MINING RESOURCES OF THE UNITED STATES.

Mr. BAKER, of Indiana, by unanimous consent, introduced a bill (H. R. No. 2820) to amend an act to promote the development of the mining resources of the United States; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

And then, on motion of Mr. HURLBUT, (at five o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BANKS: Memorial of 2,751 women of Massachusetts, that the manufacture and importation of spirituous liquors may be restricted to the quantity necessary for medical and mechanical uses, to the Committee of Ways and Means.

By Mr. BANNING: The petition of Army officers, for the passage of a law declaring the rule of promotion in the line of the Army, to the Committee on Military Affairs.

By Mr. CRAPO: The petitions of W. R. Browne and Penelope T. Heald, for pensions, to the Committee on Invalid Pensions.

By Mr. CUTLER: The petition of the Second Presbyterian church and congregation of Newark, New Jersey, signed by the pastor and officers of the church, for the appointment of a commission to inquire into the alcoholic liquor traffic, to the Committee on the Judiciary.

Also, the petition of the Lutheran church at New Germantown, New Jersey, officially signed, of similar import, to the same committee.

Also, the petition of the Grand Division of the Sons of Temperance of New Jersey, signed by the officers, representing 3,500 members, of similar import, to the same committee.

By Mr. DARRALL: The petition of C. A. Frazee, to be allowed to file his claim for property taken by the United States Army during the late war before the Court of Claims, to the Committee on War Claims.

Also, the petition of Raymond Deshattes, of similar import, to the same committee.

Also, the petition of François Simien, of similar import, to the same committee.

Also, the petition of Pierre J. Franciz and Emétilde Guilbeau, representatives of the estate of Ursin Bernard, deceased, for compensation for property taken by the United States Army, to the same committee.

Also, the petition of Mrs. Raymond Reir, of similar import, to the same committee.

Also, the petition of Edmond A. Guilbeau, of similar import, to the same committee.

Also, the petition of André Broussard, of similar import, to the same committee.

By Mr. FARWELL: The petition of Mrs. H. C. Speight, to have restored to her the rights of citizenship, of which she claims to have been unjustly deprived by no fault of her own, but by the unnatural, forced, and unauthorized interpretation of the Constitution, and in derogation of the underlying principles of our government and its institutions, to the Committee on the Judiciary.

Also, the petition of the Woman's Christian Temperance Union of Chicago, officially signed, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee of Ways and Means.

By Mr. FROST: Resolutions of E. R. Eastman, favoring a joint high commission to settle national disputes, to the Committee on Foreign Affairs.

By Mr. GARFIELD: The petition of the Methodist Episcopal church at Cincinnati, Ohio, signed by pastor and officers, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

Also, the petition of T. Johnson, J. N. Reed, and other citizens of Berlinville, Ohio, of similar import, to the same committee.

Also, the petition of F. B. Hoover, J. H. Lockwood, and other citizens of Amelia, Ohio, of similar import, to the same committee.

Also, the petition of A. J. Bessey, J. M. Reynolds, and other citizens of Amwell, Ohio, of similar import, to the same committee.

By Mr. HENKLE: Memorial of William R. Wilmer, collector of internal revenue of the fifth Maryland district, for relief for loss of stamps and money in consequence of a robbery by burglars, to the Committee of Ways and Means.

By Mr. HEWITT, of New York: The petition of John L. Griffin, James E. Heull, and other citizens of New York, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

By Mr. HOUSE: The petition of Cummings, Doyle & Co., of Nashville, Tennessee, for pay for rent of buildings occupied by the United States Army, to the Committee on War Claims.

By Mr. KELLEY: The petition of citizens of Pennsylvania, that the tariff laws be not interfered with, to the Committee of Ways and Means.

By Mr. LANE: The petition of T. B. Willard, Alexander Simon, F. S. Matteson, and other citizens of Oregon, for the improvement of the Coquille River, to the Committee on Commerce.

By Mr. MEADE: Memorial of the New York Cheap Transportation Association, for further appropriations to aid in opening Hell Gate, to the Committee on Appropriations.

By Mr. MONROE: The petition of Charles J. Wright, Samuel Wise, and other citizens of Uniontown, Ohio, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

Also, the petition of M. S. Gish, A. D. Welday, and other citizens of Amwell, Ohio, of similar import, to the same committee.

Also, the petition of Isaac Bessey, S. T. Simonton, and other citizens of Ohio, of similar import, to the same committee.

Also, the petition of Henry Slyler, G. Gray, and other citizens of Limaville, Ohio, of similar import, to the same committee.

By Mr. MORRISON: The petition of the Good Templars of the State of Illinois, officially signed, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of the Board of Trade of Philadelphia, against changing the organization of the United States Light-House Board, to the Committee on Commerce.

By Mr. RIDDLE: The petition of John J. Boon, John A. Thompson, and other citizens of Jackson, Tennessee, of similar import, to the same committee.

By Mr. ROBBINS, of Pennsylvania: The petition of Harvey Rowland and other manufacturers of the twenty-third ward of Philadelphia, that the present tariff laws remain undisturbed, to the Committee of Ways and Means.

By Mr. TURNEY: The petition of Thomas W. McCune, George H. Everson, and 44 other citizens of Scottdale, Westmoreland County, Pennsylvania, of similar import, to the same committee.

By Mr. VANCE, of North Carolina: The petition of Samuel Pool, J. R. Clements, and other citizens of North Carolina, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

By Mr. WALSH: The petition of J. B. Kunkel and many other citizens of Frederick County, Maryland, that the present tariff laws remain undisturbed, to the Committee of Ways and Means.

Also, the memorial of Peter May and Conrad Walz, for compensation for damages by reason of grading the streets in Georgetown, District of Columbia, to the Committee for the District of Columbia.

By Mr. WARREN: Memorial of Joseph B. Braman, with reference to expenditures at the Watertown arsenal, with accompanying papers, to the Committee on Military Affairs.

By Mr. WILLIAMS, of Wisconsin: The petition of the Grand Division of the Sons of Temperance of Wisconsin, signed by the officers, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee of Ways and Means.

Also, the petition of Leonard Lee and 132 other citizens of Wisconsin, in favor of maintaining the present duty on flaxseed and linseed-oil, to the same committee.

By Mr. WILLIAMS, of Delaware: The petition of citizens of Delaware, for a survey of the Brandywine River, to the Committee on Commerce.

By Mr. WILLIS: The petition of H. C. Smith, S. Avery, and other citizens of Oneida County, New York, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on Education and Labor.

Also, the petition of Aaron Hall, R. L. Holly, and other citizens of Adamsville, New York, of similar import, to the Committee on the Judiciary.

IN SENATE.

FRIDAY, *March* 24, 1876.

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

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on the Judiciary:

A bill (H. R. No. 1439) authorizing the transfer of certain causes from the circuit court of the United States for the district of Alabama, at Mobile, into the circuit court of the United States for the middle and northern districts of Alabama, at Montgomery and Huntsville, in said State;

A bill (H. R. No. 2324) to amend section 3 of chapter 137 of the acts of the year 1875;

A bill (H. R. No. 2256) to provide for filling the office of clerk of the district court of the United States at Greenville, South Carolina; and

A bill (H. R. No. 2811) to remove the political disabilities of C. H. Williamson, of New York.

The bill (H. R. No. 1970) relating to the approval of bills in the Territory of Arizona was read twice by its title and referred to the Committee on Territories.

The bill (H. R. No. 876) making it a misdemeanor for any person in the employ of the United States to demand or contribute election funds was read twice by its title.

The PRESIDENT *pro tempore*. If there be no objection, the bill

will be referred to the Committee on Civil Service and Retrenchment.

Mr. DAVIS. The bill came from the Judiciary Committee of the House, and I would suggest, unless there be some special reason why it should not take that course, that it be referred to the Committee on the Judiciary here.

Mr. HAMLIN. Whom does it affect?

Mr. DAVIS. It affects the entire service, as I understand.

The PRESIDENT *pro tempore*. It relates to political contributions. The Secretary will read the title of the bill.

The Chief Clerk read the title of the bill.

Mr. HOWE. I think, if any bill should go to the Committee on Privileges and Elections, that certainly should.

The PRESIDENT *pro tempore*. The Senator from West Virginia suggests that it be referred to the Committee on the Judiciary.

Mr. DAVIS. I suggested that as the bill had come from the Judiciary Committee of the House probably it had better go to that committee of the Senate. There are some legal questions probably connected with it, although I do not know that there are. I have no choice as to what committee the bill is to be referred. I only want it to go to the appropriate committee.

Mr. HOWE. I think, if the Senator has no special reason for sending it to the Judiciary Committee, there are no questions of law involved in it which almost any committee of the Senate cannot wrestle with; but if it concerns any particular branch of business under this Government it is that of elections; and therefore I hope the Senator from West Virginia will allow it to go to that committee.

Mr. DAVIS. Very well.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Privileges and Elections, if there be no objection.

RELIEF OF SIOUX INDIANS.

The Senate proceeded to consider its amendment to the bill (H. R. No. 2589) to supply a deficiency in the appropriations for certain Indians, disagreed to by the House of Representatives.

On motion of Mr. WITHERS, it was

Resolved, That the Senate insist on its amendment to the said bill disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

Mr. WITHERS, Mr. ALLISON, and Mr. OGLESBY were appointed the conferees.

PETITIONS AND MEMORIALS.

Mr. HOWE presented the petition of O. P. Dow, James Smith, and other citizens of Palmyra, Wisconsin, praying for a general law to prohibit the liquor traffic within the national jurisdiction; which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Chamber of Commerce of the city of Milwaukee, Wisconsin, remonstrating against the construction of a bridge across the Detroit River, and in favor of a tunnel to be constructed at a point where competent engineers have determined that it is entirely practicable and adequate to secure all the advantages sought to be obtained by the railways; which was referred to the Committee on Commerce.

Mr. CAMERON, of Wisconsin, presented a memorial of the Legislature of Wisconsin, in favor of an appropriation to improve the navigation of the Saint Croix River; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, in favor of amendments to the patent laws; which was referred to the Committee on Patents.

Mr. CONKLING. I present the petition of James Fish, Willard Weller, and other citizens of Meriden, New York, praying for a general law to prohibit the liquor traffic within the national jurisdiction.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on the District of Columbia.

Mr. CONKLING. It relates to the Federal jurisdiction generally, I see, but I suppose it may go appropriately to that committee. I present also a similar petition, signed by George K. Hawley, W. W. Rockwell, and other citizens of Glen's Falls, New York, closing with the same prayer. I move its reference to the Committee on the District of Columbia.

The motion was agreed to.

Mr. CONKLING. I present a memorial of 530 pensioners of the State of New York, who are paid in person at the pension agencies, remonstrating against the abolition of local agencies; and a like memorial of 525 pensioners of the State of New York, who are paid in like manner, in person, at the agencies, remonstrating, for reasons which they give, and give persuasively, against the proposed change. Other petitions on this subject having gone to the Committee on Pensions, I move that these take that course.

The PRESIDENT *pro tempore*. That committee was discharged from their consideration yesterday, and they were referred to the Committee on Civil Service and Retrenchment.

Mr. INGALLS. As the Committee on Pensions was discharged from the consideration of those petitions, I suggest to the Senator from New York that the petitions he now presents should be referred to the committee to examine the several branches of the civil service.

Mr. CONKLING. I did not remark the reconsideration of the former reference. Had I been here, however, I would have suggested that in the other House this subject has been considered by the Committee on Pensions, and action has been taken by that committee. Although I know that the subject is embraced by general inclusion within the scope of the authority given to the special committee referred to, I am inclined to think that the Committee on Pensions ought to consider it. However, I have no choice of committee. The chairman of these two committees will settle it satisfactorily to themselves.

The PRESIDENT *pro tempore*. The petitions will be referred to the Committee on Civil Service and Retrenchment.

Mr. HAMLIN. I present a remonstrance of a like character to those which have just been presented by the Senator from New York, signed by nearly 400 pensioners of the State of Maine, who are paid at Bangor. They remonstrate against any change. They know their own conveniences; they know how they are now accommodated better than any other class of men can know; and I think their wishes ought to be heeded.

Mr. ANTHONY. Is that a remonstrance against the regulation of the Pension Office in regard to geographical limits?

Mr. HAMLIN. No.

Mr. CONKLING. It is a remonstrance against the proposition to abolish local pension agencies, and transfer the whole thing to the War Department, and make pensions payable by drafts to be emitted from here and sent in each instance over the country to those who are to receive them.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Civil Service and Retrenchment.

Mr. WRIGHT presented the petition of William Richards, of Washington, District of Columbia, attorney for the Chicago, Rock Island and Pacific Railroad Company, praying for the passage of an act directing the Commissioner of Internal Revenue to refund a tax of $4,536.39, illegally assessed upon gross receipts derived from carrying the mails by the Chicago, Rock Island and Pacific Railroad Company, and paid by that company after the tax had been abolished by law; which was referred to the Committee on Claims.

Mr. SHERMAN. I present a petition of a large number of citizens of Ohio, setting out that they have "observed with alarm and indignation the introduction into Congress of a scheme for tariff reduction, prepared, as we believe, not by members of Congress, for the benefit of this country and its inhabitants, but by adherents of other nations, for the benefit of foreigners." They remonstrate against any change in the present laws, and pray "that, when alterations are made therein, at a more favorable time, counsel may be taken from our own countrymen and constituents, rather than from the industrial and commercial enemies of the country." I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. SHERMAN presented the petition of Virgil Sparks, William S. Wood, and other citizens of Wawarsing, Ulster County, New York, praying for a general law to prohibit the liquor traffic within the national jurisdiction; which was referred to the Committee on the District of Columbia.

Mr. OGLESBY presented the petition of David Winn, H. A. Price, and other citizens of Illinois, praying for the prohibition of the manufacture and sale of alcoholic liquors in the District of Columbia and Territories; which was referred to the Committee on the District of Columbia.

Mr. WALLACE presented a memorial of workingmen of the Star Iron-Works, Allegheny County, Pennsylvania, remonstrating against any change in the present tariff laws; which was referred to the Committee on Finance.

He also presented a memorial of the Board of Trade of Philadelphia, remonstrating against any change in the present constitution of the Light-House Board; which was referred to the Committee on Commerce.

He also presented a memorial of the Franklin Institute, of Philadelphia, praying for the repeal of the act permitting increased boiler pressure on steam-vessels; which was referred to the Committee on Commerce.

He also presented the petition of George H. Ritter, Henry Aaron, and other citizens of Pennsylvania, praying for the prohibition of the manufacture and sale of alcoholic liquors in the District of Columbia and the Territories; which was referred to the Committee on the District of Columbia.

He also presented three petitions of L. J. Whitson, Isaac Broomell, and other citizens of Penningtonville, Pennsylvania, praying for the prohibition of the manufacture and sale of alcoholic liquors in the District of Columbia and the Territories; which were referred to the Committee on the District of Columbia.

He also presented the petition of M. M. Bailey, E. Pennock, and other citizens of Chester County, Pennsylvania, praying for the prohibition of the manufacture and sale of alcoholic liquors in the District of Columbia and the Territories; which was referred to the Committee on the District of Columbia.

He also presented a petition of the Pennsylvania Temperance Union, James Black, president, and D. C. Babcock, secretary, praying for prohibitory legislation for the District of Columbia and the Territories, the prohibition of the foreign importation of alcoholic liquors;

that total abstinence be made a condition of the civil, military, and naval service: and for a constitutional amendment to prohibit the traffic in alcoholic beverages throughout the national domain; which was referred to the Committee on the District of Columbia.

ADJOURNMENT TO MONDAY.

On motion of Mr. FRELINGHUYSEN, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

THE POST-ROUTE BILL.

Mr. HAMLIN. Memorials have been presented and I wish now to suggest to the Senate, as we have voted to adjourn over until Monday, that it is very important that the post-route bill should pass. I ask the Senate now to take it up and consider it in the morning hour, so that we shall not interfere with the Senator from Connecticut, [Mr. EATON,] who is entitled to the floor at one o'clock on the electoral bill. I move the present consideration of the post-route bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2262) establishing post-roads.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Post-Offices and Post-Roads will be stated by the Secretary in the progress of the reading of the bill.

Mr. HAMLIN. I will make a very brief statement to the Senate, and perhaps no Senator will ask that the bill shall be read at length, which would take the best part of an hour. The Senate Committee on Post-Offices and Post-Roads have given to the consideration of this post-route bill much more care and attention than such bills have ordinarily received. We have first requested the judgment of the Senator who has introduced a proposition for a post-route, in order to ascertain that there was a public utility and necessity for his amendment. We have done the same thing in regard to amendments proposed by members of the House which have been sent here. I have myself called personally upon every member who proposed an amendment, and have made an inquiry into the character of the route sought to be established. Several propositions were not entertained, and are not therefore included in the bill; but where the member gave such a statement as to induce us to believe they were proper they were admitted. When memorials and resolutions of State Legislatures were presented to this body and showed satisfactorily upon their face proper cases to be included, those cases have been included. Those embrace all the amendments of the committee save another class which have been transmitted to us from the Post-Office Department. Under that statement of the case, if there be no call upon the part of any Senator, I ask that the reading of the bill may be dispensed with.

The PRESIDENT *pro tempore*. Is there objection to dispensing with the reading of the bill? The Chair hears none. The question will be taken upon agreeing to the amendments reported.

Mr. HAMLIN. And if nobody wants to separate the amendments, I ask that the question be taken upon all of them together.

The PRESIDENT *pro tempore*. Is there objection to the question being taken upon the amendment in gross? The Chair hears no objection. The question is on agreeing to the amendments in gross.

The amendments were agreed to.

Mr. HAMLIN. I am directed by the Committee on Post-Offices and Post-Roads to submit an amendment. I move to insert after line 628—

From Chardon to Chester Cross Roads.

The amendment was agreed to.

Mr. HAMLIN. I find that the House inserted, on pages 35 and 36, the same route twice. It could do no harm, but it should not be in the bill. I therefore move to strike out of the bill lines 863 and 864, as follows:

From Petersburgh, in Grant County, via Patterson-Creek turnpike, to Burlington, Mineral County.

The amendment was agreed to.

Mr. PADDOCK. I send to the Clerk's desk certain amendments, which are merely corrections of orthography.

The PRESIDENT *pro tempore*. The amendments will be reported.

The CHIEF CLERK. On page 21, line 489, it is proposed to strike out "Tokama" and insert "Tekama;" and in line 490 to strike out "Schmidt" and insert "Schwedt."

The amendment was agreed to.

