not representing the State of Louisiana. As well mistake the hootings of the owl for the soft, sweet notes of the southern mocking-bird.

In this particular case from Pennsylvania I am not prepared to say, for I am not sufficiently conversant with this position of commissioner to say whether, *strictissimi juris*, this man is an officer or not, and unless in the strictest sense of the term he was an officer, equity and good morals demand that his vote should be counted. I am not speaking to this point but to the doctrine which the very able Senator from Indiana [Mr. MORTON] has presented and which doctrine in my opinion is startling and subversive of the Constitution. Whenever you permit the doctrine to come in that the habits, the usages, the customs of this party or that party or of anybody can override the Constitution of the United States, you admit a dangerous doctrine; it is startling to this country. It is the Grecian horse within the gates of Troy. And, Mr. President, it seems to me that something of this sort must have been permeating the minds of the electoral commission, something of this kind was at the bottom of every judgment we have had here. If a man was not duly appointed on the 7th day of November it was impossible, absolutely impossible to appoint him after that day, and no reasoning can shake this impregnable position.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. COCKRELL. Mr. President, I shall vote to count the vote of this elector with the other votes of the State of Pennsylvania. I may be mistaken in my conception of the law, but I cannot conclude that this is an officer of the United States in the contemplation of the Constitution.

But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

* * * * * * *

The President * * * shall nominate, and, by and with the advice and consent of the Senate, shall appoint embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law, but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

These commissioners, as I understand, were not nominated and by and with the advice and consent of the Senate appointed, and I hold that they are not officers of the United States in the strict sense of the word. I desire to call the attention of the Senate for a moment to the act of the 3d March, 1871, in regard to the appointment of these commissioners, to be found on page 470 of volume 16 of the Statutes:

That an exhibition of American and foreign arts, products, and manufactures shall be held under the auspices of the Government of the United States.

* * * * * * *

That a commission to consist of not more than one delegate from each State and from each Territory of the United States, whose functions shall continue until the close of the exhibition, shall be constituted, whose duty it shall be to prepare and superintend the execution of a plan for holding the exhibition, and, after conference with the authorities of the city of Philadelphia, to fix upon a suitable site.

* * * * * * *

That said commissioners shall be appointed within one year from the passage of this act by the President of the United States, on the nomination of the governors of the States and Territories respectively.

Now, I hold that without the nomination of the governors of the States and Territories, these officers could not be constituted by the President, and they are not, therefore, officers of the United States in the sense of the Constitution. They may be officers of the State and officers holding some color of authority from the United States, but they are not in the sense of the Constitution officers of the United States. In the case of the United States *vs.* Hartley, Mr. Justice Swayne defined an office thus:

An office is a public station or employment conferred by the appointment of government. The term embraces the ideas of tenure, duration, emolument, and duties.

Under this act, section 7:

That no compensation for services shall be paid to the commissioners or other officers provided by this act from the Treasury of the United States; and the United States shall not be liable for any expenses attending such exhibition, or by reason of the same.

In the case of Sheboygan County *vs.* Parker, 3 Wallace, 93:

A county officer is one by whom the county performs its usual political functions or offices of government; and a special board of commissioners appointed to perform a duty, which shall, though relating immediately to the county the ordinary county officers have not the power to transact without special legislation, are not county officers.

The functions here did not belong exclusively to the United States, and although they were constituted by this act of Congress they do not belong exclusively to the United States. The governors of the States nominate these commissioners and the President commissions them as a mere matter of form to represent their States at the centennial exhibition. I know it has been held by high judicial authority that they are officers of the United States, but I cannot concede the soundness of that view of the case. Believing that Mr. Morrell was not a person holding an office of profit or trust under the United States, I think he was eligible. It may have been an office of honor, but that is not excluded by the terms of the Constitution:

No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

He must hold an office of trust or of profit, and that office must be one under the United States. Under the Constitution the President has the power of appointment; he has the power of appointing every constitutional officer of this Government without any authority or nomination from the governors of the States, and those officers who must come to him under the nomination of a governor of a State are not the officers contemplated by the terms of this Constitution who shall not be appointed electors. These officers, as I assert, (and I have it from good authority,) were never nominated by the President and by and with the advice and consent of the Senate appointed to these positions; they were nominated by the governors of the States to him. That was an optional act with them; they could do it or not, as they chose. If the governors refused to nominate, the President could not have appointed or constituted them officers. It may be said, however, that the heads of the departments could, and that the President is the head of the executive department. Now I hold that, under the language of this Constitution, it is a violation of the spirit of it to say that the President is the head of any department of the Government.

This is the language:

But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

That does not refer to the Chief Executive.

The PRESIDENT *pro tempore*. The Senator's time has expired. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. SARGENT. I move that the House be notified of the action of the Senate and that it is ready to meet the House to continue the further count of the votes.

The motion was agreed to.

Mr. WINDOM. I move that the Senate take a recess until Monday at ten o'clock.

The motion was agreed to; and (at six o'clock p. m.) the Senate took a recess until Monday, February 26, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 24, 1877.

