1884.

The Republican party, aided by Greenback and Readjuster allies, finds its majority still further increased by the men who, though candidates for Congress, were repudiated by the people at the polls, but who, because they belong to the party which for two years has controlled the legislation of this House, have by gross violation of law and right been placed in the seats of the duly elected representatives of the people.

Your majority, gentlemen of the opposition, is now so great that you have it in your power to

CARRY THROUGH EVERY MEASURE,

unless we resort to the only method which remains to the minority, and, by refraining from voting, thus place

THE ENTIRE RESPONSIBILITY

upon you, and require you to keep in this Hall a constitutional quorum of your own party.

Mr. Spofford, in his almanac for 1883, classifies the parties of the House as one hundred and fifty-one Republicans, nine Greenbackers, two Virginia Readjusters, making a combination of one hundred and sixty-three votes against one hundred and thirty Democrats.

We have now been here since 11 o'clock yesterday. We have remained here during the entire night, and I see that the last day of this Congress is now dawning upon us. There are many other measures equal in importance to those I have mentioned which demand our consideration, and yet, with all these imperative duties pressing upon us,

THE REPUBLICAN MAJORITY IS WASTING THE TIME

of this body in an effort not to sustain but to overthrow a report of the Elections Committee, more than two-thirds of which are of their political party.

The general excuse we have heard given by Republicans for always voting to unseat Democrats is that they must sustain the reports of the committee. In this case they certainly have no such excuse, as the vote taken just before midnight developed the astounding fact that one hundred and twenty-four Republicans cast and recorded their votes to

PUT OUT A DEMOCRAT,

even though the Elections Committee, with its overwhelming Republican majority, had decided and reported that the Democrat, Mr. Richardson, was duly elected, and that Mr. Lee, the Republican, had been clearly and fairly defeated. It did seem to me that after the majority of this House had committed so many inconsistencies they would not, during the last hours of their occupancy of this Hall, seek a new field in which to exercise this propensity.

This vote has been recorded. The record can not be erased. It is a part of the history of our country. I will read from yesterday's proceedings.

It is true, as no adjournment has taken place, that in legislative parlance we designate all as one legislative day, and call these proceedings as a part of those of Saturday, but we know and the world knows that the sun of heaven has arisen on Sunday morning, March 4, 1883, and at noon to-day we will adjourn forever.

The SPEAKER. The question is on agreeing to the resolution, which the Clerk will report.

The Clerk read as follows:

"*Resolved*, That Samuel Lee have leave to withdraw his papers, and this case is dismissed without prejudice."

Mr. PETTIBONE. I move to substitute the resolutions of the minority of the committee.

* * * * * * *

Mr. CALKINS. The minority resolutions were presented at the time the case was called up, but I believe were not read.

* * * * * * *

Mr. CALKINS. I ask unanimous consent that the resolutions of the minority may be offered now.

There was no objection.

The SPEAKER. The Clerk will read the resolutions which are proposed as a substitute for the report of the majority.

The Clerk read as follows:

"I. *Resolved*, That John S. Richardson was not elected as a Representative to

the Forty-seventh Congress of the United States from the first Congressional district of South Carolina, and is not entitled to occupy a seat in this House as such.

"II. *Resolved*, That Samuel Lee was duly elected as a Representative from the first Congressional district of South Carolina to the Forty-seventh Congress of the United States, and is entitled to his seat as such."

The SPEAKER. The question is on agreeing to the resolutions offered as a substitute for the resolutions reported by the majority of the committee.

Mr. RANNEY and Mr. HORR called for the yeas and nays.

The yeas and nays were ordered.

Mr. HAMMOND, of Georgia. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMMOND, of Georgia. Are we to vote on both resolutions at once, or can they be divided?

The SPEAKER. The yeas and nays have been ordered on both. They might have been divided; but the division was not called for in time. The Clerk will call the roll.

The question was taken; and there were—yeas 124, nays 114, not voting 53; as follows:

YEAS—124.