Mr. PADDOCK. There are still other corrections.

The CHIEF CLERK. In line 492, page 21, it is proposed to strike out "Fairburg" and insert "Fairbury;" in line 494, strike out "Gem Rock" and insert "Glen Rock;" in line 495, strike out "Carrieo" and insert "Carrico;" in line 496, strike out "La Murieon" and insert "La Munyon;" and in line 503, strike out "Keatscatoon" and insert "Keatsatoose."

The amendment was agreed to.

Mr. PADDOCK. I desire to remark in this connection that, as this bill was prepared in the other House, the Committee on Post-Offices and Post-Roads of the Senate is not responsible for the errors in spelling. I move on page 22 to strike out lines 520, 521, 522, 523, in the following words:

From Columbus, Platte County, via Monroe, Keatscotoose, Genoa, Woodville, Waterville, Boone, Albion, Oxford, Raeville, O'Neile City, Nebraska, to Custer City, Dakota Territory.

It will be observed that the same route is provided for in another part of the bill.

The amendment was agreed to.

Mr. HAMLIN. There is a typographical error on the first page. "Cropeville" should be "Cropville." The letter "e" should be omitted where it occurs in lines 7 and 9. That is all, I believe.

The PRESIDENT *pro tempore*. That correction will be made.

Mr. EDMUNDS. I should like to ask the Senator from Maine if he can tell us approximately how many miles of new post-routes this bill establishes?

Mr. HAMLIN. I cannot.

Mr. EDMUNDS. How many in point of number?

Mr. HAMLIN. The bill itself will present that fact, though I have not counted them. I will say, however, that a very large number of the routes established in the bill are from one single point to another upon which service has been had for long years, what is called special service. The bill makes a very large number of them post-routes. They have been sent to us, and have been expressed as desirable, from the Department, because it makes a certain service, and makes the service subject to bidding instead of giving the Department the opportunity of making a special contract.

Mr. EDMUNDS. Do I understand the chairman of the committee to say that by law now the Postmaster-General is authorized to put what is called special service over any road or railroad in the country that Congress has not established as a post-route?

Mr. HAMLIN. I mean to say that from a post-office on a route already established, whether it be a railroad or another route, to one single point, the Postmaster-General has, ever since I have known anything about it, and that I suppose is the law, been authorized to establish a special service; that is, from that office which is now established by law to a given point, making the compensation for transporting the mail over that route dependent upon the compensation arising from the office established. You have got such service in Vermont in very many cases. We have it in every State in the Union.

Mr. EDMUNDS. I am sorry to say that we have a good many things in Vermont that we ought not to have, and have not some things that I think we ought to have. If that is the law I am sorry, because it vests a boundless discretion in the Post-Office Department. Before I am thoroughly satisfied that it is the law, I should be glad to have my honorable friend from Maine point out that part of the statute which confers that power. I dare say he is correct. I am not by any means prepared to dispute it.

But what I rose chiefly to say, Mr. President, was, in this day of economy, to put the question whether here is not a good opportunity to economize? We all know from experience that when these routes are once established by law, although the Postmaster-General is not obliged to put service upon them, he is besieged by Senators and members of Congress (of whom I count myself one of the chief besiegers) to put on the service, and the most frequent service; because everybody likes to get a letter once in ten minutes if he can—the most frequent service possible. The consequence is, as a practical result, although it may be trifling in one particular instance, when you apply it to thousands, when you sum it all up, a very heavy drain is made upon the public revenues. The question that has occurred to me is, in these times, whether we could not beneficially to public interests, taking into view the interests of the Treasury and of the tax-payers as well as the interests of people who wish to send or receive letters, be exceedingly conservative in respect of establishing new post-routes. The Post-Office Department, as we all know, always has been, and is likely always to be, if we go on in this way, not self-sustaining, and a tax of several millions of dollars each year is imposed upon the people of the United States to keep it up. Of course, it is a very worthy object when properly managed, as I have no doubt it is now, a very desirable object; but if we can economize in diminishing the expenditures of the Post-Office Department, though the result is to make the people of the various States submit to some little inconvenience in respect of the celerity with which their letters are transmitted to some point close to their homes, I think we shall be doing a good thing. Therefore it is that I ask whether we have not here a point where, instead of launching out into these new expenditures, because that is what the effect of the bill is, we may not say that for this year we shall not establish any new post-routes at all, just as we have said, in substance, that we will not build any fortifications at all, and so on.

I am not prepared to make any special motion about it, because I am not sufficiently familiar with the subject of this bill to do so. Undoubtedly there are some items in it that are of prime public necessity; but taking it as a whole, considering the enormous proportions of this bill and the tens, and perhaps hundreds, of thousands of miles of service that are established in it, it has occurred to me whether here is not a golden opportunity to preserve the Treasury without doing any serious detriment for the time being to the interests of the people of the United States. I should like to hear from my friend from Maine upon that topic.

Mr. HAMLIN. I have no doubt myself if we look around us we may find many opportunities in retrenching the expenses of this Government in the manner which the Senator from Vermont has suggested. We might amend the law and declare that Senators and Representatives in Congress should receive no compensation for their services for this year, because it is a hard time. We might abolish any particular branch of the public service for this year because it is a hard time; and we might replenish the Treasury in almost any direction by pursuing as rigid a rule for the various branches as the Senator suggests in relation to post-routes.

If the Senator will look at the bill, he will see that the new routes are mainly made up in the new States and Territories where the population is increasing with great rapidity, where people are going to inhabit and cultivate the lands; and it does seem to me that they are entitled to some mail facilities.

I wish to say to the Senator what I had already stated before the Senator came in, that the Committee on Post-Offices and Post-Roads have examined this bill with a great deal more of care than any post-route bill that has ever gone through that committee since I have been a member of it. We sought the information of the Senator who asked that a route should be established. We asked the information individually. There were some twenty amendments sent over by members of the House. I went over myself with each amendment and saw the member of the House who presented it, and he made to me a statement which led me to believe that the public exigencies fairly required that the route should be established. We then took one other class of cases, a few in number, which were asked for by petitions, which stated the case, and upon inquiry at the Post-Office Department finding the information generally corroborated, we included them. There is one other class, three cases only I remember, of memorials from State Legislatures, which set forth the necessity for certain routes. It is true, undoubtedly, that there may be some routes in the bill upon which service should not be placed, but it is utterly impossible for any one committee to decide those questions as wisely or as well as the Department can, or as well and wisely as the Department will, with all the pressure that may be brought upon it.

The Senator is incorrect in supposing that there is not a very considerable number of routes established upon which no service is placed—I mean for a considerable time, sometimes for years. While I concur fully with the Senator that it is desirable that we retrench our expenses in all possible ways, I think the facilities which will be granted by the establishment of these routes ought to induce us to pass the bill.

I want to say also to the Senator from Vermont that the committee is laboring very industriously for the purpose of finding some method by which the Post-Office Department shall be made, if not self-sustaining, much nearer to it than it now is; and I express the hope that we shall be able in a few days to make a report to the Senate, followed by other reports, which, if they shall meet the approving judgment of the legislative body, both House and Senate, will improve the financial condition of the Post-Office Department by some four or five or six million dollars. If Congress shall be able to accomplish such a result, we shall, I hope, bring the Department within the rule of being self-sustaining, or at least within that limit which will make it self-sustaining if we allow it an appropriation from the Treasury which shall be an equivalent annually for the service that the Government receives from the mails. That I would regard as self-sustaining, because I think we should not call upon any one class of our community to support the system exclusively for the benefit of the Government, as we should not call upon the Government to sustain it for parties outside, for whose benefit primarily it was originally established.

Mr. EDMUNDS. May I ask the Senator, as I dare say he can tell us readily—I do not know myself—what the total amount of the Government postage for the last fiscal year, under this extraordinary stamp contrivance that we have, has amounted to; that is, the paper. Supposing the stamps had represented actual value, what would have been the whole amount of postage paid by the Government in the last fiscal year?

Mr. HAMLIN. I cannot give the Senator the precise figures, but I approximate very closely to it when I say $1,400,000.

Mr. EDMUNDS. Now, can the Senator tell me, as I have no doubt he can, (because I am sure he does not understand that I am criticising the committee; I am only making general observations,) how much the difference between receipts and expenditures of the Post-Office Department has been in the last fiscal year; and then, secondly, how much it was in the year before? so as to show to the Senate whether the difference between income and expenditures is increasing or diminishing, taking the last two fiscal years for comparison.

Mr. HAMLIN. I must reply again that I cannot give the precise figures, but I will give them very nearly. The deficiency of the Post-Office Department the year preceding the last fiscal year was in round numbers about $5,000,000; the last year about $6,000,000. The Postmaster-General tells us that under the existing arrangement of the Department for the ensuing year it will be about $8,000,000. I think at the proper time, when I shall ask them to make such changes in the law as the committee believe to be desirable, I shall be able to demonstrate to the Senate that under existing laws our deficiency for the ensuing year will exceed $10,000,000. The Postmaster-General estimates it at about $8,000,000; it may be a few thousand dollars more or less; I do not recollect; but I am approximately accurate.

Mr. EDMUNDS. The substance of it is that regularly we have what an ancient Commissioner of Agriculture used to call "a most gratifying increase of expenses over receipts." That seems to be the substance of it.

Mr. HAMLIN. That is so.

Mr. EDMUNDS. And what I wish to get at is how far that constant increasing drain on the Treasury is attributable to the enormous extension of new post-routes. Can the Senator give us any information upon that topic?

Mr. HAMLIN. That is utterly impossible. It would be a very great labor to analyze the subject so that I could give a specific reply. I do not think they know at the Post-Office Department. It is undoubtedly true that in the sparsely-settled portions of the country long routes are established over which the mail is transmitted from which we receive very slight revenues; but I think the Senator from Vermont will agree with me that the hardy pioneer who goes into the forest or on to the prairies has a right to ask for mails, and we are bound to extend to him, the frontierman, reasonable mail facilities. There is no process in the world by which you can do that if you shall require every route to be anything like self-sustaining.

Mr. DAWES. I would inquire of the chairman of the committee if, in the book-keeping of the Post-Office Department, the amount which the Government pays for its own postage enters into the expenses?

Mr. HAMLIN. It does not enter in.

Mr. DAWES. Then postage charged to the Government is in addition to the expenditures?

Mr. HAMLIN. I remarked a moment ago that the Postmaster-General had stated that the deficiency for the ensuing year would be $8,000,000, and that I thought I should be able to satisfy the Senate at the proper time that the deficiency would probably be $10,000,000; and I propose to do it by showing that the Postmaster-General in his $8,000,000 had not included a million and a half at least which the Government ought to pay, and will pay, and which should be added to this $8,000,000; and that and one other item will make the deficiency for the ensuing year, I think, $10,000,000.

Mr. DAWES. I would like to inquire of the chairman of the committee if he has the data from which he can state whether there would be a penny's greater charge on the mails if the Government postage went free; if he has any idea that it would cost one penny more to carry the mail if the Government postage was abolished and its matter went free?

Mr. SARGENT addressed the Chair.

Mr. EDMUNDS. I had not quite yielded the floor. I merely wish to say, in concluding, as I hope, what I have to say about this bill, that I am as much in favor of the hardy pioneer as my friend from Maine is; I consider myself to be one of that class; but when I look at this bill I find that the hardy pioneer lives in Maryland, and in Massachusetts, and, I dare say, in Vermont. I do not know how the bill is arranged, whether alphabetically or not. I do not see Vermont, but it is usually in.

Mr. HAMLIN. It is in the bill I suppose.

Mr. EDMUNDS. I will not undertake to make capital for my State; but the hardy pioneer lives in Illinois, and in Indiana, and in Georgia, in Pennsylvania, and so on. Therefore I do not think that this can be considered as a bill devoted chiefly to the interests of the hardy pioneer. It is undoubtedly true that all the citizens of this country, whether they are pioneers or what they may be, are entitled to fair and equal privileges under the law; but it does not follow because I choose to go and set up a camp for fishing or shooting in some fastness of the mountains of Vermont or Maine, that all the other people of the United States are to be taxed forthwith in order that I may get my daily papers every morning when I get my breakfast. At least I do not think it does. They are entitled everywhere to what is reasonable undoubtedly; but what is reasonable in a question of this kind depends a good deal upon the condition of the country. If the country is overflowing with wealth and with prosperity, we can give to the citizens of all parts of the country the benefits of the Government, those affirmative benefits of public works, public improvements, and public intercommunication, in a large degree and with more justice and propriety than we can at other times. This is one of the other times. Therefore the question, which I have opened with great diffidence, is, whether this is not the time to say that we will have no further post-routes for this year except in some very special emergency. The Senator says in answer to that, why, you need not vote any compensation to Senators and members of Congress. If it were proposed to vote additional compensation to Senators and members of Congress I should quite agree with him, although he probably knows, as I do, that the present compensation to Senators and members of Congress, with the prices of things in this city, which we can no more control than we can the tides of the sea, does not afford an adequate sum to live upon, if a person, as we are, obliged to stay here more than half the time, has the advantage of having his family and his children with him, whatever he might do if he expatriated himself from his home and left all that was of home behind him. So that is not the point. This is entering upon a new field or an extended field of public service; and what I wish to impress upon the Senate as far as I can is, that in doing that we ought not at this time to go beyond the urgent necessity of each particular case, because, as it appears by the Post-Office reports and transactions, these new routes do very largely every year increase the public expenditure without anything like a corresponding increase of the public receipts. That is all I have to say.

Mr. SARGENT. I think Congress made a great mistake when some years ago it substituted for the cheap method of dispatching Department business the costly one of printing stamps and putting them upon the communications which go out from the Department. By this means, the franking privilege in fact, or the unrestrained use of stamps, is permitted all over the country and to thousands of persons

who never had it before. Under the policy of the old law, a person having a post-office the pay of which was $12 a year had the right to send his letters in regard to his post-office business free. It was a very strong limit on the franking privilege. In any other office the postmaster had to pay his postage. Perhaps I am mistaken in the limit, but it was something thereabouts, applying to a very low grade of post-offices. Under the present system, postage-stamps are sent to every post-office, to Boston, to New York, and to San Francisco, as well as to the little twelve-dollar post-offices, and there is no guarantee that I know of that these stamps are not liberally used for private correspondence. Furthermore, there is an apparent expenditure out of the Treasury of about a million and a half per annum which goes to swell the budget, and goes to show how extravagant Congress is in relation to the expenses of the Government. In fact, ten, fifteen, or twenty-five thousand dollars at the very outside are thrown away because it is used to print a stamp to put upon a document when the document might just as well go with a stroke of the pen. It does not take any more of the time of the clerk to write a name than it does for the clerk to lick a postage-stamp, while the abuse which I refer to of the indiscriminate and improper use of stamps cannot exist in the other offices, because it is only at headquarters that they have a right to use this method of dispatching documents.

And then, again, there is a class of clerks who are compelled to be employed in order to keep the accounts of these postage-stamps. Altogether it is an expensive system. The Government probably is annually paying out of its pocket something about $100,000 to administer this law, which saves the franking privilege, while it is not receiving a dollar's benefit and is probably swindled every day by the unauthorized use of stamps. I think a very decided reform—and I commend it to the Post-Office Committee—would be to abolish this system, so far as the Departments are concerned at any rate, of using stamps. Let us come down to first principles. It would not cost a dollar more to carry the mails without the stamps than with them; the Government would not be compelled to spend a dollar, while it would save all this expense of scales to weigh the mailable matter of the Department, of clerks to affix postage-stamps, of clerks to keep an account of the issue of postage-stamps, and would save the temptation we now extend to every postmaster in the country for the illicit use of stamps. I think it would be a reform to put Senators and Representatives in communication with the people as they were before, under a proper law. Perhaps the law before was abused, but I believe the abuses were magnified; they were caricatured and not fairly stated. I think under a proper law that would restrain abuse we should allow a Senator or Representative to communicate with his constituents, to send them information on their business and the public business, and receive from them their petitions or their requests during the sessions of Congress or at any other time when it might be necessary.

But there are certain ways in which the Government benefits the people, as it seems to me, that justify government, justify its existence. One of these methods is by means of the courts which we keep open at very large expense. We have our judges, our jurors, our marshals, our machinery of justice, bringing of course no revenue to the Government of the United States—an expensive process, but it protects the citizen in his life, in his liberty, in his property. For that reason they are important, and we do not ask the question whether they are a burden on the Treasury or not. We only guard that they shall not become too great a burden.

There are other matters, perhaps even of a more speculative nature, as for instance the Signal Service. If we are rigorously and sternly economical this year and determine to cut off everything which the Government could exist without, we might cut off the Signal Service. Of course there would not be a warning at Cape Hatteras or along the Atlantic cost or on the Gulf of the approach of storms, and we should not see such items we saw the other day in the papers, that a fleet on seeing the storm-signals immediately took refuge, and six hours thereafter a storm burst which unquestionably would have made a great many wrecks among them unless they had received this notice and taken this refuge. Still it can be cut off if we are so economical that we will not try to make the Government a benefit to the people in matters which are not absolutely required for the existence of the Government itself.

There is another branch of the service which has grown up within a few years that perhaps might be cut off on exactly the same principle, but I would not recommend it, and that is the life-saving stations along the Atlantic coast and along the Gulf. I believe they have none on my coast yet, although some exposed points have been legislated for and probably will be provided for during the coming year. Property and life are saved by these means; but the Government can exist without them. They are, however, a benefit to the people. They go right home to the interest of the whole people, and especially of the maritime classes and of merchants who are importing and exporting goods. They are a protection to commerce and the commercial classes and to our marine, and they ought not to be reduced.

In just the same way the postal service is a benefit to the people of the United States. Of course it costs the Treasury, it must cost the Treasury something, and unless we put up the postage probably it will increase perhaps not the percentage it costs, but the actual amount of deficiency will be greater year by year. Nevertheless I do not think it ought to be cut off. The deficiency should be greater now than it was ten years ago because we have eight million more people now than we had then, and they are not gathered simply in cities but they have gone out to form new communities of growing Territories and growing States. They are at a distance from the old methods of communication.

Unquestionably when the South was cut off by the accidents of war the postal service came nearer being self-supporting than it was before or has been since. I believe that during two or three years of the war it was absolutely self-supporting; but the reason was, that a very large territory in the Southwest less thickly populated than the Northern States was cut off, and we did not need to supply it with postal service; but nevertheless this service needs to be kept up, even if it does cost the Treasury something. A man sits down in his office in Burlington, Vermont, or in New York, or in Massachusetts, and writes a letter directed to Brazos, or directed to Montana; he wants that letter to go; perhaps it is an important communication from him to some person who has charge of his business interests there. Upon the speedy transmission of that letter may depend his interests or sales that he may make of property there, or of merchandise to go there; and consequently it is a benefit to the business of the old part of the country as well as to the new part of the country that communication should be kept up.