The Senate having withdrawn, the House (at twelve o'clock and twelve minutes p. m.) was called to order by

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

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

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, by unanimous consent, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1231) for the relief of the Board of Trustees of the Antietam National Cemetery;

An act (H. R. No. 1947) granting to the city of Stevens Point, Wisconsin, a certain piece of land;

An act (H. R. No. 2197) for the relief of Henry B. Kelly, of Louisiana, from political disabilities imposed by the fourteenth amendment;

An act (H. R. No. 3093) for the relief of the legal representatives of Zachariah B. Washburn, deceased; and

An act (H. R. No. 3566) to authorize the Board of Trustees of the city of Cheyenne, Wyoming Territory, to enter and purchase for the use of said city certain public lands.

ORDER OF BUSINESS.

Mr. LANE obtained the floor and yielded to

Mr. CLYMER, who submitted the following resolution:

Resolved, That for the more careful consideration of the objections to the report of the electoral commission in the Oregon case, the House now take a recess until ten o'clock on Monday morning.

Mr. HANCOCK. I rise to a point of order on that resolution.

Mr. CLYMER. I desire to say that my object——

The SPEAKER. The resolution is not debatable.

Mr. LANE. I ask unanimous consent that the gentleman from Pennsylvania [Mr. CLYMER] may make a statement.

Mr. HUBBELL. I object.

Mr. HOSKINS. I call for the yeas and nays on the resolution.

Mr. CLYMER. Do gentlemen on the other side refuse to hear a statement as to the object of this resolution?

Mr. TOWNSEND, of New York. I object to debate.

The SPEAKER. The gentleman from Texas [Mr. HANCOCK] rises to a point of order, and will state it.

Mr. HANCOCK. My point of order is this: That in accordance with the law under which we are now proceeding, which may be said to be a law somewhat enabling in its character, after the commission has come to a conclusion which has been presented to the two Houses and objections taken, it is not within the power of either House to take a recess until the electoral vote is passed upon, nor to take a recess at all except in the contingency contemplated and provided for in the fifth section of the electoral act; and that under the fourth section of that act, which must be construed as in harmony with the provision of the Constitution of the United States upon the same subject, it is the duty of each House, when acting separately upon any question connected with the determination of the electoral vote, to proceed to that determination without a recess.

The fourth section of the act provides—

That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate.

Now, Mr. Speaker, I maintain that this is a clear direction to the two Houses as to the manner in which they shall proceed when in separate session to consider objections raised to the decision of the commission upon electoral votes; that this act does not enlarge the power of either House beyond what they might have under the Constitution, to take a recess when they have separated from the joint session into separate session to consider objections to an electoral vote. In other words, the Constitution provides that the President of the Senate shall open the certificates containing the electoral votes, and the votes shall then be counted. No doubt objection might be taken to the counting of the votes; and this bill provides for objections being taken to the votes even where there are not two certificates. But it has never been the practice, nor does the Constitution contemplate, that when objections are taken and the Houses separate to consider those objections, the one or the other shall take a recess and postpone the determination of the question.

I say, then, that this law does not and could not enlarge the power of either House; nor can either House, when in separate session for this purpose, do otherwise than is contemplated that they shall do under the Constitution—proceed to the consideration of the electoral vote, or questions that may be raised upon it, without a recess.

I may feel as keenly as others the mortification and disappointment of defeat; but I hope I shall not so far lose my manhood as to be unable to go on and perform the duty that devolves upon me as a member of this House. Under the Constitution and laws I hold that there is no authority given to either House to procrastinate, to delay, to resort to any legislative or parliamentary expedients to postpone the action enjoined upon the two Houses under the Constitution. The law under which we are acting does not enlarge the power of either House in this respect; and they have no more authority to take a recess than if this law had not been passed.

Mr. CLYMER. Mr. Speaker, this is a question of order and not of manhood, and it would seem to be a work of supererogation that a question which has already received four distinct positive determinations by this body is again to be decided. Therefore I do not propose to waste the time of this House or perhaps to insinuate that the Speaker of this body is not capable of discharging the simplest duty of his place; that is, to follow in a beaten path. I therefore submit the question of order to the Chair. I wish further to say that in making this motion I have done it for a reason——

Mr. TOWNSEND, of New York. I object to debate.

Several MEMBERS. Let him go on.

Mr. CLYMER. In arguing this question of order I have a right, as the gentleman who made the point has apparently impugned my motive and that of the gentlemen who sustain the resolution——

Mr. HANCOCK. I hope I was not so understood.

Mr. CLYMER. I have the right to say that so far as I am concerned, and I believe so far as the large majority of those with whom I act on this floor are concerned, this motion is made and sustained in good faith. This Oregon question involves issues of the highest moment to all the people, and if those who wish to present their reasons for opposing the finding of the commission ask for time, ask for a day, ask that the quiet of a Sabbath may come over them and their outraged feelings before this vote is taken, it is not wonderful. I have made the motion in good faith.