Aldrich,	Farwell, Sewell S.	Lynch,	Shallenberger,
Anderson,	Fisher,	Mackey,	Sherwin,
Barr,	George,	Marsh,	Shultz,
Bayne,	Godshalk,	Mason,	Skinner,
Belford,	Grout,	McCoid,	Smalls,
Bingham,	Guenther,	McCook,	Smith, A. Herr,
Bisbee,	Hall,	McKinley,	Smith, Dietrich C.
Bowman,	Hammond, John	McLean, Jas. H.	Smith, J. Hyatt,
Brewer,	Harmer,	Miles,	Spooner,
Briggs,	Harris, Benj. W.	Morey,	Steele,
Browne,	Haseltine,	O'Neill,	Stone,
Brumm,	Haskell,	Pacheco,	Strait,
Buck,	Hazelton,	Page,	Taylor, Joseph D.
Burrows, Julius C.	Heilman,	Parker,	Thomas,
Campbell,	Henderson,	Payson,	Townsend, Amos,
Candler,	Hepburn,	Peelle,	Tyler,
Cannon,	Hill,	Peirce,	Updegraff,
Carpenter,	Hitt,	Pettibone,	Valentine,
Caswell,	Horr,	Pound,	Van Horn,
Chace,	Houk,	Prescott,	Van Voorhis,
Crapo,	Hubbell,	Ranney,	Wait,
Cullen,	Hubbs,	Ray,	Walker,
Dawes,	Humphrey,	Reed,	Ward,
Deering,	Jadwin,	Rice, John B.	Washburn,
De Motte,	Jones, Phineas	Rich,	Watson,
Dezendorf,	Jorgensen,	Ritchie,	West,
Doxey,	Joyce,	Robinson, Geo. D.	White,
Dunnell,	Lacey,	Robinson, Jas. S.	Williams, Chas. G.
Dwight,	Lewis,	Ryan,	Willits,
Errett,	Lindsey,	Scranton,	Wood, Walter A.
Farwell, Chas. B.	Lord,	Sessinghaus,	Young.

NAYS—114.

Aiken,	Culberson,	Hutchins,	Robinson, Wm. E.
Armfield,	Curtin,	Jones, Geo. W.	Rosecrans,
Atherton,	Davidson,	Kenna,	Ross,
Atkins,	Davis, Lowndes H.	King,	Scales,
Barbour,	Deuster,	Klotz,	Scoville,
Beach,	Dibrell,	Knott,	Shelley,
Belmont,	Dowd,	Ladd,	Singleton, Jas. W.
Beltzhoover,	Dugro,	Latham,	Singleton, Otho R.
Berry,	Dunn,	Leedom,	Sparks,
Blackburn,	Ellis,	Le Fevre,	Springer,
Blanchard,	Ermentrout,	Manning,	Stockslager,
Blount,	Evins,	Martin,	Talbott,
Bragg,	Flower,	McKenzie,	Thompson, P. B.
Buchanan,	Forney,	McLane, Robt. M.	Townshend, R. W.
Caldwell,	Fulkerson,	McMillin,	Tucker,
Calkins,	Garrison,	Miller,	Turner, Henry G.
Carlisle,	Geddes,	Mills,	Turner, Oscar
Cassidy,	Gibson,	Money,	Upson,
Chapman,	Gunter,	Morrison,	Vance,
Clark,	Hammond, N. J.	Morse,	Warner,
Clements,	Hardenbergh,	Moulton,	Wellborn,
Cobb,	Hardy,	Muldrow,	Wheeler,
Colerick,	Harris, Henry S.	Mureh,	Whitthorne,
Converse,	Hatch,	Mutchler,	Willis,
Cook, Philip	Herbert,	Randall,	Wilson,
Covington,	Hewitt, G. W.	Reese,	Wise, George D.
Cox, Samuel S.	Hoge,	Rice, Theron M.	Wise, Morgan R.
Cox, William R.	Holman,	Richardson, D. P.	
Cravens,	House,	Robertson,	

NOT VOTING—53.