With reference to the post-routes in this bill, I have not examined them. I notice in my own State some were put in on my motion though they are not creations of new routes, and I call the attention of the chairman of the committee to that fact. For instance, here is one:

From Guadalonpe, Santa Barbara County, via Lompoc, to the town of Santa Barbara in the same county.

That takes the place of another route somewhat longer. The progress of business, the growing up of towns and especially this town of Lompoc, has built up a community at Lompoc overshadowing anything else in its neighborhood, growing up in the last two years with from a thousand to twelve hundred people. This route is consequently shortened by the provision of this bill, and I have no doubt that that is the case with many of the routes which are here named; that is to say, that the growth of the business requires shorter and more direct routes. They build new wagon-roads in the Territories and new States; they make better modes of communication. The original mail service was sent upon natural routes, such routes as they could find along mountain crests or perhaps through valleys unimproved; and by the progress of settlement and the making of better routes they find shorter ones, and consequently they need that the postal service shall be changed; and the Department is extremely technical in this matter. Unless a route is distinctly named in the statute, although it may be a variation from another, they will not accept the variation, though it may be shorter, because they say they cannot let service to run over a route which is not declared by law.

Mr. EDMUNDS. Yes, but is there any instance in this bill in which any post-route is abolished?

Mr. SARGENT. Yes, sir, in effect. There is the one I mentioned from Guadalonpe to Santa Barbara, in my own State, where a shorter route is established.

Mr. EDMUNDS. Will the Senator kindly read the clause which establishes the new route and abolishes the old one?

Mr. SARGENT. It is entirely unnecessary to say so expressly, because it is always done.

Mr. EDMUNDS. Well, let me——

Mr. SARGENT. I did not report the bill and do not care to be catechised about it. I am stating a fact within my own knowledge.

Mr. EDMUNDS. Then I thought the Senator would be willing to be catechised.

Mr. SARGENT. I am stating a fact within my own knowledge and stating it clearly, too clearly to be misunderstood. I stated that this route to which I have reference, which is in the bill at my request, is a substitution in fact of a short route for a long one, cutting off I think some fifteen miles. The two roads run not directly parallel, but within a few miles of each other, the shorter one cutting off elbows, the new route taking the place of the old. My observation in the Post-Office Department is that this is the uniform fact.

There is another fact in reference to this bill. The Post-Office Department rules that there are no post-routes except those that are named in the Revised Statutes or in laws that have been passed since the Revised Statutes; but it was found on examination of the Revised Statutes that many routes which are old, which have been run for years, which are as indispensable as any route in any of the old States, (and some of them are in the old States,) were cut off by the Revised Statutes simply because they were not named. The effect of their ruling is to cut off all those routes, and the consequence would be, of course, a very great derangement of public business. My understanding of this bill is that it corrects a great many of these errors in the Revised Statutes. The chairman asserts that the routes which are liable to be cut off for want of being named in the Revised Statutes are replaced in this bill; and consequently the bill ought to pass.

It is entirely optional with the Post-Office Department whether service shall be put on any of these routes which are new. I contend, however, that it is an absolute necessity, and that it is not merely an advantage to the States in the West or Southwest, but it is an advantage to the old States to have their letters carried. Those

who live in the old States and in overgrown cities enjoy all the luxury of the Post-Office Department; they can sit at their breakfast-table and have the postman bring their letters at their breakfasts, and their daily papers and their magazines, or any merchandise that may be sent to them by mail—the eggs, if they please, that they eat at the breakfast-table; they can at their lunch-table have the same thing served up to them, and so at their office during the day and at their houses two or three times a day, as regularly as a telegram is sent from the telegraph office. I think they are not the ones to complain and to begrudge the service which is for the benefit of the more sparsely settled States and Territories, where none of these luxuries are enjoyed. I hold that it is the right of our citizens, wherever they collect into a community—not a mere place for fishing and for hunting, but a community of five hundred or one thousand souls in the new States or Territories—to have rendered to them at least their weekly service. It is the method by which the Government heretofore has treated this matter; it is a wise one; and if it does cost something to the Treasury, it is not more true of it than it is of the Signal-Service, or of the life-saving service, or of the propagation of fishes, or the maintenance of courts, or any of those other matters which are a charge upon the Treasury and bring no revenue to it whatever.

Mr. WINDOM. Mr. President——

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. HAMLIN. I hope we may be allowed, with the consent of the Senator from Indiana, a little while to finish this bill.

Mr. MORTON. If this bill can be disposed of very shortly, say in the course of fifteen or twenty minutes, I shall have no objection; but the other bill has been hanging a good while, and I hope to see it finished.

Mr. WINDOM. I do not desire to take more than one or two minutes——

Mr. MORTON. I will let this bill go on a little while.

Mr. WINDOM. I merely wish to say that in stating the deficiencies of the Post-Office Department, I think there are two things that should be taken into the account, one of which has not been mentioned here to-day. The Senator from California mentions the fact that the repeal of the franking privilege and the printing of stamps and furnishing them to the Departments makes an apparent additional cost of a million and a half or about that. In addition to that, also, it should be stated, I think, that before the repeal of the franking privilege there was a permanent appropriation of over $700,000, or perhaps exactly that sum, which never entered into the appropriation bill, which never swelled the apparent deficiency at all; so that putting the two items together here are nearly two and a half million dollars of an apparent increase which is no real increase in the service.

So far as the opposition to this present bill is concerned, I think that it is the wrong one to economize on. Perhaps my views of that question may differ somewhat from those of the Senator from Vermont on account of our different positions. If it were not well known that the Senator from Vermont is economical on all occasions, it might possibly be supposed that his zeal in this case for economy was based somewhat on the principles of the individual who during the war was quite willing that all his wife's relations should be drafted. It so turns out that, while every other State of the Union has some post-route in this bill, the State of Vermont has none. I do not suspect that the zeal of the Senator from Vermont has been inspired by that fact; but if it were not well known that he is always for economy, it might possibly be supposed that it was his wife's relations he desired should go to the war rather than his own.

Mr. HAMLIN. There is an error in the bill which I think may be typographical and yet I want to be sure about it. Lines 434, 435, and 436 on page 19 should be transposed. They describe a route in Missouri; it should be a route in Illinois. Those words should be transposed to follow line 191.

The PRESIDENT *pro tempore*. The transposition will be made.

Mr. HAMLIN. I wish to say one word and only one word in reference to the suggestiou of the Senator from California, and that is as to the matter of furnishing stamps for the use of the Government. The Committee on Post-Offices and Post-Roads are considering that very subject, and I am happy to say that I concur most cheerfully with the suggestion made by the Senator from California that we want the use of no Government stamps; that whatever may belong to the Government, whatever they may have to transmit in the mail, should bear the distinguishing mark of the Department from which it goes, and that is all. Then at the end of the year I hold that the Government should make an annual appropriation which would be equivalent to payment for all they have occasion to use the mail service.

My friend from Massachusetts put the question directly to me, if the mail matter of the Government were to be transmitted through the mail without stamps, whether it would cost any more; or, in other words, if it adds anything to the mail service. I answer yes, it does. Nine-fifteenths of our service is predicated upon the weight of the mail; consequently nine-fifteenths of that weight would have to be paid for in increased amounts that are paid to your railroads. I think of the other six-fifteenths you would have about the same thing, because over any route now performed by coach service the man who makes the bid does inquire as to the amount of mail matter that he will usually have to carry, and he makes the weight of the mail one element of his contract.

I wish to say that we shall at the proper time submit a series of measures for the consideration of the Senate, and if there is that earnestness which is manifested by the Senator from Vermont to correct the existing, I will not say evils, but the existing condition of things in the Department and to bring it back toward being self-sustaining, the Senate shall have measures upon which they can vote to accomplish that result.

Mr. SHERMAN. I should like to ask my friend from Vermont a question before he takes his seat. Do I understand him that the post-route bill or the insertion of a post-route in this bill makes it mandatory upon the Postmaster-General to establish service over that route?

Mr. HAMLIN. Certainly not.

Mr. SHERMAN. Now I wish to call attention to the fact that the language of the Revised Statutes changes what I always understood to be the established law. I have always understood that inserting a post-route in the post-route bill did not make it mandatory to put any kind of service on it; that it was not to be done unless the Postmaster-General saw proper. The Revised Statutes, as we have them before us, change, in my judgment, that law. I will read the section. In the first place, after making certain railroads and other public lines of communication post-routes, the section says expressly:

> The Postmaster-General shall provide for carrying the mail on all post-roads established by law as often as he, having due regard to productiveness and other circumstances, may think proper.

He is bound under the law therefore to carry the mail over all post-routes, and the only thing left to his discretion is how often. The section is cited as derived from an act of 1872. It certainly is not the law as I understood it to be; and I call the attention of the Senator from Maine to it, so that he may look into it.

Mr. PADDOCK. It is certainly not the practice of the Department.

Mr. HAMLIN. I will be frank in saying that I was not aware of the phraseology of that section; but they do not give that construction to it at the Department. They give the construction to that law, if that is the one under which they act, that there is a discretion within the Postmaster-General to establish service only upon routes where his judgment shall determine it to be right and proper.

Mr. SHERMAN. I have no doubt that is the law; but by the Revised Statutes, which are now the only law on the subject, and which the Postmaster-General, if his attention is called to the subject, is bound to obey, he is bound to put on every post-route service of some kind and for some time; and the only discretion he has is how often. I call attention to it, so that the Senator may in the first postal bill where he thinks it would be proper and pertinent see that it is made right.

Mr. PADDOCK. I desire to say to the Senator from Ohio that in my own State I know the practice of the Department is different; because during the past season, in the interest of economy, the Department has withdrawn service altogether on several routes.

Mr. SHERMAN. Still the law is mandatory; and all I want to do is to correct the law according to the practice.

Mr. CAMERON, of Wisconsin. I wish to submit an amendment, to strike out lines 921 and 922, on page 38. The route intended to be established by lines 921 and 922, on page 38, is provided for in lines 903 and 904.

Mr. HAMLIN. That is an error of the House. One of them should be stricken out.

Mr. CAMERON, of Wisconsin. I move to strike out lines 921 and 922.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

It was ordered that the amendments be engrossed, and the bill read a third time.

The bill was read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. McDONALD, from the Committee on Pensions, to whom was referred the bill (S. No. 491) granting a pension to Eliza S. Manchester, asked to be discharged from its further consideration; which was agreed to.

Mr. CONKLING, from the Committee on Commerce, to whom was referred the bill (H. R. No. 1796) to grant an American register to the Hawaiian bark Arctic, reported adversely thereon, and the bill was postponed indefinitely.

Mr. BOUTWELL, from the Committee on the Revision of the Laws, submitted a report, accompanied by a bill (S. No. 649) to perfect the revision of the statutes of the United States; which was read twice by its title.

The report was ordered to be printed; and, on motion of Mr. BOUTWELL, the bill was recommitted to the Committee on the Revision of the Laws.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the bill (S. No. 563) to provide for the sale of extra copies of public documents and for the distribution of the regular official editions thereof, reported it with amendments.

EULOGIES ON SENATOR O. S. FERRY.

Mr. ANTHONY. The Committee on Printing, to whom was referred a concurrent resolution for printing 12,000 copies of the eulogies delivered in the two Houses of Congress upon the late Orris S. Ferry,

late United States Senator from Connecticut, have directed me to report back the same with an amendment. The amendment makes an appropriation, and therefore the form of the concurrent resolution should be altered to a bill, which I will thank the Clerk to do.

The PRESIDENT *pro tempore*. That change will be made.

Mr. ANTHONY. The resolution calls for a portrait of Mr. Ferry, and directs the Secretary of the Treasury to have it engraved and printed. A previous resolution ordered a portrait of Mr. Wilson in the same way; but there is no appropriation for carrying on the Bureau of Printing and Engraving, and the superintendent of that branch of the service is unable to execute the order of Congress unless there be an appropriation, and this makes an appropriation therefor.

In offering this bill I desire to state that the practice of publishing the eulogies on members of Congress, with portraits, has become so well established, that it would be hardly consonant with the feelings of any of the Senators to break from it unless by some general rule applicable to the future; certainly we would not wish to depart from it in the case of Mr. Ferry, a man for whom we all had the highest admiration and respect. I understand there will be another proposition like this coming from the other House, and after that it is the opinion of the committee that the practice should be abandoned. It was abandoned some ten or twelve years ago, but has been gradually resumed.

Mr. STEVENSON. How long has it been the practice? I have known cases since I have been in the Senate where it has not been done.

Mr. ANTHONY. It was the practice when I first came to the Senate, and was soon after abandoned; but it has been resumed in the last seven or eight years, so that the practice is now pretty uniform.

Mr. STEVENSON. Several cases have occurred in the Senate since I have been here. I can understand an exception in the case of a President or Vice-President of the United States; perhaps that might properly be regarded as an exception: but I had supposed the rule had not been re-established of printing portraits of deceased Senators.

Mr. ANTHONY. There was a portrait of Mr. Sumner and a portrait of Mr. Fessenden, and we all supposed the Senate would not like to omit any mark of respect to Mr. Ferry which had been shown to those who had preceded him. It was so in Mr. Buckingham's case also.

Mr. STEVENSON. When my late colleague, Mr. Garrett Davis, died, there was no portrait of him published, and I was informed that the custom had been abandoned.

Mr. INGALLS. Does this contemplate the engraving of a new plate, or printing the impression from one already existing?

Mr. ANTHONY. Engraving a new plate.

Mr. SHERMAN. I hope the Senator from Rhode Island will at once introduce a resolution that hereafter, so that it may not apply to any case which has occurred, this habit of publishing obituary notices of this kind shall be discontinued. It is growing into an abuse. It was abandoned at one time, as I remember very well; I think a resolution was passed, or at all events an agreement was come to, that we would not publish such notices in this form, but let them go into the CONGRESSIONAL RECORD in the permanent record of our proceedings. It seems to me the practice of publishing of 12,000 copies of eulogies on a Senator ought to be discontinued. After this case has passed, we ought rigidly to adhere to the rule.

Mr. ANTHONY. And there is one other case of a member of the House, who is already deceased, in whose case a resolution will probably come over.

Mr. SHERMAN. As to those who may die hereafter we ought to agree.

Mr. ANTHONY. I think the practice to which the Senator from Kentucky refers was resumed in the case of Mr. Douglas, of Illinois, as to printing eulogies, and has been continued ever since.

The bill (S. No. 644) to authorize the printing and distribution of the eulogies delivered in Congress on announcement of the death of Orris S. Ferry, a Senator from the State of Connecticut, was read three times, and passed.

HARVEY & LIVESEY.

Mr. HOWE. The other day I entered a motion to reconsider the vote by which the Senate agreed to the report of the Committee on Claims upon the petition of Harvey & Livesey, praying compensation for labor, materials, and damage under contract for masonry-work to piers and abutments for bridge at Rock Island, June 1, 1869.

I ask now that the Senate will agree to that reconsideration, and recommit the petition to the Committee on Claims.

Mr. WRIGHT. I understand the Senator from West Virginia who, I believe, made the report makes no objection to the recommittal.

Mr. CAPERTON. No, sir.

Mr. HOWE. I spoke to the Senator from West Virginia.

Mr. WRIGHT. Perhaps there is no fair objection.

The motion to recommit was agreed to.

BILLS INTRODUCED.

Mr. BOGY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 645) for the relief of the legal representatives of Charles M. McCord; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 646) to regulate the practice in circuit courts upon decrees of final injunction in patent cases; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 647) for the more effectual prevention of cruelty to animals in the District of Columbia; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 648) to provide for changes in alleys in the city of Washington by assent of parties interested; which was read twice by its title.

Mr. MORTON. I introduce the bill by request. I am not advised of the merits of the bill, but I move to have it referred to the Committee on the District of Columbia.

The motion was agreed to.

RETIREMENT OF A JUDGE.

Mr. EDMUNDS. I ask unanimous consent, before taking up the special order, to call up the bill providing for the relief of the judge of the western district of Pennsylvania. It is a bill that will excite, I suppose, no discussion, and the public interest seems to require that this judge should be allowed to resign at the earliest moment possible, as he is incapacitated for business.

There being no objection, the bill (H. R. No. 219) to permit the judge of the district court of the United States for the western district of Pennsylvania to retire was considered as in Committee of the Whole. It extends the provisions of section 714 of the Revised Statutes to Hon. Wilson McCandless, judge of the district court of the United States for the western district of Pennsylvania, in consequence of his physical disability, notwithstanding he has not attained the age of seventy years.

The Committee on the Judiciary proposed to amend the bill by adding the following:

Provided, That said McCandless shall resign his office within six months next after the passage of this act.

The amendment was agreed to.

Mr. EDMUNDS. I move to strike out the words "the honorable." That term is never inserted in bills. This gentleman is an honorable gentleman.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. G. M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 192) authorizing the sale of certain lands in Vincennes, Indiana;

A bill (H. R. No. 361) to reduce the area of the military reservation of Fort Laramie, Wyoming Territory;

A bill (H. R. No. 1816) to repeal section 1218 of the Revised Statutes of the United States;

A bill (H. R. No. 1297) prohibiting the cutting of timber on any Indian reservation or lands to which the Indian title or right of occupancy has not been extinguished, and for other purposes;

A bill (H. R. No. 2121) to authorize commissioned officers of the Army to make deposits under the act of May 15, 1872; and

A bill (H. R. No. 2821) to supply a deficiency in the appropriation for the manufacture of postal cards for the fiscal year ending June 30, 1876.

The message also announced that the House had passed the bill (S. No. 252) donating the military road running from Astoria, Oregon, to Salem, in that State, to the several counties through which it passes.

The message further announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 810) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1877, agreed to the conference asked by the Senate on the disagreeing votes of the Houses thereon, and had appointed Mr. ROBERT HAMILTON of New Jersey, Mr. SAMUEL J. RANDALL of Pennsylvania, and Mr. WILLIAM A. WHEELER of New York managers at the same on its part.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 359) to incorporate the Washington City Inebriate Asylum, in the District of Columbia; and it was thereupon signed by the President *pro tempore*.

FIRST TROOP, PHILADELPHIA CITY CAVALRY.