Mr. TOWNSEND, of New York. I rise to a point of order.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLYMER] will confine himself to the question of order.

Mr. CLYMER. I have tried to do so.

The SPEAKER. The Chair desires to say that he did not confine the gentleman from Texas strictly to the point of order, and therefore he felt that the gentleman from Pennsylvania had a right to reply in some slight degree to the remarks of that gentleman.

Mr. BROWN, of Kentucky. Would it be in order to respond to some of the suggestions of the gentleman from Pennsylvania?

The SPEAKER. Not unless directly upon the point of order. Each side having now been heard once, the Chair thinks it his duty to confine the discussion strictly to the point of order.

The Chair has already decided this point. On the 10th of this month, when the electoral vote of the State of Florida was under consideration, the same question arose and was decided.

An appeal was then taken from the decision of the Chair, and that appeal was laid upon the table by a vote of 156 to 76. The yeas and nays were not attempted to be called on laying the appeal on the table, for what reason the Chair knows not. Since that decision the Chair has with great industry consulted various persons whose names, were he at liberty to give them, would be recognized as of gentlemen of well-known knowledge of and experience in parliamentary law, and he has yet to find any one who dissents from the opinion then expressed and the ruling then made, which was that a motion under the law and in the words of the law to take a recess until the next day at ten o'clock a. m. was in order.

The Chair desires to have read by the Clerk two clauses of the law upon which his ruling was based, first, a portion of section 5 and, in the next place, the whole of section 4.

The Clerk read as follows:

And no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of ten o'clock in the forenoon.

SEC. 4. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Texas [Mr. HANCOCK] and decides the motion of the gentleman from Pennsylvania is in order.

The question recurred on Mr. CLYMER'S motion.

The House divided; and there were—ayes 107, noes 133.

Mr. FRANKLIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 112, nays 158, not voting 20; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, Bradford, Bright, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Ellis, Faulkner, Field, Finley, Forney, Franklin, Fuller, Gause, Glover, Gunter, Andrew H. Hamilton, Robert Hamilton, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Henkle, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rea, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Sayler, Scales, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Warner, Whitthorne, Wigginton, Wike, Jere N. Williams, Benjamin Wilson, Yeates, and Young—112.

NAYS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kehr, Kelley, Kimball, King, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Metcalfe, Miller, Milliken, Mills, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Purman, Rainey, Reagan, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Woodworth—158.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Douglas, Durand, Gibson, Goode, Goldsmith W. Hewitt, Hopkins, Frank Jones, Lewis, Meade, Packer, Payne, Piper, James B. Reilly, Schumaker, Stephens, Thomas, and Wheeler—20.

So the House refused to take a recess.

Mr. LANE. Mr. Speaker, I move the House take a recess until half past nine o'clock on Monday morning next. [Cries of "No!" "No!" on the republican side of the House.]

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

Mr. SPRINGER. I should like to have the gentleman state his point of order.

The SPEAKER. The gentleman from Maine will state his point of order.

Mr. HALE. My point of order is that the privilege of the House to take a recess has been exhausted on one motion; that this is a dilatory motion and should not be entertained; that the regular order is the consideration of the objections to the decision of the joint commission in the case of Oregon, and that the call for the regular order which is now made brings them up at once. While I do not wish to begin the debate, being upon the floor upon the point of order, I nevertheless claim that privilege.

Mr. LANE. Mr. Speaker, I wish to state——

Mr. TOWNSEND, of New York. I object.

Mr. LANE. I am on the floor on the point of order, and wish to direct the attention of the Chair to that section of the electoral law which provides that the House shall have the right to take a recess not beyond ten o'clock the next day, except where the next day shall be Sunday, and then it shall have the right to take a recess until ten o'clock on Monday morning following. Now, if they have the right to take a recess until half past seven o'clock this evening surely we have a right to take a recess until half past nine o'clock Monday morning under the law.

The SPEAKER. The Chair is unable to recognize this in any other light than as a dilatory motion.

Mr. LANE. It was made in no such spirit.

The SPEAKER. The Chair is unable to classify it in any other way. Therefore he rules that when the Constitution of the United States directs anything to be done, or when the law under the Constitution of the United States enacted in obedience thereto directs any act by this House, it is not in order to make any motion to ob-

struct or impede the execution of that injunction of the Constitution and the laws. [Applause.]

The Chair is sorry to hear any manifestation of applause, as it is in direct contravention of the rules.

Mr. LANE. I desire to say in justice to myself, and I think I am entitled to that privilege, that the motion was not made in any such spirit. [Cries of "Order!" on the republican side.] I am claiming that as a matter of personal privilege.

The SPEAKER. The Chair will state to the gentleman from Oregon——

Mr. LANE. I trust the Chair will not allow it to go upon the record that I made the motion in any such spirit.

The SPEAKER. The Chair has not attempted to characterize the gentleman's motives nor to indicate what they were. That belongs to a higher power. [Laughter and applause.]

Mr. LANE. That higher power I am willing to submit to. [Applause.]