Black,	Dingley,	Moore,	Simonton,
Bland,	Ford,	Mosgrove,	Spaulding,
Bliss,	Herndon,	Neal,	Speer,
Buckner,	Hewitt, Abram S.	Nolan,	Taylor, Ezra B.
Burrows, Jos. H.	Hiscock,	Norcross,	Thompson, Wm. G.
Butterworth,	Hoblitzell,	Oates,	Urner,
Cabell,	Hooker,	Paul,	Van Aernam,
Camp,	Jacobs,	Phelps,	Wadsworth,
Clardy,	Jones, James K.	Phister,	Webber,
Cook, John C.	Kasson,	Reagan,	Williams, Thomas
Cornell,	Kelley,	Rice, Wm. W.	Wood, Benjamin.
Crowley,	Ketcham,	Richardson, J. S.	
Darrall,	Matson,	Robeson,	
Davis, George R.	McClure,	Russell,	

So the substitute was agreed to.

It will be seen by the record that but one Republican raised his voice, and but two recorded their votes against this great wrong, against this effort to overthrow and

REVERSE THE SWORN DECISION

reported by Mr. MILLER, a Republican, and adopted by a committee of fifteen members, only four of which are of the Democratic party.

This vote is the last link in a long chain of events, which illustrates the dominant passion which has actuated a dying party during its control of the popular branch of the Congress of the United States. It may seem eminently reasonable that a party should desire to close this Congress in the same way they inaugurated its proceedings. The last pages of its record reveal an effort to destroy representative government, and a reference to its first pages shows that its first actions were directed toward the same purpose.

Its last hours are consumed in an effort to drive from his seat the duly elected member from the first district of South Carolina, and the first act even before administering the oath to a single member except the Speaker was an

EFFORT TO DISFRANCHISE

the noble and chivalrous people who live in the eighth district of Alabama.

Let us look back from the record of the last to the record of the first hours of this body, which has done so much to reflect discredit upon the Government, which at the cost of blood and battle, suffering and privation, was implanted upon the soil of America by a Franklin, a Washington, and a Jefferson.

I read from the CONGRESSIONAL RECORD, No. 1, December 6, 1881, page 9, these words:

When the State of Alabama was called Mr. JONES, of Texas, said: "I object to administering the oath to Mr. WHEELER."

On page 11 we find these words:

Mr. JONES, of Texas. The ground of objection is that Mr. WHEELER has not been duly returned or elected a member of the Forty-seventh Congress. I send to the Clerk's desk the following resolution, which sets forth very clearly the ground of objection, and I ask it be read.

I will now read from page 12. It is the solemn assertion of a member of this House by which he seeks to prevent the swearing in of a fellow-member. I will read his exact words:

Mr. JONES. The case now before us presents itself to the House—if the objection be fully expressed to the House—as a very simple proposition. Mr. WHEELER presents the certificate of the governor of the State of Alabama. The contestant, Mr. Lowe, presents the official returns made by the supervisors of election, from which returns, being the original record of the election, it appears that Mr. Lowe received upward of 400 majority.

Now, the position is this: That it is thus officially shown that the certificate of election offered here by the gentleman from Alabama is not what it purports to be, a *prima facie* certificate. I ask, in support of the objection I make to the swearing in of the gentleman from Alabama, that the return or report of the chief supervisors touching this election be read, so that the House may be fully advised of the real merits of the point involved; in other words, as to the *prima facie* case.

The objection assumes that the *prima facie* case is against or at variance with the certificate of the governor, in that the certificate or certified report of the chief supervisor shows that his competitor, the contestant in this case, received an actual majority of the legal votes cast.

I send the paper to the desk to be read.

The brief presented in the cause by the contestant and his attorneys states, on page 61, that WHEELER's returned vote was 12,808, and it admits (page 62) that Wheeler has an unquestioned vote of 12,668. Now, if it was true that this paper which the honorable gentleman from Texas presented to the House was the return or report of the chief supervisor of election, and if it is true that said paper showed that contestant received upward of 400 majority, then the report or return of the chief supervisor must have shown that the contestant received more than 13,000 votes.