Mr. CAMERON, of Pennsylvania. I ask the Senate to take up a House bill, which will take but a moment. It is the bill (H. R. No. 2012) to authorize the sale of certain ordnance stores to the First Troop, Philadelphia City Cavalry. I will read the bill, and I think there will be no objection to it. It provides:

That the Secretary of War be, and he is hereby, authorized to sell to the First Troop, Philadelphia City Cavalry, at the cost price thereof to the United States

one hundred new Springfield carbines, caliber forty-five hundredths, with such accouterments, equipments, and ammunition for the same as may be required, the money received therefor to be passed on the books of the Treasury to the current appropriations for the Ordnance Department of the Army.

I will say that the First City Troop of Philadelphia was organized in the early part of the Revolution and has existed ever since. It was the body-guard of General Washington and was with him in his fights in the Jerseys. It has been kept up continually, and the city of Philadelphia has great pride in it. It was originally composed of the most distinguished men of that city, and the desire has been ever since to make every one of its members worthy to fill a much higher place than he does in the company. They are all gentlemen. They never interfere with anybody, but do their duty faithfully. At the beginning of the Mexican war they sent their captain out with a company to Mexico. At the beginning of the last war the company volunteered to serve a couple of months on the Virginia border, and on all occasions they are always ready to do that which a gentleman will do, his duty and more than his duty. They ask for no favor. They propose to pay the price these arms cost the Government and turn the money in before they get the carbines.

Mr. LOGAN. I do not want to make any contest about the bill, but I suggest that I do not think it has been considered by the Military Committee. I do not know but that there may be great merit in it; but I think it ought to be looked into, because there has been an application made for arms to be furnished to various companies in Charleston, South Carolina, and divers and sundry companies all over the country, and in the Military Committee these applications have had some consideration and we have been inclined to think that the arms furnished to the different States on the requisition of the governor were sufficient and that we could not set the precedent allowing arms to be given out in this way. This is a different case; it is for a sale of the arms; but the same request may be made by a great many persons all over the country in order to get arms very cheap. It strikes me it is a matter that had better be considered by the committee. I think the bill ought to go to the committee.

Mr. CAMERON, of Pennsylvania. I have no objection to its going to the committee, but it seems to me that this would perhaps be a good precedent. It is the only case where any company or association of persons have offered to pay for what they get. These gentlemen will pay the full cost of the carbines and pay the cost of their transportation from the arsenal to Philadelphia, and I think it would be a good precedent to set before other people who come and ask for arms, for then we could say "This company here got arms, to be sure, but they have paid for them, and if you will do so we will allow you the same favor."

Mr. LOGAN. I do not know that I have any opposition to the bill, but I would rather that it should go to the committee.

Mr. CAMERON, of Pennsylvania. Then I will not persist.

Mr. THURMAN. It occurs to me that all the security we want is that the arms should be kept in this country to be used by our own citizens. If they are kept for that purpose, we know very well that Springfield muskets or Springfield rifles will not be used against us, but they will be kept for the use of the militia of the United States, in whose hands they will be when they are wanted. Therefore, where there is no danger of the arms being made a matter of merchandise and sold abroad, where they are to remain in the hands of our own citizens, I do not see any objection to our furnishing all that anybody will buy. That is the way it strikes me. These arms will certainly be in the hands of honorable gentlemen who will keep them for the purpose for which they receive them and not make merchandise of them. I really do not see any necessity for us committing the bill, and no reason why it should not pass at once.

The PRESIDENT *pro tempore*. Is there objection to referring the bill to the committee?

Mr. LOGAN. I made no objection to the bill, but I must certainly disagree with my friend from Ohio. If the Government of the United States once engages in the business of making arms for the citizens, I only say it is a new business. We shall have to keep a great many officers engaged in the business at a considerable salary. The salaries of the officers and employés are not considered in making out the cost, nor are the buildings and machinery. So far as the principle is concerned I differ with the Senator from Ohio. I think it is entirely incorrect, and that we ought not to manufacture arms for the purpose of selling them at cost price. If we do, we go to great expense without any benefit derived by the Government whatever.

But I am not saying this in opposition to the bill. The bill may be the proper thing to do under the circumstance, and I make no opposition; I merely ask its reference that it may be considered.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Military Affairs if there be no objection.

COUNTING OF ELECTORAL VOTES.

The Senate resumed the consideration of the bill (S. No. 1) to provide for and regulate the counting of votes for President and Vice-President and the decision of questions arising thereon, the pending question being on the passage of the bill.

Mr. EATON. Mr. President——

Mr. BURNSIDE. I beg to ask the Senator from Connecticut to yield the floor for a few moments. I move a reconsideration of the vote by which this bill was ordered to a third reading, with a view to offer an amendment.

Mr. MORTON. If I understand the purpose the Senator from Rhode Island has in view, he proposes to offer an amendment. It cannot be done without a reconsideration; but, as the bill has been pending before the Senate for a long time, I suggest to the Senator that he have his amendment read for information, and he can speak to it in the present condition of the bill, and let the vote on reconsideration then be the test on his amendment. That will answer his purpose.

Mr. BURNSIDE. I am quite willing to take that course.

Mr. BAYARD. I hope the motion of the honorable Senator from Rhode Island will prevail. I was not aware that the bill had passed to a third reading. I had intended to offer in the Senate the amendment of the Senator from Tennessee, [Mr. COOPER,] the vote upon which was taken in his and my temporary absence from the Senate. Unexpectedly the vote was reached and taken, and I did desire to submit to the Senate a few remarks in favor of the amendment of the Senator from Tennessee. Now, as the bill has passed to a third reading, unless the reconsideration is ordered by the Senate, we shall be excluded from offering amendments; and yet I did desire that that amendment should be voted upon by a fuller Senate than those who were present at the time the vote was reached. I trust, therefore, understanding the motion of the Senator from Rhode Island to be for the reconsideration of the vote by which the bill passed to a third reading, it will prevail, and that no objection will be offered to it.

The PRESIDENT *pro tempore*. Is there objection?

Mr. MORTON. I withdraw the objection.

The PRESIDENT *pro tempore*. The Chair hears no objection. The motion to order the bill to a third reading is reconsidered, and the bill is now open to amendment.

Mr. BURNSIDE. I now offer my amendment. There is a misprint; the amendment is intended to take the place of the second section of the bill instead of the third as printed.

The Chief Clerk read the amendment; which is to strike out all of section 2 and insert in lieu thereof—

That if more than one return shall be received by the President of the Senate from a State, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, he shall immediately make a report thereof to the Chief Justice of the Supreme Court of the United States, who shall at once cause the said Supreme Court to proceed to examine as to who are the legal electors of said State, and shall have power to send for persons and papers; and the said Chief Justice shall, on or before the last Tuesday in January next succeeding the meeting of the electors of President and Vice-President, report to the President of the Senate which of the said electors were legally elected; and the returns sent by the electors so designated shall, if in all other respects they are legal, be counted before the two Houses.

Mr. BURNSIDE. Mr. President, it was my intention to offer an amendment covering the points embraced in the remarks I submitted the day before yesterday; but, inasmuch as a constitutional amendment will doubtless be adopted before the presidential election of 1880, I have decided to confine my amendment to the case of two sets of returns from the same State.

I am aware that there may be a supposed constitutional objection to this, but I think in an emergency like this, if it is possible for Congress to give the Constitution a liberal construction which will enable us to avoid the discord that may arise from double sets of returns from any single State at the next election, we ought to do it. Take, for instance, the case of Louisiana. If the electoral votes should be so equally divided as to make the return from that State decide the election, it is clear to me, and must be clear to every Senator here, that the two Houses would disagree upon that subject. It is clear to me that the present House of Representatives, the same House which is to act when we count the electoral votes at the next presidential election, would declare the McEnery government the legal government of the State of Louisiana. We all know that the Senate would declare the Kellogg government the legal government because it has already passed a resolution to that effect.

Now, Mr. President, is it at all reasonable to suppose that either party would be satisfied with the result in such a case when the electoral votes are counted next February? Does any Senator believe that there would not be great discord in the country if that state of affairs should arise? Yet under this bill it may arise. I hold it to be the duty of Congress to pass some law or make some joint rule that will avert the difficulty.

The objection that my amendment is not constitutional does not strike me with the same force that it does many of the Senators with whom I have talked. I do not consider this a judicial question; I do not consider it a "case" within the meaning of the Constitution. It is simply a call from Congress on the Supreme Court to perform the reasonable duty of instructing them as to which is the legal Government and which set of electors were legally elected in a State. If it is a "case" at all, it is a "case" in which a State is interested, and therefore the Supreme Court has original jurisdiction.

I may say many things that seem absurd to the legal gentlemen in the Senate; but I am striving to get at some practical means of avoiding a very serious difficulty which may arise at the counting of the next electoral votes. If we cannot refer this question directly to the Supreme Court as a court, can we not refer it to it as a board of arbitration? Can they not resolve themselves into such a board for the time being? Is it not their duty as citizens of the United States and as officers of the United States and officers of the highest court of the land, one of the co-ordinate branches of the Government, to perform this work for Congress?

It is clear to me, and must be clear to the mind of every Senator here, that the people of the United States would bow to a decision of that kind without complaint. They are accustomed to regard the decisions of the Supreme Court as of great authority; they are accustomed to respect them, whether they are for or against them. There is no mode I can think of that would give such universal satisfaction to the whole people.

Another thing is very clear to me, that it was never the intention of the framers of the Constitution to make Congress the judge of the qualifications of the electors. If it had been so, the Constitution would have distinctly stated it. It makes each House the judge of the qualifications of its own members in express terms, but it does not imply even that Congress has any right to judge of the qualifications of the electors.

The framers of the Constitution probably never expected a difficulty of the kind we are discussing would arise. It is an unforeseen trouble which is presented to us, and we as representatives of the people are bound to grapple it in such a way as to avoid discord and danger.

I offer this amendment in the best possible spirit. If it does not prevail, I shall vote for the bill as it stands; but I see a gap, and a very wide one, which in my opinion should be filled. I agree entirely with the Senator from Massachusetts [Mr. DAWES] that, as it stands, with the exception of creating a method by which we can have an orderly meeting of the two Houses in case the returns are all regular, there is very little in it.

I am much obliged to the Senator from Connecticut for yielding me the floor.

Mr. EATON. I had supposed, Mr. President, that all amendments that were to be offered to the bill had been offered and disposed of; but now comes in this new amendment, and before I proceed to the discussion of the bill, I will say a word or two in regard to the amendment which has been offered by my distinguished friend from Rhode Island, [Mr. BURNSIDE.]

In my view of the Constitution of the United States it is not competent for Congress to legislate on this subject, to throw into any other Department of Government, or to give to any other man in the world or to any other set of men in the world the power to decide this question. By the terms of the Constitution of the United States it belongs to the Congress of the United States to decide—to no other power, no other body, no other man. I beg leave to suggest to my distinguished friend that by an amendment to the Constitution of the United States, passed by two-thirds of each House of Congress and ratified by three-fourths of the States of the Union, he could arrive at the terms of his proposition, and, in my judgment, in no other manner. Therefore, Mr. President, I shall vote against that amendment.

Mr. BAYARD. With the permission of the Senator from Connecticut I will offer now an amendment, the amendment originally proposed by the Senator from Tennessee, [Mr. COOPER.]

The PRESIDENT *pro tempore*. The amendment will be read for information.

The CHIEF CLERK. At the end of the second section it is proposed to insert:

> And that if the two Houses do not agree as to which return shall be counted, then that vote shall be counted which the House of Representatives, voting by States in the manner provided by the Constitution when the election devolves upon the House, shall decide to be the true and valid return.

Mr. EATON. Mr. President, the amendment which has just been offered by the Senator from Delaware I have no question as to the constitutionality of. If the House and Senate see fit to legislate on this question, it is competent for them to adopt an amendment of that character in accordance with the Constitution of the United States, as I understand that instrument. Objection was made the other day to this amendment, or one of a similar character, by the honorable Senator from Indiana [Mr. MORTON] because it gave to the States too much power; because it gave to the small States a power which they ought not to have under our Government. With all that argument I take issue. I shall not vote for this amendment; but the argument against it in that regard, in my judgment, is not sound. Sir, by the terms of the Constitution of the United States, under certain circumstances the States hold that power, and I know of no reason why Connecticut and Delaware and New Hampshire and Massachusetts, States belonging to the old thirteen, should not exercise the same power with Indiana and Ohio and Missouri, children of the old thirteen. But I do not care to follow that line of argument, because I intend to vote against the amendment.

As I said yesterday, so I again say to-day, that the remarks which I shall submit to the Senate will not be in any degree tinctured by an exhibition of party feeling. My views of the importance of the subject, for upon it rests the peace of the whole Federal Union, the peace and well-being of the entire people of this broad land, I trust will prevent from allowing any partisan feeling to appear.

It may not be unimportant to allude to the great contest in 1801, which contest discovered to the people of the Union that there was a great and lamentable defect in the Constitution of the United States. By the very means of that defect in the Constitution, the wishes of a large majority of the people of the United States came very near being defeated; an individual came very near being elected President of the United States who did not receive in fact one single vote within the limits of the Union for that high office. Thomas Jefferson and Aaron Burr were the candidates of the then republican party for the offices of President and Vice-President. They received an equal number of votes, and by the terms of the Constitution as originally framed neither of them was elected President because a majority was necessary in order to constitute either of them President of the United States, and so the election was devolved on the House of Representatives. For many days a great contest went on; public feeling was aroused all over the country; but I am happy to be able to say here in 1876 that there were in 1801 honest public men, as I believe there are in 1876 honest public men. There were on that occasion men who trod under foot their political views, and one of them, a distinguished Representative from Delaware, the grandfather of one of our own number, a federalist of great renown, did not press the vote of his State, and thus Mr. Jefferson was elected to the office that the people designed him for. There were then, as there are to-day, public men in whom the people had confidence without regard to their political opinions. Mr. Jefferson was elected. Mr. Burr, of course, by the terms of the Constitution was elected to the second office. An amendment to the Constitution was necessary that there might not again be a difficulty of that character. The Constitution was amended, and from that day to 1865 the Constitution answered a proper and a beneficent purpose. In 1865 a little tinkering was thought necessary to be done and legislative action was had upon this very subject, and perhaps in another part of my remarks I may say more in regard to the unwiseness, the absurdity, the foolishness of that action. I take occasion now to say that we had better not again be guilty of any such absurdity or foolishness of that character.

Sir, there are two questions which each Senator ought to answer to himself. First, have we the power to legislate on this subject? Under a clause of the Constitution, I have no doubt that where the instrument is not plain in its terms, where its implied powers are not thoroughly understood and agreed upon, it is within the province of Congress to legislate upon the subject. Therefore in my judgment, as in the opinion of other Senators, legislation may be had when necessary to carry out the implied powers of the Constitution; but I desire to impress it upon every Senator in this body that all such legislation should be avoided, if possible. It is a dangerous power to exercise even when you possess it under the Constitution.

It becomes necessary, Mr. President, that we should look at the Constitution, because the second question to which I address myself is this: Is there any necessity for legislation? I desire to call the attention of the Senate in this connection to a clause in the Constitution which has before been read:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

"The President of the Senate shall open all the certificates." That is his duty; that devolves upon him by the Constitution of the United States; and there is the end of his duty. So far as the Constitution is concerned, he opens the certificates, "and the votes shall then be counted." The duties of the President of the Senate or of the Vice-President of the United States are defined by the Constitution. There are other duties, and I shall have occasion, if time serves me, to speak at length upon the duties which devolve upon the Senate and House of Representatives; but right here I desire to speak of the operation of that law, that constitutional law, as it sufficed to carry this people from 1801 to 1865. For more than sixty years the people of the United States went on and elected their electors of President and Vice-President; the certificates were sent to the Vice-President of the United States, the presiding officer of the Senate, and there never was any trouble, there never was any difficulty, there never was even (and that is the trouble we find to-day) discussion enough upon that very clause of the Constitution for the lawyers of the land to form their opinions; and we come now to the discussion of that question to-day, when, in my judgment, it has not ever been thoroughly discussed before, because there has been no necessity for the discussion.

But, sir, in 1865—and why I do not know; why I cannot conceive; why I have never heard anybody say—honorable gentlemen, acting under doubtless a high sense of duty, passed a certain rule which was called the twenty-second joint rule. Why they passed it nobody has ventured here to say; perhaps I shall learn by and by. There never had been any difficulty under the Constitution. Right in the throes of war, with a Vice-President occupying the seat which you honor and dignify, sir, of secession sympathies, a candidate himself for the high office of President of the United States, the certificates of the electors were opened according to law, and Lincoln and Hamlin were declared President and Vice-President of the United States. Why the necessity, then, for any such rule as the twenty-second joint rule? When the country was on the very verge of the most destructive civil war ever known to man, this instrument, this Constitution of the United States, controlled, and the personal honor, the personal integrity, of the then Vice-President of the United States forbade him not to do his whole duty, his full duty. Sir, I thank God I have not lost all confidence in the personal honor and the personal integrity of man.

Then why was the twenty-second joint rule adopted? I will not undertake to say that it was adopted for the very purpose of disfranchising a people, but I say it has had the effect. But no matter why, the very fathers of it disown the child. It is no longer the rule. It is repealed. Now, sir, where does the repeal of that rule leave us? That

is the question. One good thing was done when the rule was repealed; but where does that leave us? The repeal of that rule leaves us exactly where we were before the rule was passed. The Constitution of the United States is now the governing power of the Senate and House of Representatives with regard to the election certificates of which I have spoken. The action of the Congress of the United States, or, if gentlemen desire to be technical, the action of the Senate and House of Representatives of the United States, under this clause of the Constitution was for seventy years honest, honorable, upright, just. What business has any man to suppose that it is going to be dishonest and corrupt hereafter? Sir, it is an old saying, and perhaps smacks somewhat of a vulgar saying, to speak well of a bridge that carries you safely over. Now, with this clause of the Constitution which has carried us along for three-quarters of a century why should we find fault to-day?

We are told that it is a dangerous power to be intrusted to a single man, and he a possible candidate. There never was a cause in the world so weak but what its advocates could find reasons, poor ones, not infrequently; but one of the reasons that have been most harped upon here is that this is a dangerous power to place in the hands of one man. Sir, is this question properly understood? I said some minutes ago that the question had not yet been thoroughly discussed by the legal talent of the United States; it has been discussed, but not thoroughly. Does it rest with one man? Not in my judgment would the exercise of the power be dangerous if it did, but I will speak of that in another place; but does it rest with one man? I say no, sir, a thousand times, no; it does not rest with one man. But suppose it does; let us for one moment consider the question from that stand-point. Suppose it does rest in the hands of the Vice-President of the United States or the President *pro tempore* of the Senate. For seventy-five years it has been properly exercised. We have been told on the floor of the Senate that six times within the last seventy-five years Vice-Presidents who have been candidates for re-election or for the Presidency have exercised this power. Six times in the last seventy-five years have candidates exercised this power; and yet the stars have not fallen, no injury has been done to any of the people of this land, and why beg a fight now? Why insist upon it that there is to be corruption hereafter.