Mr. WALLING. I rise to a question of order. It is that this demonstration in the galleries and on this floor is out of order and ought to be suppressed, unless it ceases.

The SPEAKER. The Chair sustains the point of order, and directs that the demonstration shall cease. Should it occur again the Chair will direct the galleries, if the noise should occur there, to be cleared; and he will call by name any gentleman on the floor who indulges in such disorderly manifestations.

Mr. COX. I hope the rules will be enforced on the floor and that it will be cleared first. The disturbance came from the floor.

The SPEAKER. The Chair is unable to see how business could proceed if the floor was cleared.

Mr. LANE. I desire to present the order which I send to the desk.

The SPEAKER. The gentleman from Maine [Mr. HALE] has been recognized. The gentleman from Oregon [Mr. LANE] will be recognized to offer a substitute.

ELECTORAL VOTE OF OREGON.

Mr. HALE. I offer the following order:

Ordered, That the count of the electoral vote of the State of Oregon shall proceed in conformity with the decision of the electoral commission.

Mr. LANE. I offer the following as a substitute:

Ordered, That the vote purporting to be an electoral vote for President and Vice-President, and which was given by one J. W. Watts, claiming to be an elector for the State of Oregon, be not counted.

Mr. HALE. I do not propose to open the debate from this side of the House, but yield for that purpose to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE. Mr. Speaker, in the few remarks I shall submit on this question I will not impugn the motives or call in question the patriotism of any gentleman upon this floor. I think we will all agree that it is our duty to consider this question with perfect candor and fairness, without passion, without excitement, and with a purpose to ascertain what is our duty in strict accordance with the principles of law. I have always had an abiding faith that the "sober second thought" of the people and of Congress would demand that whatever result is worked out on this presidential question in the forms prescribed by law shall be accepted and acquiesced in as final and conclusive. This should be the guiding principle, the acknowledged duty of every American citizen. To cut loose from this is to embark on the shoreless ocean of doubt and danger and storm, if not of anarchy or revolution. Whenever the public judgment can tolerate this, the days of the Republic will be numbered. When that period shall arrive, then soon this grand experiment of ours, of freedom and free government, will only be known in the history of the dead and buried republics which strew the pathway of time. I have so much confidence in the people, so much in the good judgment of their Representatives in Congress, that I cannot believe we have commenced or will begin any such calamitous career as this. I trust and believe that God in His providence has in store for us a better fate than this.

Now, Mr. Speaker, what is the question before us? At the presidential election in Oregon on the 7th of November last the republican candidates for electors, Odell, Watts, and Cartwright, received a majority of the popular vote, a majority of the votes of the qualified electors of the State.

There are some facts, I take it, about which there can now be no controversy. The first prominent fact is this: that Odell and Cartwright, two of the republican electors, as it is conceded on all hands, were duly appointed; that they received a majority of the votes of qualified voters of the State of Oregon, and that they have all the evidence of title to the electoral office which is required either by the act of Congress or by the statute of Oregon. The second great fact to which I wish to call the attention of the House is, that it has been decided by a unanimous vote of the electoral commission that Cronin, who received the governor's certificate of election, was utterly without title, and that he had no authority whatever to act or vote as an elector. When this question has been determined by a unanimous vote of the electoral commission, I shall regard it as so completely settled as that it is unnecessary to discuss it before this House.

Here then are these two facts: first, that Odell and Cartwright, two of the republican electors, were beyond all question duly appointed, and that they were authorized to act as electors; and that there was no other candidate who was entitled to give any vote for President and Vice-President, unless it was Watts, who received also a majority of the popular vote.

I care not, Mr. Speaker, for any question now before us whether Watts was ineligible, and so was not elected and could not be elected, or whether he was a *de facto* officer by virtue of his election; for in either event, after he had resigned there was a vacancy in the electoral office which was properly filled by the appointment of Cartwright and Odell. When the electoral college composed of Cartwright and Odell met, Watts tendered his resignation, and it was accepted. If he was elected, and as such became an officer *de facto*, his resignation created a vacancy. If he was not elected, if there was a non-election, then I shall maintain that there was a vacancy in the office of elector, and whether the vacancy arose from the resignation of Watts as a *de facto* officer, or by reason of a non-election, in either event the vacancy was properly filled by the re-appointment of Watts by the two remaining electors, and that therefore the three votes for President and Vice-President cast by Odell, Cartwright, and Watts were the votes required by the Constitution, and that they ought to be counted.

I know it has been said that Watts was ineligible; that because of his ineligibility there was no election; that if there was no election there could be no vacancy, because there can be no vacancy unless there has been an incumbent. I shall endeavor to show that this is an entirely mistaken view of the subject; that there was a vacancy, as I have already remarked, and that it was properly filled. The act of Congress upon this subject contains two provisions. First, the act says:

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

Now that applies to a vacancy which exists on the day when the college of electors meets, and in a case where there has been an election.

But it provides, second—

That when any State has held an election * * * and *failed to make a choice*, the electors may be appointed on a subsequent day, in such manner as the Legislature of such State may direct.