Singular as it may appear, this important report or return which was thus used to attack the certificate of the governor of Alabama was not placed in evidence, and has never been presented to the Committee of Elections.

This suspicious circumstance induced the contestee to procure a certified return or report from the same officer, namely, the chief supervisor of elections, with regard to the matter referred to, and he has placed it before the committee. The following is a copy of the report:

OFFICE OF THE CHIEF SUPERVISOR OF ELECTIONS,
NORTHERN DISTRICT OF ALABAMA,
Huntsville, Ala., March 30, 1882.

Statement of the number of votes received by William M. Lowe for Representative in Congress from the eighth Congressional district of Alabama, election 2d day of November, A. D. 1880, as shown by the face of the United States supervisors' returns, as follows, to wit:

Madison County	3,517
Jackson County	1,656
Limestone County	1,705
Lauderdale County	898
Colbert County	1,180
Franklin County	354
Lawrence County	1,862
Morgan County	1,139
Total	12,311

I hereby certify that the above and foregoing is a correct and true statement of number of votes cast for William M. Lowe for Representative in Congress from the eighth district of Alabama, at an election held on the 2d day of November, 1880, as shown by the face of the original returns made by the various United States supervisors of said election in the eighth Congressional district of Alabama, now on file in my office.

JAMES H. BONE,
Chief Supervisor of Elections.

To be certain, and do no one any injustice, we procured from the chief supervisor certified copies of all the original returns of supervisors of election, including all the remarks and indorsements of these officers, at least most of whom were friends and supporters of the contestant.

These returns, I respectfully submit, prove that there do not exist any returns made by supervisors of election which show that William M. Lowe received 400 more votes, or even a single vote more than he admits was received by Joseph Wheeler, page 62 of his brief.

I insist that nothing on these returns, whether on the back or face, shows that any claim was made that William M. Lowe received as many as 12,400 votes, and I insist that, to establish the integrity of the statement which is recited on pages 11 and 12 of the CONGRESSIONAL RECORD, first session, it is incumbent upon the parties who are responsible for the statements, to present to this House a certified report of the chief supervisor, or official returns made by supervisors of election, by which it will appear that my opponent, Mr. Lowe, received at least 13,000 votes on November 2, 1880. (See middle of first column, page 12, CONGRESSIONAL RECORD, December 6, 1881.)

If those parties who are responsible for the statements referred to, byj which it was sought to prevent the seating of a duly elected member of this House, can not present a certificate or certified report of the chief supervisor, or can not present "the official returns made by the supervisors of election," which show that he (Colonel Lowe) received more than 12,400 votes, then they must admit that the papers by which they sought to attack the certificate of the governor of a sovereign State were false or forged.

It will certainly be admitted that in attacking the certificate of a governor of a State on the floor of Congress, and thus preventing, or attempting to prevent, a member from taking his seat, the person or member who assumes so grave a responsibility should be literally accurate in all his statements to the House on the subject, and I trust that this is the last time that such a gross impropriety will be committed. It is now nearly a year since I filed with the Committee on Elections printed copies of these statements and up to this time the responsible parties have failed to in any way extricate themselves from the unenviable position in which they are placed by these records.

To prevent the perpetration of the wrong you seek to commit, I, together with a band of true representatives of the people, sat in our seats during the entire night, and by refusing to vote have for a few hours

HELD YOU POWERLESS AT OUR FEET.

You were twenty short of a quorum and your efforts have been thwarted. I regretted to let the record show that I did not vote, because at every call of my name in this entire session of Congress I have been present and my vote has been recorded except when my withholding it was necessary to the preservation of right. For the same reason I withheld my vote when the effort was made to change the rule to enforce the tariff measure upon the country, without debate or consideration. On all other occasions the record shows that I cast my vote; not only that, but that it was cast on the side of the great people and

AGAINST THE AUTOCRACY AND PLUTOCRACY

which have seized upon and controlled the dominant party of this House.