Mr. President, one would suppose, I have been almost induced to suppose, that honorable Senators here gravely fear, assuming that the power is in the hands of the President of the Senate, that some time in February next the President of the Senate of the United States will degrade his character and dishonor his high place. Sir, I do not fear it. I deny the power. I say, and shall endeavor to show before I get through, that it is somewhere else; but, assuming the power to be in the Vice-President of the United States, I do not fear it.

But now what is the true intendment of the Constitution? I desire to say, and particularly to my honorable friend from Indiana—for I know his ability and the power with which he grapples with constitutional questions—that for more than sixty years no question was ever raised; and there is the trouble with this whole matter to-day. The votes were opened, the certificates were counted, the election declared; everything went along as smooth as a marriage-bell.

Mr. MORTON. Let me ask my friend if he thinks we ought to wait until after the trouble does occur?

Mr. EATON. No.

Mr. MORTON. I call my friend's attention to the fact that in 1857 in the counting of the votes a question arose which happened to be unimportant because it did not change the result. It was in regard to the counting of the vote of Wisconsin; but the danger that the nation passed through at that time, and avoided simply by the fact that the vote was not important to the final result, was such as to fill every member of both Houses of Congress with alarm, as is shown by the debate that subsequently occurred. Had the result of that election depended on the vote of Wisconsin nobody can tell what might have happened.

Mr. EATON. The Senator from Indiana reads me rightly; I do not wish the horse to be stolen before a lock is put upon the stable door. I do not intend that it shall be stolen. I simply desire to say that in my judgment this question has not yet been thoroughly discussed; I hope it will be by my honorable friend from Indiana before the debate closes upon this bill. In the minds of many men whose opinions are deserving of great respect, among them the honorable Senator from Indiana and my distinguished friend from Ohio, [Mr. THURMAN,] the time has arrived when something ought to be done.

Now, Mr. President, I desire again to look at the clause in the Constitution: "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." By whom? I insist, and I assert without fear of successful contradiction, giving due weight to the argument of my distinguished friend from North Carolina [Mr. MERRIMON] made yesterday, that the votes are counted by the Senate and the House of Representatives, and not by the Vice-President or the presiding officer of the Senate. In my judgment, the Vice-President is the organ of the two Houses, and nothing else. It has never been my fortune, whether good or ill, to be present there as an actor or a spectator when the votes have been counted for President and Vice-President.

Mr. SAULSBURY. If the Senator will allow me, he says the presiding officer of the Senate is the organ of Congress. I wish to propound this question: Is it competent, if the two Houses of Congress see proper, to appoint some other organ for Congress to make known its will, or whether he considers that under the Constitution the President of the Senate is made the organ of the two Houses?

Mr. EATON. Of course he is. It is said by the Constitution that he shall be.

Mr. SAULSBURY. To count?

Mr. EATON. No, to open. Will my friend state the question again?

Mr. SAULSBURY. I understood the Senator to say that the President of the Senate was the organ of the two Houses for the purpose of counting. I do not know whether I understood him correctly. Then I follow the precedent. It has been the practice, I understand, that he does open and announce the vote. I ask the Senator if he thinks it competent for the two Houses of Congress, when assembled, to appoint some other organ for the purpose of counting the votes?

Mr. EATON. They do now. They do it every time they meet. They always do it.

Mr. JOHNSTON. Will the Senator allow me?

Mr. EATON. Certainly, but I would like to answer one first. The Constitution of the United States points out who shall open the certificates. The two Houses appoint counters now. Who are counters? The tellers. Who appoints them? The Senate appoints its teller and the House of Representatives appoints its tellers. Am I wrong? I suppose I am entirely right. The misunderstanding of my distinguished friend from Delaware consisted in this: I said that the President of the Senate was the organ of the two Houses for a certain purpose; he is the organ of the Constitution to open the votes; he is the organ of the two Houses to declare the result after the two Houses have counted. There is no doubt about it in my mind; it is as clear as God's sun. Let me read. For another purpose, I sent for the Globe of 1860–'61, and I will read from page 894. I think I am entirely right. The manner of going into the House, &c., I will not read:

The Vice-President took his seat on the right of the Speaker of the House of Representatives, and presided over the joint convention of the two Houses. The members of the Senate occupied seats provided for them in the area of the hall.

Mr. Trumbull, the teller appointed on the part of the Senate, and Messrs. Phelps and Washburne of Illinois, the two tellers appointed on the part of the House, took their seats at the Clerk's desk.

Mr. JOHNSTON. Tellers appointed by the President or by the Senate?

Mr. EATON. I have said by the Senate or by the House. "The teller appointed on the part of the Senate" is the language and "the two tellers appointed on the part of the House." I have been informed, I will say to my friend from Virginia, by a member of this body who has acted as a teller in the other House, that he was appointed by the House, and the Senate appointed its teller.

The VICE-PRESIDENT then said:—

And this is important—

"The two Houses being assembled, in pursuance of the Constitution, that the votes may be counted and declared for President and Vice-President of the United States for the term commencing on the 4th of March, 1861, it becomes my duty, under the Constitution, to open the certificates of election in the presence of the two Houses of Congress. I now proceed to discharge that duty."

That is all he had.

The VICE-PRESIDENT then proceeded to open and hand to the tellers the votes of the several States for President and Vice-President of the United States, commencing with the State of Maine.

The votes having been opened and counted, the tellers, through Mr. Trumbull, reported the following as the result of the count.

And then follows the result.

Mr. JOHNSTON. When was that?

Mr. EATON. February, 1861. Now, sir, what can be clearer to the mind of any constitutional lawyer than that the duty of the Vice-President is to open the certificates? They are sent to him; he is their custodian. On a certain day he meets the two Houses together in joint convention. He, their presiding officer, opens the certificates; and the Senate and the House of Representatives, through their tellers, count; not he. Sir, I have no doubt on this subject. That is the entire duty of the presiding officer of the Senate; not that, if I am wrong and it is his duty to count, I fear that he will not discharge his duty. I am talking now about what I believe the law is, the organic law of the land. Take the other view of this case. What are we, if we should live until the time arrives, and what are the members the House of Representatives? Witnesses of a pageant; that is all. According to the theory of my friend from Indiana, and I believe also of the distinguished Senator from Ohio, we are simply witnesses of what transpires, got together in the House of Representatives or somewhere else as mere witnesses of a pageant; under, as some Senator observed, a separate organization: the House under its Speaker, the Senate under its President. Our fathers who formed this Constitution had been at town-meetings. They were known and are now known all through New England. It has been my good fortune to preside at many a one, but I should have hated to see another one in another corner of the hall.

I do not apprehend that there can be any doubt upon this subject. The two Houses go into joint convention for that purpose. When in joint convention the Vice-President, the second officer under and known to our form of government, becomes the presiding officer of that joint convention; and in case of his inability to be there the President *pro tempore* of the Senate occupies the position. Further, for I

propose to meet this whole question, I will suppose that we are in joint convention next February. Our distinguished friend, the Presiding Officer of the Senate, who, I take the liberty to say, has been exceptionally fair as Presiding Officer of the Senate, is the presiding officer of that joint convention. Two returns come up from the same State, I will say my own State. I do not know well how anybody can steal the seal of the "nutmeg" State and get two returns here; but I will suppose that two returns do come up from Connecticut. I will suppose that, not the distinguished Senator from New York, [Mr. CONKLING,] (for he might not like to count on that occasion,) but my good friend the Senator from Massachusetts nearest me [Mr. BOUTWELL] is the teller appointed by the Senate. Two tellers have been appointed by the House of Representatives. What is it the duty of the honorable President of the Senate to do? Here are two returns from the State of Connecticut. Does he count them? No, a thousand times no. He has no warrant for it. There is no warrant in the Constitution; there is no warrant in practice for it. What does he do with those two returns? He passes them over to the honorable Senator from Massachusetts, our teller, and the two honorable tellers from the House of Representatives, and those three men count and determine the matter.

I will go further. Suppose that there are two returns from the State of Connecticut, both, for the purposes of this argument, with the great seal of the State attached. It has been known for months that there were two such returns. Everybody has known it. It has been canvassed through the public press. There is not a member of the Senate nor a member of the House of Representatives who is not thoroughly informed with regard to those two returns and all the antecedents of those two returns. Do not let us blink this question. It is known that one of them is a bare, open fraud. One is the valid one; the other is the fraudulent one. The Senate know it; the House of Representatives know it. Suppose, for the purposes of the argument, that there is a supple tool in the Chair, not you, sir, as President of the Senate. Suppose he assumes to count, against the Constitution and against all practice under the Constitution, the well-known and absolutely false return. He never would count it in the world. He could not count it before the Senate and the Representatives of forty millions of people. Instantly a motion would be made by somebody, my friend from Vermont, or my friend from Indiana, and if by nobody else I would make it. This question would be tried, tried there, and properly tried. Then the joint convention would determine which was the true return; and, after the joint convention had spoken, the world would be satisfied. I say that, after the joint convention of the Senate and House of Representatives of the United States speaks authoritatively with regard to the return from any State, the world will be satisfied.

Mr. MORTON. Will the Senator permit me to ask him a question at this point? Could this joint convention determine it acting as one body, each Senator and each Representative having one vote?

Mr. EATON. Undoubtedly. Under my view, it is decided by a majority vote of the convention. I am very well aware that the Constitution does not expressly say that.

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

Mr. EATON. Certainly.

Mr. JOHNSTON. Does not the Constitution provide that the two Houses shall separate?

Mr. EATON. On this point?

Mr. JOHNSTON. On any question.

Mr. EATON. I do not know; but I would like my distinguished friend to point it out to me.

Mr. JOHNSTON. It applies to all questions that come before that joint convention.

Mr. EATON. It applies to this, I admit. I do not see the point, and there is not any, in my judgment. I assume that it is a joint convention; because everybody else for three-quarters of a century has assumed the same thing.

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

Mr. EATON. Certainly.

Mr. WHYTE. I ask if that very question did not come up in 1857; whether Mr. Mason did not walk out with the Senate, without having any vote in the body at all?

Mr. MORTON. Held it was not in order to make any motion.

Mr. WHYTE. Refused to hear any proposition.

Mr. EATON. Then all I have to say about it is that he did not do his duty. That is all there is about that. The question was a new one. It will not be new next February. We are now discussing that question, and this is the time to discuss it.

Mr. SARGENT. Will not that be a precedent?

Mr. EATON. It will be; but, to use a common expression, "that skimmer will not hold water," in my judgment. It is a joint convention. I have not time to go back and find, but I presume that the very Globe in which the account is printed calls it a joint convention. If I am right, (and I have no doubt about it,) the vote of every State in this Union will be counted next February; there will be no disenfranchising of the people of a State. The question will be opened and settled and passed on, not by any act of Congress, not by any legislative tinkering upon the Constitution, but by the great governing power of the land, the Constitution itself.

Sir, I should be glad, if time would serve, to discuss at greater length my construction of this clause in the Constitution; but time forbids. Is there any danger to be apprehended to the country—that is the point that I desire to be calmly considered by every Senator—is there any danger to be apprehended to the country, to its institutions, to the welfare of our people by this construction of the Constitution? Why, sir, the great right of the people is preserved intact, the right to have the certificates opened and counted and the result declared.

There is another point. A friend might say to me from the other side of the Chamber, "There is an objection to this construction of the Constitution, because a party majority would rule." That is true. Party majorities rule everywhere. I recognize the objection and its force; but let the construction of the Constitution be final; let us know what the law is forever. Parties change, but let the Constitution not be changed. This objection comes and must always come under this form of government of ours. Party comes in everywhere. The very amendment that has been offered to-day in good faith by the distinguished Senator from Rhode Island gives to a party man the decision of this question. There is nobody in the United States that is worth having, there is nobody in the United States that can decide the question intelligently that is not in some way connected with some party organization. Of necessity he will not be a partisan in the decision of this question. God forbid! If you should give to the Supreme Court, if you could, the right to decide a question of this magnitude, while I should know that a majority of them belonged to a party different from the one to which I was attached, yet I should believe and expect that their decision would be honorable, just, and upright. We shall all agree upon one thing: no matter what we do, no matter what construction we give to the Constitution, no matter what law of Congress you may pass in order to carry out the principles of the instrument, something must be left to human integrity, something must be left to man's honor, and I thank God for it.

One objection that I have to giving this power to any other body than the two Houses is, because the Constitution lodges it with us. We are forced by the Constitution not to shirk the duty but to perform it, and I ask honorable Senators, have you not confidence in your own integrity?

Mr. President, I have discussed this question at some length, but let me suppose that I am entirely wrong—it is very possible that I may be—let me suppose that under the Constitution the power is vested, not as I claim it to be vested in the Senate and House of Representatives, but in the Vice-President of the United States or the President of the Senate, as the case may be. If it be so, in God's name let it rest there. I thank God I have left in me some confidence in human nature. While I do not desire to say an improper thing in this high body, I have to say this, and I feel I have a right to say it: There is no Vice-President of the United States; there is a President of the Senate, and in that President of the Senate I have entire confidence. Therefore I say that if I am wrong in my construction, let us have no legislation, and let this power rest where our fathers placed it.

Again, by a decision of the Senate the power is claimed—and I will not undertake to say wrongfully—that they have the right daily or hourly or fifteenminutely to make a new presiding officer of the Senate. If that is suggested as an objection, I have to say that I have confidence in the American Senate. I do not believe a majority of the American Senate would place a man in that chair to disgrace common humanity and cast a blot upon the fair fame of the United States. I have no fear, I will not have any fear, on that subject. If my view and construction of the Constitution is wrong and that taken by others is right, whoever occupies that chair in February next will have the proud honor of declaring and announcing the future President and Vice-President of the United States; and, sir, he will do it honestly. With the eyes of the Senate and House of Representatives, with the eyes of forty millions of free people, with the eyes of the whole civilized world upon him, he cannot disgrace himself. Whatever other men may think, I will not believe that integrity is a myth, I will not believe that our form of government has become a mockery all over the civilized world.

Mr. President, believing as I do that the power is ample now, I have voted steadily, as I said yesterday, against every amendment to this bill, and I shall vote against the bill itself for the reasons that I have given, and for the further reason that the second section of the bill is a bid for fraud—open, unmitigated fraud; not that my distinguished and honorable friend from Indiana [Mr. MORTON] and my equally distinguished and honorable friend from Ohio [Mr. THURMAN] so intend it; God forbid. They cannot think that I charge them with anything wrong; but I say the second section of the bill is a bid for designing men under it to defraud the people of their rights. Let every Senator read it; that very section tells men all over this Union how to get up a set of returns, to bring them here, and to destroy and disfranchise the vote of a State. Therefore I will vote against the bill.

No legislation, in my judgment, is required. That Constitution under which we have lived, that clause under which we have acted for nearly three-quarters of a century is all we require to-day, no matter how it is construed, either my way or the other way. If anything is required, it is an amendment to the Constitution itself, and not legislation. If I could become convinced that there was any necessity for an amendment to the Constitution, then I would unite with my friend from Indiana in the purpose of framing such an

amendment as would in our judgment answer for the people in the future; but no legislation upon this matter is required, especially no legislation under which one, two, three, or four States may be disfranchised. Let us go on as our fathers did; let us go on under this clause in the Constitution; and, my word for it, the spirit which comes before the eyes of the distinguished Senators from Indiana and Ohio will down, down, at the bidding of the President of this Senate when the votes are counted next for President and Vice-President of the United States.

Mr. BAYARD. Mr. President, the debate that has taken place in the Senate upon this grave and important subject, is a very strong proof of the want of direct provision in the Constitution in relation to this question of the count of electoral votes. It is seldom that so many views so diverse have been expressed in relation to a matter that should seem so simple in itself. At the election that shall have been held before the body of the American people, they will have expressed their will in regard to their candidates, and it would simply seem that nothing more was left than a declaration of results which had already been completed. From the foundation of this Government up to 1872 there had been one remarkable feature, the complete acquiescence at all times and under all circumstances of the people in every State with the result of the election for electors for President and Vice-President. Such a thing as an attempt to contest the election of the presidential electors never was known in our history until 1872. Such a thing as a double return of electoral votes from any State never had been heard of until the evil case and shocking precedent of Louisiana in 1872.

It seems to me that, in considering a question like this, a very grave and important lesson may be learned by us all. If there be a dishonest disposition, it will find some way or other a pretext for its exhibition and gratification. If there be a will, a way will be found for it; and if the disposition fraudulently to escape from the popular verdict does exist and dares to exhibit itself before the people of America, before one of their chief executive officers in the presence of the two Houses chosen by those people as their representatives, and shall not be withered and blasted in the attempt, then it will be a proof that the spirit that made this Government possible, that alone can make it permanent, has died out in the hearts of the American people. This Government of ours, frame it as we may, legislate upon it as we please, was meant, and meant only, for an honorable, a virtuous, and an intelligent people; and if those qualities have so sunk out of sight and practice that fraud in a matter touching their interests so deeply as the choice of their Chief Magistrate can be perpetrated in the presence of the two Houses of Congress, and the man survive it or the party survive it, then I say that our Government has been formed in vain, and we have only proved that we are unfit and unworthy of it.

In the various attempts which have been honestly made, intelligently made, to prescribe some means by which perfect justice may be reached in this important matter of counting these votes, I have felt the truth of Lord Bolingbroke's saying, versified by Pope:

> For forms of government let fools contest,
> Whate'er is best administer'd is best.

We had in this country no question as to the action of the Vice-President in opening the certificates; the count of the tellers appointed for the mere arithmetical calculation of the votes cast never was questioned in this country until 1872. Then, under the maleficient working of a rule adopted without regard to the Constitution, under the assumption of powers utterly unwarranted by the two Houses of Congress, there came the assumption of a veto power by either branch of Congress, in silence, without debate, without reason, to throw out the electoral vote and disfranchise one or more communities at will. It was done. It was done in the case of Louisiana. It was done in the face of ballots then in existence, done in the face of returns then in existence which proclaimed palpably that the election had been held and that a majority of many thousand votes had been cast in favor of one electoral ticket. And yet the people of that State were deprived of any voice, and that majority was silenced in respect of its declaration as to who should or who should not be the President of the United States.