Now, that provision of the act of Congress was designed to meet a case of non-election. How has the statute of Oregon provided for such a case as that? By the statute of Oregon it is provided that—

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December * * * and if there shall be any vacancy in the office of an elector occasioned by (1) death, (2) refusal to act, (3) neglect to attend, or (4) otherwise, the electors present shall immediately proceed to fill * * * such vacancy. .

Now, if there was a non-election, I insist that it created a vacancy, otherwise than by death, refusal to act, or neglect to attend; and that therefore, by virtue of that provision of the statute of Oregon, Odell and Cartwright had authority to fill the vacancy. Let us see whether that is not a fair construction of this statute of Oregon. In the first place, this statute is to be liberally construed. It is a statute in aid of public rights. It is a statute designed to give the people of Oregon that right which the Constitution of the United States intended they should exercise; nay, makes it imperative upon them that they shall exercise, to appoint three electors, so that the State may be fairly represented in the electoral college. If there is any doubt about the proper construction of the statute, that doubt should be construed in favor of the authority to fill the vacancy.

But the question has been decided by the courts. I have no time to discuss or read the decided cases, and I will only name some of them, as follows: State *vs.* Adams, 2 Stewart's Alabama Reports, 231; State *vs.* City of Newark, 3 Dutcher, 185; State *vs.* Irvin, 5 Nevada, III; and there are many other cases to which I might refer.

It is perfectly certain that in the ten minutes allotted to me I cannot fully present the entire argument on this question. I can only therefore refer to the argument I had the honor to make in the Oregon case before the electoral commission.

The same result would follow even if Cronin had been duly elected and had the proper evidence of title to the electoral office. The record of the proceedings of Cartwright, Odell, and Watts shows that Cronin was not present at the *time* and place when the electoral college met. His absence, by *express statute*, created a vacancy. His absence is proved by three distinct evidences of the fact:

First. It is shown by the proceedings of Cartwright, Odell, and Watts, and this is conclusive evidence.

Second. It is shown by the so-called record of the proceedings of Cronin, Parker, and Miller, which admits that Cronin did not meet with Cartwright and Odell.

Third. The same record shows by inference the same fact.

The statute of Oregon requires the electors to meet at twelve o'clock m. on the 6th day of December. The record of Odell, Cartwright, and Watts shows the meeting of their college at this time. The record of Cronin and his appointees does not pretend to show any meeting at this time. It only pretends that the meeting was on the 6th day of December, and *non constat* it was long after the appointed time—long after the college met, voted for President and Vice-President, and adjourned. It is by no means a case where Cronin was present insisting on a right to vote with the two acknowledged electors, Odell and Cartwright. The vacancy occasioned by the absence of Cronin, even if he were an elector, was therefore duly filled. In any event, the three votes of Oregon have been lawfully given to Hayes and Wheeler; they are *the* votes required by the Constitution, and in law, in morals, in all justice, they are to be counted.

[Here the hammer fell.]

Mr. LANE. I desire to say that I cannot compass the legal aspects of this case in ten minutes, and therefore I yield my time to the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. CLYMER. In after times, Mr. Speaker, this place, these scenes, shall be memorable. It will be told that in this the home of thirty-eight sovereignties, dedicated to the exercise of all the powers necessary for the peace, welfare, prosperity, and progress of more than forty millions of freemen, and consecrated by the name of him whose character is the embodiment of all that is great and pure, a crime against justice and the popular will was consummated, the iniquity of which has no parallel, as its perfidy has no limit.

For weary years the people had striven to rid themselves by the peaceful methods of law from the clutch of those who had seized power amid the agony and convulsions of civil war. The unlawful and partisan use of military power, the seductions of place and patronage, the violent appeal to the passions and prejudices of the people, the unchristian efforts to array sections and races in bitter hate, and the systematic and unblushing resort to corruption and fraud made the final struggle desperate and doubtful. The right triumphed. And in November last a solemn verdict was rendered, by which the wrongs and outrages, the infamy and disgrace, the nepotism and debauchery, the venality and imbecility of existing administration, was to be ended. Honest men rejoiced and were content, thieves trembled and plotted. That verdict must be reversed, or the vengeance of a long-suffering and outraged people would find its victims. How in order to accomplish this end the electoral votes of Florida and Louisiana were corrupted and stolen in solemn mockery of justice and right, I will not detail. The sickening and disgraceful story is familiar to every one. The people stood aghast at the bold, bad, damnable conspiracy. Their Representatives assembled here in December last intent upon defeating the consummation of the crime. Committees of this House were sent to the several States to inquire into and demonstrate it. As the testimony was gathered it became so transparent that no one, unless blinded by partisan prejudice or actuated by corrupt motives, attempted to excuse or justify it. Dreading the horrors of civil war, which were threatened and imminent, willing to exhaust all peaceful methods, relying with unshaken faith in the justice of our cause, a great majority of the democrats in Congress, abandoning what I believed to be their constitutional prerogative, agreed to submit the question to a commission chosen from the two Houses of Congress, adding to it ministers of the law, who, by reason of their exalted position, their generally received reputation for learning and their supposed impartiality, it was hoped would do equity and execute justice. How reluctantly I gave my assent to and vote for the measure I desire to place on record; how honestly I intended to abide by it I have hitherto attempted to illustrate by my every act and vote during the dreary progress of the consummation of the foul crime.