I admit, Mr. Speaker, that the course pursued by our Government has caused brave men and earnest patriots to fear for its safety; and were it not for the great virtue of the people in whom all power resides I too would despair.

But hope and courage are aroused as I recall, from the touching tragedy of Talfourd's, the words of Ion, when, in his last interview with his beautiful Clemanthe, she asks:

And shall we never see each other again?

Looking in her face he replied:

I have asked that dreadful question of the hills which look eternal; of the clear streams which flow forever; of the stars, amid whose azure fields my raised spirit hath trod in glory. All were dumb! But when I look upon thy living face, I feel there is a something in the love which kindles through its beauty that can not wholly perish. We shall meet again, Clemanthe.

When asked: shall the glorious dream of virtue and liberty planted and sanctified by the blood of our forefathers of '76 live or perish?

When we see the action of the majority of this House upon the vital question of elective franchise—

When we see principles of popular government trampled under foot—

When we see the duly and legally elected representatives of the people driven from this Hall, and when we look back only for the last decennium and see the corruptions which have impregnated every department of our Government—

When we see sovereign Legislatures disbanded by brutal soldiery—

When we see the voice of the people stifled by the bayonet—

When we see armies with bristling steel arrayed to hold a sovereign people in subjection—

When we see a Minister of the Interior openly announce that in violation of his oath he was sending soldiers and money to protect perjured returning boards in proclaiming false and fraudulent returns of sovereign States—

When we see scores of men holding the highest trust, exposed as culprits, guilty of the base crimes of bribery and subornation of perjury, by which they enabled a *de facto* President to sit in the chair of Washington and Jefferson—

"When the annals of this Republic proclaim the disgrace and censure of a Vice-President, a late Speaker of the House of Representatives, marketing his rulings as a presiding officer; three Senators profiting secretly by their votes as law-makers; five chairmen of the leading committees of the late House of Representatives exposed in jobbery; a late Secretary forcing balances in the public accounts; a late Attorney-General misappropriating public funds; a Secretary of the Navy enriched or enriching friends by percentages levied off the profits of contractors with his Department; an embassador to England concerned in a dishonorable speculation; the President's private secretary barely escaping conviction, upon trial, for guilty complicity in frauds upon the revenue; a Secretary of War impeached for high crimes and confessed misdemeanors"—

When we see all this we admit that we are dumb; we admit we are staggered in our hopes, and we pause in our reply.

But when we look again and reflect upon the glorious struggles of our forefathers of 1776; of their virtues, their courage, their exalted patriotism; when we think of their godlike example to all future generations; their Christian devotion to liberty; and when we reflect and look again and see the same devoted courage and endurance and patriotism displayed by their sons in the struggle which so recently drenched this fair land in blood, and now commemorated by a million green graves of our dearest and bravest and our best; and when we see the virtue and nobility and adherence to principle displayed by the people in the southern half of our country, when I look upon the great mass of Americans throughout our land; when I behold their living faces, and see courage and determination and love of liberty and virtue beaming from their noble brows, I think I see in all this a something that can not wholly perish, and that will not let liberty wholly perish, and my heart tells me that this effort of the American people to establish the godlike principle of self-government shall be eternal.

Let us, Mr. Speaker, to-day start with a new determination. We are about to part. We are to have time for reflection. Let those reflections dwell upon this great and free country of ours. Let us remember the principle for which our fathers bled one hundred years ago. Let us determine to stretch forth our hands for action and rescue our country from the dangers which lower over it. Let us rescue the country of which a great free and virtuous people are the ornaments.

Let us save it that they may continue to adorn it. I ask all to aid in this work who love the principles of free and independent government. I ask all to assist in the perpetuation of liberty and freedom, an effort for ourselves and posterity.

With such a purpose, amid such surroundings, I ask all to view the past in the light of Christian philosophy.

And from the sunny memories of joys common to us all, and from the grave of all painful recollections never to be disturbed here or elsewhere by thought, word, or deed, will spring up among us a closer brotherhood, a purer patriotism, and a more abiding love of country.