Now, sir, I can well understand that in the scant language of the Constitution, in those brief unsatisfactory phrases in which we find all that is to guide us—simply that the two Houses are to meet; that a certain officer is to preside, and that he is to open the certificates, and that then the counting is to take place—there is no suggestion of judgment, no suggestion of discretion, but simply the power to recite in a public meeting the result of action which has taken place theretofore in the States, and which is certified, according to the Constitution of the United States, to a certain officer of the Government. If the spirit which I trust will yet be the ruling spirit of this country, of self-respect in officers, of self-respect in people, of duty and fidelity to the great trusts of government—if this spirit shall prevail, I shall not fear that low fraud can ever be perpetrated in high places without instant moral, and I had almost said I trust physical, death would follow to the persons who attempt it. But nevertheless the time may arise; the suggestion, the evil suggestion has been made, and this bill unfortunately recognizes that fact as a possibility, that without the machinery for conducting a contested election of electors you are still to have a contest without the proper means of deciding it; and how is that to be done? A, B, and C, with their confederates, ten in number say, from the same State, are voted for against ten other men as electors respectively. One of the tickets is defeated. It is so declared by the executive power of the State to have been defeated. Those on the defeated ticket, not satisfied with the verdict of the people, losing sight of that great duty of acquiescence in the popular declaration, meet and go through the forms of casting their electoral votes for a candidate, and send up here to the President of the Senate that which purports to be the result of their proceedings and a certificate of how their votes were cast. It has been done; the evil suggestion has been made, and this bill proposes to meet it. I for one am glad that it takes not the shape of a joint rule, which may be rescinded at will, as we have seen in this late joint rule begotten and carried into effect in silence and retired from without notification to the other branch of Congress simply by the sole action of the Senate. That rule is at an end. It has proved (not speaking of its own intrinsic want of merit) to have one of the greatest vices that a regulation can have, and that is a want of stability and certainty, because its existence depends upon the pleasure of the accidental majority of either body of Congress. Therefore it is plain that, if we can provide a wholesome and just and proper rule for this important subject, it should take the permanent form of a law, which can only be rescinded by the vote of each House and the signature of the President. Therefore to provide for meeting this question by legislation seems to me the proper way; and the only remaining consideration is whether we have the power under the Constitution so to deal with the subject.

I am inclined to think that there is some power in Congress on this subject. At the same time, I think the discussion we have had will develop to any thinking man the necessity for an amendment to the Constitution, so that there shall be with greater clearness a deposit of unquestioned and unquestionable power in some tribunal upon whose decision the American people will rest with satisfaction and with safety. But until that may be done, I still hope that there may be found warrant for some action which will make confusion, injustice, fraud, and escape from popular results difficult, if not absolutely impossible.

Here by this first section provision is made for the orderly count of the votes, and that no votes shall be rejected without the concurrent action of the two Houses. Then comes the questionable section, the second, which provides that, in case more than one return shall be received from any State, that one of the returns only shall be counted which the concurrent voices of the two Houses, acting separately, shall concur is the proper one to be counted, which means that, if the Houses fail to agree, the vote of the State is not to be counted at all. It will be then perceived that by a disagreement the same result is reached as though you had an absolute veto. The two Houses have but to disagree in regard to the counting of one and then the other of these duplicate returns and no vote is cast. Sir, I do not believe that by any ingenuity, arguing either by the letter or the spirit of the Constitution, it is possible to show that it ever was intended that the two Houses of Congress should disfranchise any State and keep her voice from being heard, according to her right, in the electoral college. I do not believe such a result can be honestly or fairly inferred or obtained from either the spirit or the letter of our charter of Government; and therefore when this question may arise it is bound to be settled in such a way that the voice of the State shall be heard, and that her electoral vote shall not be excluded from the canvass.

Many propositions have been made, and chiefly on this side of the Chamber, to ensure this result. That which was offered by my friend from Tennessee [Mr. COOPER] came nearest to meeting my approbation. I was absent accidentally from the Chamber, as was he, at the time the vote was taken upon it, and for that reason I have renewed the amendment, and now occupy the attention of the Senate for a few moments while I discuss it.

It will be observed that the sole duty and the sole power of the two Houses meeting to witness this counting, and the sole result of that joint convention under the Constitution in the Hall of the House of Representatives, is the ascertainment of a majority of the electoral votes for a candidate for the Presidency and likewise for the Vice-Presidency. The Constitution requires that the person taking this office shall have a majority of all the votes of the electoral college; and, unless that majority shall be found and shall be declared, no election has taken place; and then, immediately upon the failure to ascertain and declare such majority, the power and the duty at once devolve upon the House of Representatives to choose by ballot the President from those two persons having the highest number of votes. What shall defeat the possibility to declare a majority if there be but one return from each State, as there should be if decorum, if self-respect and decency shall govern the American people as heretofore, with the single exception of the case of Louisiana in 1872? Then there will be nothing but the arithmetical calculation of the votes as contained in the single certificates sent by each State to that joint assembly. But if there be a double return, the impossibility of declaring the majority becomes manifest; and then what is the course plainly provided by the Constitution? An election by the House of Representatives, the States voting as States. I do not propose to discuss—it is not necessary—the advisability of this feature of the Constitution. I think a great deal could be said to show why it was wise and right; but, whether wise or otherwise, it is the method pointed out by the Constitution, which we are all sworn to obey; and

it seems to me that, when we have reached a point when a decision must be made in regard to matters not apparently provided for, we can show our duty to this Government and our subordination to the provisions of this charter in no way so well as by adapting them to the case in hand. Therefore, if it shall be that two returns come up and the two Houses do not agree that the proper return shall be counted, then the amendment of the honorable Senator from Tennessee proposes instantly that the tribunal shall settle the question of the proper return which the Constitution has required to choose the President, in case a majority has not been declared of the electoral votes in favor of one of the candidates. The method proposed is in precise analogy; it is not only in analogy but it is in direct obedience to the requirements of the Constitution that confide the question of election immediately to the House of Representatives, that they shall vote as States individually in the event of the joint convention failing to find that a majority of all the votes of the electoral college have been cast for any particular candidate.

Such a proposition, it seems to me, ought to be satisfactory to those who look, as I trust we all do, to the provisions of the Constitution for all the just powers which we propose to exercise.

Sir, it is very important in my opinion that an arbitrament should be provided in advance for this question of double returns. Double returns are in their nature and suggestion fraudulent on one side or the other, because there can be but one set of electors chosen and those who contest it unjustly necessarily are fraudulent. Now, if it shall be known in advance that we have provided a test for this, if it shall be known that we have provided a tribunal capable of making a prompt decision, then I believe the attempt will never be made. The very fact of providing for the arbitrament of choice between two returns, and having that before the eyes of the rogues who propose to contest elections in this way, will deter and discourage them, and the Senate and the House will have no trouble whatever on the subject. Nor have I any idea that the House of Representatives will be called upon at all to act under the provisions of the amendment which I have sent to the Clerk's table. Those who propose this species of contest—because there must be of these two returns but one that is right—will see the folly of the attempt, which can end only in defeat. And when we shall have established a tribunal competent and trustworthy, the very one provided by the Constitution for the election of the President himself in case a majority of the electoral votes has not been declared by the joint convention, when the States acting in their independent and sovereign capacity shall vote as individuals upon this subject, when that power and duty is confided to them, we may be sure that the attempt at a double return will never be made, and the count of the electoral votes will proceed with all that dignity, with all that simplicity, with all that impressiveness which marked it in days gone by.

The spectacle of an administration charged and possessed with all the great affairs of a Government like this, quietly, subordinately giving way to the new expression of the popular will, has been always something that has impressed not only those accustomed in other lands to the violent emotion of rulers no longer desired by the people, but it has been, I believe, a source of more pure patriotic pride to the American people to see their Government a Government of law and of order before which when the wish of the people is duly expressed instant acquiescence to it took place with order, with dignity, and with simplicity.

It is my earnest desire that all causes of dissatisfaction, of conflict, of misunderstanding, of possible difference should be removed, if possible, in advance by some action now in the shape of legislation by Congress. I believed at the beginning of this session, and still believe, that it would have been wiser to commit this question in advance to a joint committee of the two Houses; that they could in seclusion and retirement, without any of the excitement of debate, arrange upon some plan that would have been mutually satisfactory to each House, and therefore likely to command the assent of both. I will not yet despair. I still hope that, if this measure as it shall be passed by the Senate may not meet the concurrence of the House, a committee of conference may yet arrange it. I cannot conceive how any man can so degrade this subject as to bring it down to a mere partisan level. I cannot see how any man contemplating the great difficulty of this subject should not be willing to sink his private opinion in regard to measures in order to do everything that in him lay to produce a quiet, orderly, dignified, and just settlement of this question. Believing that the amendment offered by the Senator from Tennessee is the best solution thus far submitted to the Senate, and that the vote upon it was taken before perhaps with somewhat of inadvertence, I trust it now will receive the approval of the Senate.

As I have said before, I believe the constitution of this tribunal of the House as the ultimate judge in case of difference between the two Houses as to which of the two returns shall be the just one—the mere constitution of that arbiter will of itself destroy the possibility of attempted contest or of attempted duplicate returns. The attempt will not be made because defeat certainly will await it. "Forewarned is forearmed," and therefore I will not believe that in the next presidential election, if this present measure shall become the law, the country will be distracted, disgusted, or disgraced by the sight of an attempt to contest an election by a defeated minority.

For these reasons, Mr. President, hastily and very lamely expressed, I hope the Senate will give its assent to this amendment.

Mr. MORTON. Mr. President, I submit to the Senate that this discussion has demonstrated the absolute necessity of the adoption of a law upon this subject. The diversity of opinion that has been developed here in a season of profound repose, when no party question can enter into it, when it is above and independent of party considerations, shows the necessity of having some established rule when the time comes to count the presidential vote.

Let me suppose, for the sake of the argument, that the two Houses have assembled in the Hall of the House of Representatives to count the votes; let me suppose that two sets of electoral votes have been sent here from the State of Connecticut, and they are opened by the President of the Senate. What shall be done? The Senator from Maryland [Mr. WHYTE] rises and says, "I demand that the President of the Senate shall decide which set of votes shall be counted." The Senator from Connecticut [Mr. EATON] rises and says, as he said here to-day, "No, a thousand times no; the President of the Senate has no such power; the decision must be by this joint convention acting as one legislative body, each Senator and each Representative having one vote; that is the only constitutional method of settling this question between these electoral votes." He takes his seat. Then the distinguished Senator from Ohio [Mr. THURMAN] rises in his place and says, "No, a thousand times no! There is no such thing as a joint convention; a body of that kind has never been recognized under the Constitution, never has been recognized by anybody in three-quarters of a century." I understood my friend from Connecticut to say to-day that for three-quarters of a century the idea of a joint convention had been recognized. I submit that my friend was mistaken in this, that for three-quarters of a century it never was recognized, and I think was never seriously proposed by anybody. The Senator from Ohio says the Senate and the House of Representatives are present here under the Constitution as witnesses and as judges; and if a question shall arise involving a high discretionary power, it cannot be decided by the President of the Senate, whose duty is ministerial; it cannot be decided by a joint convention utterly unknown to the Constitution, entirely anomalous under our system of government; but it must be decided like any other question, by the Senate and House of Representatives, each acting for itself and in its own capacity.

This is the state of the case. The election is to depend upon which set of votes is counted from Connecticut. If one set is counted, the republican candidate is elected; if the other set is counted, the democratic candidate is elected; and here is a diversity of opinion and confusion equal to that which prevailed at Babel. How is it to be settled? Shall the two Houses separate, go to work, and legislate on that question? That may take days. It has taken us seven days here now, in a time of profound repose, to consider this bill, and I am not sure that we shall get through with it to-day, for I am in momentary apprehension that some Senator will get up and move an executive session. But here the votes are to be counted. The 4th of March is close at hand. An utter diversity of opinion exists as to where the power is. The two Houses cannot separate and legislate. What is to be done? We can easily understand what will intervene. It was suggested by the Senator from Delaware a while ago that, in case an officer shall make a wrong decision, the moral reprobation of the world would fall upon him, and he said perhaps physical punishment; that is, he might fall like Cæsar. We can understand when such vast consequences are to depend upon the exercise of a power that may be a clear usurpation, and would be in the opinion of a majority of the people of this country, that that usurpation could not pass with impunity. How, then, can we decide that it shall be done by a joint convention in the passion and excitement of the hour and with such vast consequences depending upon it? How, then, can we decide that it shall be done by the two Houses; acting separately? It might be understood that, if the two Houses were to act separately, the question might be decided one way; if by a joint convention, another way; and, if by the President of the Senate, possibly another way; and the immediate result of the adoption of one or the other of these methods would come in largely to influence the judgment and increase the confusion and the danger of the hour. Therefore, I exhort Senators to avoid this danger by agreeing upon some method. It is not so important what that method is as that there shall be some plan agreed upon that will avoid these dangers which are right before us.

Mr. BAYARD. I concur most earnestly and warmly in this invitation of the Senator from Indiana; and there is now, by the amendment of the Senator from Tennessee, which I have offered again, a fair and a constitutional arbitrament, where the two Houses shall disagree, to prevent the occurrence of that which my honorable friend from Indiana and I both so justly dread and deplore. The proposition is this: that we shall leave it just where our fathers left it; we shall leave it to the same body, acting as they said that body should act when the broad question of the election of President, without respect to the mere contest of votes, should be before them. Leave it just as they left it, to that body for its decision which they said was the proper one to decide the great question of elections, where a majority of the votes of the electoral college had not been declared by the Houses in joint convention to have been cast in favor of any candidate. I agree with my friend that it is not so much the question as to how you shall have this matter settled, although it is important to us as citizens under a constitutional government and acting under its limitations, that we should not create a tribunal unwarranted by the Constitution; but here is a tribunal pointed out by

the Constitution as the peculiar and fitting one upon whom immediately shall devolve the duty of electing the President and Vice-President in case a majority of the electoral votes have not been ascertained to have been cast for any particular candidate. What objection can there be in my friend's mind to adopting this proposition now, offered by the Senator from Tennessee?

Mr. MORTON. Very briefly will I attempt to answer the question of the Senator from Delaware and to state the objection to referring the decision of the question to the House of Representatives voting by States. First, because the Constitution has made no provision for the decision or settlement of any question, judicial or legislative, by the House of Representatives voting by States. It has provided for the election of a President, an anomalous, unfair, and, in my judgment, dangerous method, in a certain case; but in no other contingency is there to be any question settled in this Government by the House of Representatives voting by States. I would not extend the idea of settling questions by the vote of States, giving to the State of Nevada the same voice with New York, which has one hundred and fourteen times the population of Nevada.

Mr. WHYTE. I want to ask the Senator from Indiana if he does not really, under the second section of this bill, in a certain contingency, do the very thing that he now objects to doing; that is to say, upon a certain contingency throw the election into the House of Representatives? Take this case, and it is a mathematical calculation. It takes 185 votes to elect a President of the United States in the present college, counting Colorado. Suppose there are three candidates at the election. The republican candidate gets 177 undisputed votes; and the independent candidate 24 undisputed votes, which he could do by getting Illinois and Nevada and Nebraska. Suppose the democratic candidate gets 160 undisputed votes, leaving 8 votes, the votes of Louisiana, to determine whether the republican candidate was elected or not. Suppose that in Louisiana there is a contested election of great violence. The independent candidate is supposed by one party to be elected; the republican candidate is supposed by the other party to be elected. The republican electors get a certificate from Governor Kellogg of their election, cast their vote for the republican candidate, and that return comes to the President of the Senate. Suppose the electors on the independent ticket meet as a college, cast their votes for the independent candidate, certify under the Constitution, if there is no provision for the executive authentication of their election, that they have voted for the independent candidate. Those returns are opened by the President of the Senate. The House honestly believe that the independent electors were elected in Louisiana. The republicans in the Senate believe that the republican candidates were elected. They separate. The House stands by the independent organization, the Senate stands by the republican election, thus defeating the election of President and throwing it into the House of Representatives under the second section of the bill.

Mr. MORTON. I think the precise contingency mentioned by the Senator from Maryland may happen either by the vote of a State being lost, the two Houses not being able to decide, or by being cast in favor of an independent candidate; but that is the precise contingency which the Constitution has provided for when it declares that unless some one person shall have a majority of all the electors appointed the House shall immediately proceed to elect by States. How does that change the principle? The Constitution has provided for the action of the House by States only in one case. Shall we extend that principle? The Constitution does not provide for the House ever deciding any legislative or judicial question by States, but simply an election in certain cases; and in my opinion it is the most dangerous contrivance ever put into the Constitution. Would you extend that principle to the mere decision of a question on the electoral vote when that may decide the question of an election?

The first election of President by the House took place in 1801, the House voting by States. The delegation from two States was divided from the 10th of February to the 17th, from the first to the thirty-sixth ballot, Vermont and Maryland. The dead-lock was finally broken by an intrigue, one member from Vermont dodging the vote, going out of the House, and two members from Maryland casting blank ballots. The history of that election, given by the distinguished member from Delaware, Mr. Bayard, two years afterward, shows that it was thoroughly corrupt in the sense in which that word is used in these times; that that election was controlled by appointments of members of the House of Representatives to office. More, there is an affidavit on file—I have it here, but I will not stop to read it—which shows that the vote of another State, on the last day when the election of Jefferson was finally made, was controlled by an agreement that the collectors of the district of Delaware and of the port of Philadelphia should not be removed by Mr. Jefferson. That election came near making shipwreck of the Government at that time. What followed in 1825, when Mr. Adams was elected? The same charge of corruption existed, a charge from which the great Clay never escaped, because he voted for Adams in the House, and was afterward appointed Secretary of State. How did that election result? Mr. Adams was elected, who received less than one-third of the popular vote of the United States; and General Jackson was defeated, who received the largest popular majority that any President ever has done up to this hour. The will of the people was overridden in 1825, and this form of election presents the opportunity and the power of doing that always. It presents the greatest possible inducement and the greatest possible opportunity for corruption. God grant we shall never have to pass through the ordeal of another election of President by the House of Representatives.

I want to make a remark in regard to the amendment of my distinguished friend from Rhode Island, [Mr. BURNSIDE;] and what I shall say will touch the whole question of furnishing an umpire either by the Supreme Court or by the House of Representatives or in any other form. The amendment proposed by the Senator from Rhode Island is this: that as soon as the electoral certificates are sent to the President of the Senate, before the time comes for counting the vote, they shall be sent to the Chief Justice of the Supreme Court or to the court.