No one will be so dishonest as to assert or claim that the electoral bill could have become a law had it not been understood and believed that under it all the facts, all the frauds, all the villainies of the returning boards would be inquired into. Who would have been so unscrupulous as to assert that ministers of law and justice, no matter what their political faith, would be so recreant to the principles of their great profession, so lost to its highest obligations, so unmindful of its uniform and unbroken creed, that fraud vitiates and destroys all it taints—that by it the most solemn deeds of men are dissolved, the compacts of nations are broken up, and that under its withering breath even the great seal of a State is scorched and crumbles into dust? From the days of Moses, the first lawgiver, until this transaction, it was held impossible to vivify or sanctify it. Yet here, now, in this the very temple of liberty and home of justice and law, in the high presence of forty millions of people, and for their enslavement and debasement, we are confronted by admitted and unquestioned fraud, into which the breath of life has been breathed by those whose sworn duty it is to exterminate and destroy it. By it, and it alone, the highest elective dignity on earth is to be conferred upon one who was rejected by a vast majority of his countrymen; by it, and it alone, a usurper and political bastard is to occupy the seat of Washington; by it, and it alone, all our miseries in the past are to be perpetuated, and our hopes of reform in the immediate future are to be blasted; by it, and it alone, the spirit of the people is to be broken, their faith in human justice undermined, and their belief in the efficacy and value of popular government is to be shaken, if not utterly destroyed.

These are some few of the natural and logical results flowing from the unholy and iniquitous decisions made by a majority of the electoral commission. When faith, trust, hope, respect, and reverence are exterminated by one cruel blow of perfidy and injustice, who may justly estimate the effects upon existing civilization, who may predict the occurrences of the future? If the very frame-work of government is undermined and shaken, if unrest and distrust pervade the land, if men should long for that sense of personal security which flows from absolutism, if they should abstain from and spurn the use of the ballot because it may be steeped in fraud with impunity, if they should lose all respect for rulers and laws, if they should scoff at holy things and deride the sanctity of oaths, if they should cease to regard all obligations imposed by law and morals, if these and their attendant evils should come to us and our near posterity, he who shall write our history will, if he be guided by philosophic generalization, recur to and narrate the transactions and events, the nefarious methods and legalized villainies of this stupendous presidential crime and in them discover the germs of national demoralization and decay.

It might be difficult to determine who shall be held chiefly responsible for the despondency, disquiet, and illy-suppressed rage which pervade the minds of a large majority of the people. With them, I had, until quite recently, thought that the president of the Louisiana returning board combined more of the qualities of an abandoned political desperado than any man in the land. It was he who by perjury and fraud made it possible that the electoral vote of Louisiana might be stolen and counted, if there should be found some one who by his position and voice could determine finally that the villainies of the returning board should not be inquired into. It seemed impossible that his bad eminence could be eclipsed, but in this, in common with a large majority of my countrymen, I was mistaken, and for them and on my own account I beg the pardon of J. Madison Wells for the unintentional injustice. We in this House assisted in developing one the latchets of whose shoes even Wells, in all his moral deformity, is unworthy to unloose. Their precious names will go to posterity linked together, as those between whom, here in this Capitol, in the very temple of justice, the rights and liberties of the people were betrayed and crucified!

Sir, my great and indeed chief hope is that the enormity of the crime will bring its sure punishment. I thank the good people of the States that we in this Hall will have the power to curb, restrain, and keep in due subjection to their will, as expressed through us, him who I would fain believe will be an unwilling usurper. That no act of his shall pass unquestioned, that no wish of his detrimental to the true interests of the people can be made effectual, that the revenues cannot be squandered, that the Army and Navy may not be used to intimidate the people and overthrow Commonwealths, that the public burdens may be lightened, and that the rights and liberties of all the people of all sections may be guarded and protected—these are some of the great blessings which the majority on this floor will have it in their power to preserve for the people despite presidential returning boards in Florida and Louisiana and their confederates in this Capitol. Over our seats they at least will have no control. We hold them from a power in which fraud is not a recognized and cherished factor, and to that power, the sovereign people, we will appeal not only to sustain us, but to avenge the appalling crime against law and justice and the rights and liberties of the people of all the States, about to be consummated. Seize the glittering bauble of the Presidency if you will. It shall be.

"A barren sceptre in *your* gripe
Thence to be wrenched by an unlineal hand,
No *friend of yours* succeeding."