Mr. BURNSIDE. If the Senator from Indiana will allow me, it does not provide that they shall be sent to the Supreme Court, but the fact is to be reported to the Supreme Court.

Mr. MORTON. I give the substance, the idea of the amendment, that when the certificates are made up by the electoral colleges they shall indorse on the outside of the envelope, so that it can be read, (because the envelopes cannot be opened under the Constitution until you come to count the vote,) the names of the electors, by whom certified, and when elected, so that the Supreme Court shall be able to determine by an inspection of the outside of the envelope whether or not these electors were chosen under the recognized State government and have been certified by the recognized authority of the State. I submit to my friend, and I will read a very brief extract from the opinion of the Supreme Court to show it, that that transfers to the Supreme Court of the United States one of the great powers expressly reposed in Congress under the Constitution. The United States shall guarantee to each State a republican form of government, and to decide which is the government of a State, and whether it is republican in its form, is a power expressly devolved upon Congress, and cannot be transferred or deputed except for a single purpose, and that is to enable the President to determine what government he will sustain in a case of insurrection or domestic violence. In the case of Luther *vs.* Borden, a case familiar to you all, the court say:

> Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority.

In the case supposed, where there are two sets of electors certified from two different pretended State governments, to decide which electors have a right to vote you must decide which is the government, and the decision of that question, which controls all others that may arise on it, is expressly vested in Congress under the Constitution. We cannot transfer it to the Supreme Court in advance. We cannot transfer it to any other power, except for the single and sole purpose of carrying out another provision, and that is to enable the President to protect the State against invasion or domestic violence, where it may be necessary, under the act of 1795, for the President to determine, when Congress is not in session, which is the lawful government of the State, as he undertook to do in the case of Louisiana.

Mr. BURNSIDE. I will ask the Senator from Indiana if there can be no case before the Supreme Court by appeal which would require them to decide which is the lawful State government? Could there not be a case by appeal from a lower court by which the Supreme Court would be called upon to decide which was the State government?

I want to ask the Senator from Delaware [Mr. BAYARD] one question. He says that in settling this question we should adhere to the rule established by the framers of the Constitution and allow the same method to be used in determining which are the correct returns as is used to elect the President when no one of the candidates has a majority. I submit to him and I submit to the Senate that in case no one candidate receives a majority every State has a right to vote as a State according to its political proclivities. It becomes a political question. They are bound to adhere to their separate political parties, in honor bound to vote for the men who represent their party, no matter whether they have received the highest number of votes or not. The question under discussion should not be decided politically; but if you leave it to be decided in the same way that you elect a President, in case neither candidate receives a majority it will be decided in a partisan spirit; whereas by the method I propose it will be decided upon its legal merits.

I submit that no party ties are so loose as to allow a member to vote just exactly as a judge on the bench of the Supreme Court would vote on a question of this kind. It is quite clear in my own mind that the proposition made by the Senator from Delaware, which he intended to make in all fairness, is not fair.

Mr. MORTON. It would perhaps be very desirable to have the solution of every question submitted to some tribunal entirely outside of political influences; and yet it so happens that the Supreme Court have said in this very case that the decision of the question as to which is the lawful State government in a State is a political question to be decided by Congress, and when decided by Congress that the Supreme Court of the United States and every other branch of the Government must abide by that decision. The power to settle that question has by the Constitution been placed in Congress, and I am trying to argue that we cannot take it out of Congress and lodge it anywhere else.

I come now to the other question asked by my friend, whether under certain circumstances the Supreme Court could not decide which was the lawful government of a State. So they can and did in the Rhode Island case. In that very case they recognized the doctrine that Congress is the power to settle the legal status of a State government, a political question, by which the courts are all bound; but in the absence of a decision by Congress, in that very case they said, as I have had occasion to argue in another matter before this body, that the supreme court of Rhode Island not being in question, its legitimacy not being questioned, the courts of the United States would follow the decision of the supreme court of the State of Rhode Island in determining which was the lawful government of that State. If the supreme court of Rhode Island had said that the charter government was the lawful government and not the Dorr government, the Supreme Court said it was bound to follow and to recognize the charter government as being the lawful government of Rhode Island. In that case the Supreme Court did decide it; but as a question coming up not from the decision of the lower court by appeal, as a political question to be decided as to which is the lawful government so as to know which government may certify to the electoral vote, that is a power that has been lodged in Congress, and it cannot be divested. We cannot commit it to anybody else.

I agree with my friend that if we could create an umpire, if it was in our power to refer the decision of this question to any other tribunal, I would prefer the Supreme Court of the United States. I believe the people would have more regard for its decision, that it would carry more authority, than any special tribunal we could create. Therefore I should prefer to refer it to that arbitrament if it were possible; but not regarding that as being within our power, I vote against the creation of any umpire. The least acceptable of all would be to refer it to the House and have it decided by a vote by States.

I wish here to call the attention of the Senate to a fact which I have overlooked in the previous examination of this question, and that is, that so long ago as 1837 the Congress of the United States virtually assumed the jurisdiction to count the vote of a State in a case where the right of the State to vote at all was denied. I refer to the case of the State of Michigan. In that election there was a question as to whether the vote of the State of Michigan should be counted on account of a condition attached to her constitution. I am not entirely familiar with the details of the question, but the following joint resolution was adopted by the two Houses, showing that at that time the two Houses of Congress assumed the power to determine whether the vote should be counted in that case. The resolution was adopted by a vote of 34 to 9 in the Senate, and reads as follows:

That, in relation to the votes of Michigan, if the counting or omitting to count them shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner: Were the votes of Michigan to be counted, the result would be, for A B for President of the United States, —— votes; if not counted, for A B for President of the United States, —— votes; but in either event A B is elected President of the United States; and in the same manner for Vice-President.

That was followed by the two Houses of Congress as late as 1869 in a joint resolution in reference to counting the vote of Georgia. The language of the two resolutions is identical. Evidently that offered by the Senator from Vermont [Mr. EDMUNDS] in 1869 was copied from that in regard to Michigan in 1837.

Mr. WHYTE. I would suggest to the Senator from Indiana that it is copied from Mr. Clay's resolution of 1821 in regard to Missouri.

Mr. MORTON. I simply refer to it briefly for the purpose of showing that Congress assumed substantially the power over these contested votes long ago, and that seems to have been the better judgment of members of the two Houses at different periods of our history.

Mr MAXEY. I should like to ask the Senator from Indiana a question, as he has the floor, and I desire his opinion upon it. The amendment of the Senator from Rhode Island in substance is that where two certificates come up from the same State, purporting to be the certificate of the electoral vote cast by that State, those returns are to be turned over or transferred by the President of the Senate to the Chief Justice of the Supreme Court—

Who shall at once cause the said Supreme Court to proceed to examine as to who are the legal electors of said State, and shall have power to send for persons and papers; and the said Chief Justice shall, on or before the last Tuesday of January next succeeding the meeting of the electors of President and Vice-President, report to the President of the Senate which of the said electors were legally elected.

The Constitution declares that:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

What I desire to have the Senator's opinion upon is this: Is it constitutional or legal for the President of the Senate to transfer to the Supreme Court or anybody else these certificates unopened? Second, if he has to open them, does not the Constitution require that "the votes shall then be counted?" Then where does the opportunity come in for the action of the Supreme Court as contemplated by this amendment? That is a question I cannot understand myself, and I should like to have the Senator's opinion upon it.

Mr. MORTON. The Senator from Texas I think is quite right in his suggestion. If I understand it, his suggestion is that the President of the Senate is the custodian, and the sole custodian, of these certificates from the time they come to his hands; that he cannot transfer the custody of them to anybody; that he is responsible for them, and if they shall be lost he is to be held responsible. In the next place, clearly he cannot open them until he does it in the presence of the two Houses. Not until that moment is anybody entitled to know what the contents of these envelopes may be.

Mr. MAXEY. And then the votes must be counted.

Mr. MORTON. And then and there the votes must be counted. These provisions grew out of the theory of the electoral college, that it was to be composed of a body of independent men, acting entirely independent of pledges, of all outside influences, who should come together, and without each other's knowledge vote by ballot, so that one should not know how the other voted; and then that they should seal these votes up and they should be kept a secret until the very moment they were to be counted. We have seen how the whole theory failed, but still this is the provision of the Constitution of the United States.

One word in regard to the bill and I am done. In regard to the first section of the bill there seems to be little or no controversy. That is, that there shall be no electoral vote rejected except by a concurrent vote of both Houses. There seems to be little difference of opinion about that, and that is the most material provision. Nearly all the questions will arise under the first section of the bill. It may not occur for fifty years again that we shall have two sets of electoral votes from the same State. It may occur next fall, but the chances are small of such an event. If it should occur, it is not very likely that the two Houses of Congress, acting under the pressure of high and solemn considerations of duty, would not be able to agree as to which return should be counted; so that that contingency in regard to which all this debate has sprung up is very remote indeed. There seems to be a desire to get some tribunal which shall decide the question, and the introduction of the House, voting by States, is suggested, the one way of all others which is the most liable to have a deadlock; for if there should be an even number of States upon each side, or if the delegation from the States should be divided, as occurred in two States in the very first election even, then there is no decision. So that you can hardly imagine a tribunal that might be created, even if we had the power, where this contingency would not happen; but if the second section of the bill were stricken out altogether the first is of inestimable importance. If there be a contingency in the second section that is not quite provided for, still it does not take away the importance of passing the first section, or the second section either, because that contingency is exceedingly remote. We can understand in view of what took place three years ago last month the necessity of providing some method for counting these votes. We cannot as common lovers of our country and patriots, sworn to stand by this Government, pass over the duty of providing against such dangers as lie right at the door.

Therefore I trust, Mr. President, that this bill will not be defeated because of a remote possibility. I trust we will consider the main subject and the principal dangers that are covered by this bill, and I hope it will pass. As I said before, any plan is better than none almost. After hearing all that has been said upon both sides, and I must say this debate has been conducted with great candor and I think with great ability and fairness, I am not now able to see where the bill can be improved.

Mr. FRELINGHUYSEN. I would call the attention of the Senator from Indiana to the second section. It provides that that return from such State shall be counted "which the two Houses acting separately shall decide to be the true and valid return." The question has been suggested to me as to what is to happen in case the two Houses acting separately do not agree as to which return is the valid return.

Mr. MORTON. I suppose there would be no vote counted in that case.

Mr. FRELINGHUYSEN. Ought it not to say so? It might be insisted by those who hold that the Constitution imposes the duty of counting the vote on the Vice-President that he was to count it. At all events, I think it ought not to be left in doubt, but the words ought to be added at the end of that sentence:

And if the two Houses do not agree as to which is the true and valid return, then no vote shall be counted from that State.

Mr. MORTON. The Senator would arrive at the same thing by inserting the word "only" after the word "return;" "that return only from such State shall be counted."

Mr. FRELINGHUYSEN. I do not see that you can put it in fewer words. I am sorry to see this bill not in a better shape than it is. I have no doubt when the Constitution imposes a duty upon Congress, and says we shall count the vote, that we have the constitutional right by legislation to do everything that is necessary to the safe counting of that vote. We have a perfect right by legislation to carry it out by creating a tribunal, and doing everything that it is necessary to do in order to secure a safe and complete count. The Constitution says so. The Constitution says we have got the right to pass all laws that are necessary to carry out the powers conferred by the Constitution.

As to the plan of referring the question to the House of Representatives, that House voting by States, it does seem to me that that is contrary to the Constitution. There is one point where I differ from the Senator from Delaware. It seems to me the Constitution precludes us from adopting the plan he proposes because the Constitution has spoken. It has told us in what exigencies the election shall be determined by the House voting by States, and the expression of

the case in which that is to be resorted to is the exclusion of all intendment that the House in any other emergency might decide upon the vote.

Mr. BAYARD called for the yeas and nays on his amendment, and they were ordered.

Mr. SAULSBURY. Mr. President, I will vote for the amendment proposed by my colleague, though I would have preferred to have the amendment adopted as it was offered originally by the Senator from Tennessee, [Mr. COOPER.]

The bill of the Senator from Indiana does provide expressly for the rejection of the vote of a State. I am unwilling to vote for a measure which provides that the vote of any State of this Union shall be rejected, because I believe it is within the power of Congress to provide some fair and proper mode by which the vote of every State in this Union may be counted in the election of President. The amendment offered by my colleague is one mode, and perhaps the fairest mode that we can now hope to obtain for reaching that result. I shall therefore support the amendment, and hope that it may be adopted.

I have listened to this whole debate, I am free to say, with unusual interest, because the questions presented by the bill and the amendments are, as I conceive, of vital importance. If I understood the Senator from Maryland [Mr. WHYTE] aright, and also the Senator from Kentucky, [Mr. STEVENSON,] they believe that there is an omission in the Constitution, and that the defect can only be remedied by a constitutional amendment. With that view I do not concur; but I think that if there is any defect, the power is granted to Congress by express provision to make all laws necessary to carry out the grants of power contained in the Constitution; and that the power to count the votes having been expressly given, Congress may determine the mode by which the votes shall be counted.

This is not a new question. It has been here before. The Congress of the United States as far back as 1800 considered this subject. I do not believe the discussion that occurred in the year 1800 upon this very question has been referred to in this debate, and perhaps it may not be amiss to call the attention of the Senate to that debate. The Senator from Maryland favored the idea that the President of the Senate was to count the votes. So far back as 1800 this question was brought to the attention of Congress, and was discussed in Congress, and I propose to show what the view of Congress, or at least a number of the members of Congress, at that time was upon the question of the power of Congress to deal with this subject. On January 23, 1800, on the motion of Mr. Ross, the Senate—

Resolved, That a committee be appointed to consider whether any, and what, provisions ought to be made by law for deciding disputed elections of President and Vice-President of the United States, and for determining the legality or illegality of the votes given for those officers in the different States.

On the next day it was

Ordered, That Messrs. Ross, Laurance, Dexter, Pinckney, and Livermore be the committee.

And that committee reported a bill the provisions of which in full I have not been able to ascertain. On February 14—

Mr. ROSS, from the committee appointed the 28th of January last, reported a bill prescribing the mode of deciding disputed elections of President and Vice-President of the United States; which was read and ordered to the second reading.

Some of the provisions of that bill I have been able to find, but not the whole of it in detail. The bill took up the whole subject. Some of the provisions of the bill provided for the appointment of what was called a grand committee selected out of the two Houses of Congress to meet in secret session, there to examine all the votes cast for President and all the petitions and reports that were made from the several States in connection with those votes, and to determine upon the legality of the votes thus cast.

Mr. MERRIMON. Where did it lodge the power?

Mr. SAULSBURY. It lodged it in the two Houses of Congress, so far as I have been able to gather from such provisions of the bill as I have been able to find in this book. On March 3—

The Senate resumed the consideration of the amendment proposed to the first section of the bill prescribing the mode of deciding disputed elections of President and Vice-President of the United States.

I will read what was the substance of the provisions of the bill from a speech made by Mr. Pinckney, of South Carolina, who opposed the bill and spoke against it. In the course of his speech he said:

What is the mode proposed by this bill? That the Senate and House of Representatives of the United States shall each of them elect six members, who, with a chairman, be appointed by the latter from a nomination of the former, would form a *grand committee*, who should, sitting with *closed doors*, have a right to examine all the votes given by the electors in the several States for President and Vice-President, and all the memorials and petitions respecting them, and have power finally to decide respecting them, and to declare what votes of different States shall be rejected and what admitted, and, in short, that this committee thus chosen, and sitting with closed doors, shall possess complete, uncontrollable, and irrevocable power to decree, without appeal from their decision, who has been returned, and who shall be proclaimed President of the United States.

That is the synopsis of the bill reported by the committee, contained in a speech of Mr. Pinckney, of South Carolina. That bill was considered at various times during the session and various amendments were offered. One amendment I will read:

The bill prescribing the mode of deciding disputed elections of President and Vice-President of the United States was read the third time.

On motion to strike out the ten first sections and insert—

I will read now what was proposed to be inserted as showing what the opinion of members of Congress at that time was as to the power of Congress to deal with the question of counting, determining, and passing upon the votes of electors. The amendment is as follows:

Whereas, on an election of President and Vice-President of the United States, questions may arise whether an elector has been appointed in a mode authorized by the Legislature of his State or not; whether the time at which he was chosen and the day he gave his vote were those determined by Congress; whether he was not at the time a Senator or Representative of the United States, or held an office of trust or profit under the United States; whether one at least of the persons he has voted for is an inhabitant of a State other than his own; whether the electors voted by ballot, and have signed, certified, and transmitted to the President of the Senate a list of all the persons voted for, and the number of votes for each; whether the persons voted for are natural-born citizens, or were citizens of the United States at the time of the adoption of the Constitution, were thirty-five years old, and had been fourteen years resident within the United States; and the Constitution of the United States having directed that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and that the votes shall then be counted," from which the reasonable inference and practice has been that they are to be counted by the members composing the said Houses, and brought there for that office, no other being assigned them; and inferred the more reasonably, as thereby the constitutional weight of each State in the election of those high officers is exactly preserved in the tribunal which is to judge of its validity, the number of Senators and Representatives from each State composing the said tribunal being exactly that of the electors of the same State.

And then follows the amendment in the form of a section to carry out the objects proposed in the preamble. I will read the section:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whensoever the members of the Senate and House of Representatives shall be assembled for the purpose of having the certificates of the electors of the several States opened and counted, the names of the several States shall be written on different and similar tickets of paper and put into a ballot-box, out of which one shall be drawn at a time; and so soon as one is drawn the packet containing the certificates of that State shall be opened by the President of the Senate, and shall then be read, and then shall be read also the petitions, depositions, and other papers and documents concerning the same; and, if no exception is taken thereto, the votes contained in such certificates shall be counted; but if the votes, or any of them, shall be objected to, the members present shall, on the question propounded by the President of the Senate, decide, without debate, by yea or nay, whether such vote or votes are constitutional or not; and the votes of one State being thus counted, another ticket shall be drawn from the ballot-box, and the certificate and the votes of the electors of the State drawn shall be proceeded on as before directed; and so on, one after another, until the whole of the votes shall be counted; and if the counting cannot be completed in one day, the members of the said two Houses may adjourn from day to day until it be completed.

A division of the question was called for, and that it first be taken on striking out.

A motion was made to strike out of section 1, lines 10 and 11, these words: "and finally to decide" and to insert "into and report upon;" and a division of the motion was called for, and that the question be first taken on striking out; which passed in the negative—yeas 11, nays 18.

After several amendments were considered the bill was finally discussed at length by Mr. Pinckney, of South Carolina. He opposed the bill, but he seemed to admit in his argument the right of Congress to count the vote.

Knowing that it was the intention of the Constitution to make the President completely independent of the Federal Legislature, I well remember it was the object, as it is at present, not only the spirit but the letter of that instrument, to give to Congress no interference in or control over the election of a President. It is made their duty to count over the votes in a convention of both Houses—

That favors the idea of the Senator from Connecticut, [Mr. EATON]—

and for the President of the Senate to declare who has the majority of the votes of the electors so transmitted.

While he opposed the general provisions of the bill he went to the extent of passing upon the qualifications of the electors, taking it entirely away from the State; and he seemed in his argument to admit the power of Congress to determine the question of the votes. In that debate one of the questions that arose was that which has arisen in this debate, what is to be done with double returns? Mr. Pinckney took up that question, and after reading his speech I undertake to say that he did not deal with it with that frankness which his eminent character justifies us in supposing he ought to have dealt with it. He seemed to evade the question, did not meet it, but he seemed to meet it as my friend from Connecticut met it this morning by expressing his confidence in Congress and his confidence in every public man in the country. He could not anticipate that there would be any difficulty; he could not in the first place anticipate that such returns would be made. He had then the unbounded confidence that is exhibited by the Senator from Connecticut to-day. And yet our history proves that Mr. Pinckney was mistaken just as I fear the subsequent history of the country will prove that the Senator from Connecticut is mistaken when he expresses such unbounded confidence, not only in the Senate of the United States, but in every public man, the Vice-President, the Speaker of the House, and the members of this House and of the other. I share largely in the confidence which he has expressed in reference to humanity, but I have seen enough of life to know that our confidence is frequently misplaced, and I want to prepare against any contingency that may happen.

That bill came finally to a vote in the Senate of the United States after the exhaustive argument of Mr. Pinckney, and I wish to read the names of the Senators who voted upon that bill.

When Mr. P. had concluded, the question was taken on the passage of the bill, and it was determined in the affirmative—yeas 16, nays 12, as follows:

YEAS—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Lloyd, Paine, Read—

From my own State—

Ross, Schureman, Tracy, and Wells.

NAYS—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Livermore, Marshall, Mason, Nicholas, and Pinckney.

The proceedings to which I have referred show that at that early day the power was claimed for Congress not only to deal with the question we are now discussing, but to deal with other questions,

questions which I do not believe we have the right to deal with. But the power of providing the mode of counting the electoral vote by legislation, especially where there is a seeming omission in the Constitution itself, was then fully recognized, and these proceedings clearly indicate it.

I would not attempt to confer upon one House or both Houses of Congress any power which is not expressly granted to them, for I am a strict constructionist of the Constitution. I believe that we have no right as a Congress to exercise any power which is not expressly given or which is not necessary to carry out the grants of power expressly given in the Constitution. I would not usurp any power whatever. I am as free from doing that as my honorable friend from Maryland or my honorable friend from Connecticut; but I do contend that the criticisms upon the position of my friend from Ohio are not warranted by the precedents that have been referred to as conclusive upon the contemporaneous interpretation of the provisions of the Constitution in this behalf. I hold that the incident which I have cited shows that at an early day, when the men were living who took part in the formation of the Constitution, when they were members of the Congress of the United States, this power was claimed for Congress. Some of the gentlemen who participated in the formation of the Constitution were there and voted upon the question. I would not, I repeat, invade that Constitution. I believe that the true interests and the true destiny of this country require a strict adherence to the provisions of the Federal Constitution. I would not usurp the power by Congress, but I would carry out the provisions of the Constitution. I would count the vote as it is. There is a provision in the bill of the Senator from Indiana that in a certain contingency the vote of a State shall not be counted, and I am opposed to that bill without some amendment to secure to every State in this Union the right to have her electoral vote counted.

Mr. President, I conceive that this is an important question. It is one that ought not to be hastily passed upon, and I think the seven days which have been spent in the investigation and discussion of this subject have not been spent in vain. I hope that no hurried action will be taken, but that some action may be adopted in this House which will be concurred in by the other House, and that we may make proper provisions to remedy the evil which is seen and acknowledged by all.

I have said much more on this question than I designed to say at the present time.

Mr. BURNSIDE. Mr. President, I desire to make but a single remark, and that is, that the Supreme Court of the United States substantially decided in the Rhode Island case, to which the Senator from Indiana referred, that it was in the power of Congress to call upon the courts to decide which of the representatives of the State governments was in accord with the Government of the United States. I am indebted for this suggestion to the honorable Senator from Florida, [Mr. JONES.]

If Congress has the right to call on the Supreme Court of the United States for a decision upon that point, it has the right to do it in this case. Some of the most distinguished Senators have said that this amendment presented the most desirable way to settle the difficulty, if it could be done constitutionally; and here, it seems to me, we have this point settled by the Supreme Court of the United States, unless I misconstrue the substance of that decision.

Mr. JONES, of Florida. Mr. President, it is perhaps necessary for me to say a word in regard to my view of what the court did decide in the case of Luther *vs.* Borden. It did say, and the opinion will bear me out, that it was competent for Congress to designate a court that should have the power to say which of two rival powers in a State should be recognized as the legitimate power, with a view of obtaining the assistance contemplated by the Constitution to be extended by the Union. That was decided, beyond all doubt.

Mr. MERRIMON. Have you the decision before you?

Mr. JONES, of Florida. I have not. The court said that Congress had delegated the authority to the President by the act of 1795, and that it had done so wisely; but that it was equally competent for Congress to delegate the same authority to a court for a like purpose, and to withdraw it from the President.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware, [Mr. BAYARD,] upon which the yeas and nays have been ordered. The amendment is to modify the second section before the question is taken on the amendment of the Senator from Rhode Island [Mr. BURNSIDE] to strike it out and insert a substitute. The Chair understands that this is the same amendment originally offered by the Senator from Tennessee, [Mr. COOPER.]

The question being taken by yeas and nays, resulted—yeas 18, nays 34; as follows:

YEAS—Messrs. Bayard, Bogy, Caperton, Cooper, Davis, Goldthwaite, Johnston, Kelly, Key, McCreery, McDonald, Maxey, Randolph, Ransom, Saulsbury, Thurman, Wallace, and Withers—18.

NAYS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Conkling, Dawes, Dennis, Dorsey, Eaton, Edmunds, English, Ferry, Frelinghuysen, Hamilton, Hamlin, Howe, Jones of Nevada, Logan, McMillan, Merrimon, Mitchell, Morrill of Maine, Morton, Oglesby, Paddock, Patterson, Sargent, Sherman, Whyte, Windom, and Wright—34.

ABSENT—Messrs. Alcorn, Boutwell, Bruce, Clayton, Cockrell, Conover, Cragin, Gordon, Harvey, Hitchcock, Ingalls, Jones of Florida, Kernan, Morrill of Vermont, Norwood, Robertson, Sharon, Spencer, Stevenson, Wadleigh, and West—21.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment proposed by the Senator from Rhode Island, [Mr. BURNSIDE.]

The amendment was rejected.

Mr. WRIGHT. I suggest an amendment to come in the second section—and I call the attention of the Senator from Indiana to it—in order to make that clear which by possibility is not so clear as it stands now. As it reads now it is:

And that return from such State shall be counted which the two Houses, acting separately, shall decide to be the true and valid return.

I propose to insert after the word "return" in line 7 the words "and that return only."

Mr. MORTON. That is what it is intended to mean, but I have no objection to the word "only" going in.

The PRESIDENT *pro tempore*. Is there objection?

Mr. JOHNSTON and others. Let it be reported.

The CHIEF CLERK. In the seventh line of the section, after the word "return," it is proposed to insert "and that only;" so as to read:

That if more than one return shall be received by the President of the Senate from a State, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice President in such State, all such returns shall be opened by him in the presence of the two Houses when assembled to count the votes, and that return, and that only, from such State shall be counted which the two Houses, acting separately, shall decide to be the true and valid return.

Mr. MORTON. I think the word "only" would be sufficient; but I have no objection to the words "and that only."

The amendment was agreed to.

Mr. WHYTE. I desire to offer an amendment merely to take the sense of the Senate. I move to strike out all after the word "certified," in the twenty-sixth line of the first section, down to section 4, and to insert in lieu of the matter stricken out the following:

The President of the Senate shall in the first instance decide without debate upon all such questions and announce his decisions thereon; and when he shall have counted all the votes he shall announce the result according to his decision. After the whole count has been so made and the result thereof announced, if it appears that the result will be changed by the reversal of decisions made by the President of the Senate, any member of either House may appeal from any such decision. Upon such appeal the vote shall be taken by States, the members of both Houses from each State severally giving one vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland, [Mr. WHYTE.]

The amendment was rejected.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. STEVENSON. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 26; as follows:

YEAS—Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Dawes, Dorsey, Ferry, Frelinghuysen, Hamilton, Hamlin, Hitchcock, Ingalls, Jones of Nevada, Key, Logan, McMillan, Merrimon, Mitchell, Morrill of Maine, Morton, Oglesby, Paddock, Patterson, Sargent, Sherman, Spencer, Thurman, Windom, and Wright—32.

NAYS—Messrs. Bayard, Bogy, Caperton, Cockrell, Conkling, Cooper, Davis, Dennis, Eaton, Edmunds, English, Goldthwaite, Howe, Johnston, Jones of Florida, Kelly, McCreery, McDonald, Maxey, Randolph, Ransom, Saulsbury, Stevenson, Wallace, Whyte, and Withers—26.

ABSENT—Messrs. Alcorn, Boutwell, Bruce, Clayton, Conover, Cragin, Gordon, Harvey, Kernan, Morrill of Vermont, Norwood, Robertson, Sharon, Wadleigh, and West—15.

So the bill was passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 192) authorizing the sale of certain lands in Vincennes, Indiana—to the Committee on Private Land Claims.

A bill (H. R. No. 361) to reduce the area of the military reservation of Fort Laramie, Wyoming Territory—to the Committee on Military Affairs.

A bill (H. R. No. 1816) to repeal section 1218 of the Revised Statutes of the United States—to the Committee on the Revision of the Laws of the United States.

A bill (H. R. No. 1297) prohibiting the cutting of timber on any Indian reservation or lands to which the Indian title or right of occupancy has not been extinguished, and for other purposes—to the Committee on Indian Affairs.

A bill (H. R. No. 2121) to authorize commissioned officers of the Army to make deposits under the act of May 15, 1872—to the Committee on Military Affairs.

A bill (H. R. No. 2821) to supply a deficiency in the appropriation for the manufacture of postal cards for the fiscal year ending June 30, 1876—to the Committee on Appropriations.

MILITARY ARRESTS IN ALASKA.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was ordered to lie on the table and be printed:

To the Senate of the United States:

In further answer to the resolution of the Senate of the 7th of January last, requesting to be furnished "with a statement of the number of military arrests made in the Territory of Alaska during the past five years, together with the date of each, the charge on which made in each case, the names of the persons arrested, and the period and character of the imprisonment of each in that Territory before trial or surrender to the civil authorities for trial," I have the honor to transmit herewith the report of the Secretary of War.

U. S. GRANT.

EXECUTIVE MANSION, *March* 24, 1876.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. SARGENT. I move that the Senate proceed to the consideration of the bill (H. R. No. 1594) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1877, and for other purposes.

The motion was agreed to.

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

The motion was agreed to.

COUNTING OF ELECTORAL VOTES.

Mr. THURMAN. Before the doors are actually closed, I move a reconsideration of the vote just taken on the passage of Senate bill No. 1 relative to counting the electoral votes; and I wish to say a word. The vote on the bill strikes me with some surprise. What there is that gives any advantage to one party over another in it is past my comprehension. I do not see it in the bill, but there is an objection that has weighed no doubt with many who voted against the bill, and that is that it leaves a case unprovided for, a case where there are two returns from a State. It does not arrive at an ultimate decision, or at least it may not, on that question. I am strongly impressed with the belief that unless the Senate can become more harmonious than it is on this bill, we have no chance to get a law on the subject at this session. Therefore I, for one, am anxious to make one more effort in this body, where such a thing as debate is allowed, where a calm consideration of a great question can take place, to have this matter further considered.

Mr. MORTON. Do you propose to have it considered to-night?

Mr. THURMAN. No; but I ask that the motion to reconsider may be entered in order that it may be further considered.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at five o'clock and three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 24, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

ABSTINENCE BY OFFICE-HOLDERS.

Mr. HOLMAN. I hold in my hand a memorial which I have received from the Women's Temperance League of Winchester, Indiana, signed by 1,104 citizens of that State, mostly ladies, asking congressional legislation to promote temperance in the service of the United States. I ask unanimous consent that the memorial may be printed in the RECORD—it is very brief—and referred to the Committee of Ways and Means, which has the subject under consideration.

Mr. KELLEY. The memorial, not the names?

Mr. MOLMAN. Yes. The memorial only I wish printed in the RECORD.

There was no objection, and the memorial was referred to the Committee of Ways and Means, and ordered to be printed. It is as follows:

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

The undersigned, members of the Women's Temperance League of Winchester, Indiana, and citizens of Randolph County, do most earnestly and respectfully, in consequence of the great and growing evil of intemperance, spreading as it does crime, pauperism, ignorance, and other miseries through all grades of our American society, petition your honorable body to so amend the oath required of all the officers in the service of the United States as to require them to abstain from the use of intoxicating drinks as a beverage during their term of office. This we ask because of the representative character of the persons whom the people have placed in such official position, and because of the salutary and beneficial influence such requirements and consequent conduct would exert upon all the young men of the nation, and also believing that such amendment to the oath of office, with the penalty of removal for its violation, would annually save millions of dollars for the Government.

We therefore most earnestly entreat you to grant our request by laying down such rules of sobriety for the government of those whom the people have placed over them as will secure our request.

TRANSFER OF THE PENSION BUREAU.

Mr. RUSK. I ask unanimous consent to present the views of the minority of the Committee on Invalid Pensions in relation to House bill No. 2590, providing for the transfer of the Pension Bureau to the War Department, and move that they be printed, so that they may be in possession of the House.

There was no objection, and it was so ordered.

POSTAL CARDS.

Mr. BLOUNT. I am instructed by the Committee on Appropriations to report a bill to supply a deficiency in the appropriation for the manufacture of postal cards for the fiscal year ending June 30, 1876, and ask that it may now be put upon its passage.

The bill (H. R. No. 2321) was received and read a first and second time.

The bill appropriates the sum of $62,300, out of any money in the Treasury not otherwise appropriated, to supply a deficiency in the appropriation for the manufacture of postal cards for the fiscal year ending June 30, 1876.

Mr. BLOUNT. As the House will have understood from having heard the bill read, there is a deficiency of some $62,000 for the printing of postal cards. There has been an unusual demand upon the Department for them, and the supply is nearly exhausted. It will be exhausted about the 1st of April. The committee have thought it proper that the demand of the public for these cards should be met. The bill involves no expense except the cost of the paper, printing, packing, and delivery for distribution, which is about $1.39 a thousand; whereas the revenues are $10 a thousand, and they are really a source of revenue to the Government. Unless the bill is passed immediately, the manufacture will have to be stopped on the 1st day of April.

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

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

The latter motion was agreed to.

EMPLOYMENT AND FEES OF UNITED STATES ATTORNEYS.

Mr. DURHAM. I ask unanimous consent to present, from the Committee on Expenditures in the Department of Justice, a report in relation to the employment of and fees paid United States attorneys and special attorneys in cases where the United States are a party, accompanied by a bill repealing section 363 of the Revised Statutes of the United States and substituting another section in lieu thereof. I desire to have the bill and the report with the exhibit marked "A" printed and recommitted.

There was no objection, and the bill (H. R. No. 2822) was read a first and second time, and, with the accompanying report and exhibit marked "A," ordered to be printed, and recommitted to the Committee on Expenditures in the Department of Justice.

GOVERNMENT FOR THE INDIAN TERRITORY.

Mr. WILSHIRE. I ask unanimous consent to report from the Committee on Indian Affairs a substitute for House bill No. 1923, to provide a government for the Indian Territory, and ask that, with the accompanying report, it may be printed and recommitted.

The substitute, a bill (H. R. No. 2823) to provide a government for the Indian Territory, was received and read a first and second time.

The SPEAKER. If there be no objection, the bill and accompanying report will be printed and recommitted to the Committee on Indian Affairs.

Mr. SOUTHARD. I desire to move that the bill be referred to the Committee on the Territories. I make this motion for this reason: The bill relates to the organization of a territorial government, and that is a matter which falls within the exclusive jurisdiction of the Committee on the Territories. On the 12th day of January a bill was introduced into the House for the organization of a government for the Indian Territory, and was referred to the Committee on the Territories. Since that time the committee have been considering that bill, and will be ready to report upon it at an early day. This bill covers precisely the same question, and it is manifestly inconsistent with the rules and the practice of the House that two committees should be considering identically the same subject at the same time. And I say further, so far as my knowledge extends and so far as I have been able to learn, there never has been a question of an organization of a Territory since the establishment of the Committee on the Territories that has not been in the exclusive control and jurisdiction of that committee. I therefore make this motion, that the bill be referred to the Committee on the Territories.

Mr. WILSHIRE. I hope the motion of the gentleman from Ohio [Mr. SOUTHARD] will not prevail. There is a difference between the organization of Territories hitherto and this particular case. The Territory proposed to be organized by this substitute is owned almost entirely by Indians. The soil is theirs in fee simple by treaty stipulations. A peculiar case is therefore here presented, and I think most certainly is within the jurisdiction of a committee of this House which is specially charged with the consideration of Indian matters; and I cannot conceive of any principle upon which the gentleman from Ohio can claim to have the bill referred to the Committee on the Territories.

Mr. SCALES. The Committee on Indian Affairs have had this matter under consideration, and after consideration determined that they had the jurisdiction of it. I suppose the same action has also been taken by the Committee on the Territories. The object is simply to test the jurisdiction.

Now we think we have the jurisdiction because this pertains to a people who are not citizens of the United States. They have always been treated as a separate and independent people. We are free to admit that if this bill pertained to any other class of people or any citizens of the United States, then perhaps it would properly belong to the Committee on Territories. I think that would be in accordance with the practice of the House, although I do not know that it is in accordance with the rules. I read the rule in relation to the Committee on Territories:

It shall be the duty of the Committee on the Territories to examine into the legislative, civil, and criminal proceedings of the Territories, and to devise and report to the House such means as, in their opinion, may be necessary to secure the rights and privileges of residents and non-residents.