Mr. BURCHARD, of Illinois. If the governor's certificate were conclusive evidence of title to the office of elector in Oregon, the papers submitted to the joint meeting of the two Houses would establish the existence of two electoral colleges or two bodies claiming to be electoral colleges, that met and cast their votes as electors of the State. The simple question would then be presented, which of these two colleges is to be considered the proper college and decided to have cast the vote for the State of Oregon? One of these bodies claiming to be an electoral college consisted in the first instance of but one person named in the governor's certificate, a minority candidate who had received a certificate from the governor of his election and who met by himself, so far as appears upon these papers, at a different time from that prescribed by the statute of Oregon and proceeded to organize an electoral college by himself. The only evidence forwarded to the President of the Senate to show the right of J. N. T. Miller and John Parker to act as electors is in the certificate signed by them jointly with E. A. Cronin, which is as follows:

This is to certify that on the 6th day of December, A. D. 1876, E. A. Cronin, one of the undersigned, and John C. Cartwright and William H. Odell, electors, duly appointed on the 7th day of November, A. D. 1876, as appears by the annexed certificate, to cast the vote of the State of Oregon for President and Vice-President of the United States, convened at the seat of government of said State, and for the purpose of discharging their duties as such electors; that thereupon said John C. Cartwright and William H. Odell refused to act as such electors; that upon such refusal the undersigned, J. N. T. Miller and John Parker, were duly appointed electors, as by the laws of Oregon in such cases made and provided, to fill the vacancies caused by the said refusal; that thereupon the said electors, E. A. Cronin, J. N. T. Miller, and John Parker, proceeded to vote by ballot, as by law provided, for President and Vice-President of the United States.

Done at the city of Salem, county of Marion, and State of Oregon, this 6th day of December, A. D. 1876.

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors for the State of Oregon, to cast the vote of said State for President and Vice-President of the United States.

The other body claiming to be a college, consisting of W. H. Odell and J. C. Cartwright, certified to us by the governor as duly elected, met at the hour of twelve o'clock m. upon the day prescribed by the statute of the State of Oregon, and proceeded at that hour, under the law of Oregon which authorizes the filling of vacancies, to fill a vacancy which existed in their electoral college. The record of their proceedings is as follows:

SALEM, OREGON, *December* 6, 1876—12 o'clock m.

This being the day and hour fixed by the statutes of the United States and of the State of Oregon for the meeting of the electors of President and Vice-President of the United States for the State of Oregon, the electors for President and Vice President of the United States for the State of Oregon met at Salem, the seat of

government of said State of Oregon, at twelve o'clock noon of the 6th day of December, A. D. 1876, said day being the first Wednesday in December.

Present, W. H. Odell and J. C. Cartwright.

The meeting was duly organized by electing W. H. Odell chairman and J. C. Cartwright secretary.

The resignation of J. W. Watts, who was on November 7, A. D. 1876, duly elected an elector of President and Vice-President of the United States for the State of Oregon, was presented by W. H. Odell, and after being duly read, was unanimously accepted.

There being but two electors present, to wit, W. H. Odell and J. C. Cartwright, and the State of Oregon being entitled to three electors, the electors present proceeded to and did declare that a vacancy existed in the electoral college, and then and there, under and by virtue of the provisions of section fifty-nine, (59,) title nine, (9,) chapter fourteen, (14,) of the General Laws of Oregon, (Deady and Lane's Compilation,) the said electors, W. H. Odell and J. C. Cartwright, immediately, by *viva voce* vote, proceeded to fill said vacancy in the electoral college.

J. W. Watts received the unanimous vote of all the electors present, and was thereupon declared duly elected to the office of elector of President and Vice-President of the United States for the State of Oregon.

The certificate signed by Cronin, Miller, and Parker simply certifies that the three electors, Odell, Cartwright, and Cronin, met upon the 6th day of December, at no hour named; that Odell and Cartwright refused to act, and Miller and Parker were appointed to fill the vacancies.

The Revised Statutes of the United States which authorizes the filling of vacancies provides that—

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

The Legislature of Oregon had by law provided that—

The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day; and if there shall be *any vacancy* in the office of an elector occasioned *by death, refusal to act, neglect to attend, or otherwise*, the electors present shall immediately proceed to fill by *viva voce* and plurality of votes *such vacancy* in the electoral college; and when all the electors shall appear or the vacancies, if any, shall have been filled as above provided, such electors shall perform the duties required of them by the Constitution and laws of the United States.

The gentleman from New York, [Mr. COX,] in the few remarks which he made the other day, gave a definition of the word "otherwise," which, I believe, is correct, namely: in any other manner or any other form or for any other cause. Then, if the office of an elector was vacant, the State of Oregon authorizes the two other electors to meet at twelve o'clock on that day to proceed to fill the vacancy, and they are not authorized to do it at any other time. The Cronin certificate neither shows that he attended nor that Odell and Cartwright refused to act at the hour named, while the latter show that their college met, organized, they being the only electors present, and proceeded regularly to fill the vacancy in strict conformity with the law of the State.

But because Cronin bungled in the management of his part of the scheme, planned in New York and telegraphed in cipher to Oregon, the action of the governor of the State in certifying to the election of the minority candidate is repudiated and disowned. It is admitted that Cronin was not elected, but claimed that Watts's ineligibility created a vacancy that the college had no power under the statute to fill.

The decision of the supreme court of Rhode Island has been referred to here and elsewhere. But the language of the statutes of Rhode Island in relation to the filling electoral vacancies is very different from that in the Oregon statutes. The Rhode Island statute expressly requires the Legislature to be called together to fill a vacancy in case of a failure to elect, and in another section it provides for filling vacancies by the other electors, in case, after an election by the people, "any electors, chosen as aforesaid, shall after their said election decline or be prevented from any cause from serving therein." The supreme court of Rhode Island substantially held that the vacancy must be filled by the Legislature, and arose from a failure to elect, and could not therefore be filled by the other electors upon the ineligible elector declining to act.

Mr. SPRINGER. Will the gentleman allow me——

Mr. BURCHARD, of Illinois. I have not time.

Mr. SPRINGER. Will the gentleman answer me this question, if the courts did not hold in that case that Corliss was not elected?

Mr. BURCHARD, of Illinois. I have given you the language of the statute and the decision of the court.

The language of the Oregon statute is "that the electors shall convene," &c., if there shall be any vacancy in the *office* of an elector—"if there shall be any vacancy." It does not specify whether the man shall have been elected or not, but if the office is vacant. Surely the office is vacant if it has never been filled. A house is vacant just as much before it is occupied by a tenant as it is when the occupants have been turned out or voluntarily left it. Under that statute the electors who met at twelve o'clock on the 6th of December were authorized to fill that vacancy and they did fill it.

I desire more particularly to argue and present this point. Of course this great subject embraces other questions upon which we could claim the vote of Oregon, and which I have not time to discuss at length. I would be glad to follow the objections that I have heard urged here many times.

I stated the other day that I thought there was no power at this presidential count to go into the question of eligibility. I repeat that statement. I believe we stand here as inspectors of an election, or as judges after the votes have been cast, and we are merely to enumerate those votes; we are not to go into a judicial investigation to ascertain whether those who voted in the various colleges were eligible or not.

[Here the hammer fell.]

Mr. BROWN, of Kentucky. Mr. Speaker, we have nearly reached the end of the swelling scene; part farcical, part tragical. Farcical in that it has been a burlesque upon truth and justice; tragical in that it has been murderous to every principle of law, fair dealing, and honor that should govern among men.

I was in favor of the bill creating this electoral commission; I indulge now in no childish repinings over the result. I thought we could trust the selected men of the highest court of the foremost government in the world.

Human laws cannot put limitations upon fraud; they may punish, but they cannot prevent. We trusted these men and they have betrayed our trust. All laws must be administered by human agencies; if you have the corrupt judge, no matter what your laws may be, you hear a false judgment. Jeffreys was a just judge save where the interests of the Crown were concerned. Bacon, "the wisest and the meanest of mankind," took bribes, yet rendered, with one or two exceptions, just judgments. Hale, although refusing to take the civic oaths of Cromwell, yet was made one of his judges.

Our judges of the Supreme Court hold their offices for life, with liberal salaries; are independent of the mutations of politics, each having his personal and official honor to maintain, and I thought that surely there—if the depravity of radicalism was not universal—we could find integrity. My confidence was generous, patriotic, undoubting in these men and in our case submitted. But in this electoral commission supposed incorruptible sages, in their exalted positions, have played the part of banded jockies, and have done in the face of the world that which hungry mountebanks should scorn. They have done

> Such an act,
> That blurs the grace and blush of modesty;
> Calls virtue, hypocrite; takes off the rose
> From the fair forehead
> And sets a blister there.

And these successors of John Marshall! To-day how must each feel "his title, like a giant's robe, hang loose about him." Suspicion is whispered that certain judicial commissions bear the dark and damning stain of intrigue and ring jobbery; and that the first judgment of their holders was the price paid for their promotion. These indeed are days of degeneracy and shame. Read and consider the record of the decisions of the majortity of these men; note their shuffling tricks, their inconsistencies, their evasions; and they are such as would bring the blush to neophytes in learning; such as pigmies in self-respect and honor would abhor.

In the fable we read that the cat was changed by the fairy into the fine lady; yet at the banquet, upon the appearance of a rat, this fine lady chased it. Apply the story and you need no suggestion to draw a conclusion from its moral.

You have but a "barren scepter in your gripe." Your fresh garlands entwine around your hatchment. Your party stands to-day surrounded and saturated with such turpitude that the judgment of the hour and of mankind hereafter must be against it.

Your jugglers have proclaimed your victory, but it is tarnished with shame and accompanied by perjury and every species of fraud. The republican party is in the attitude of—

> A cutpurse of the empire and the rule,
> That from a shelf the precious diadem stole
> And put it in his pocket.

What of the South? The conduct of her Representatives during the last few months has refuted the slanders of years. Their votes and utterances here have been for peace, law, order.

The South has been familiar with misfortune; sorrow and defeat have mingled in her experience. She has drunk the cup of bitterness to the dregs, but thank God is a stranger to dishonor, and most of us from that section stand for the faithful and inflexible execution of the electoral bill. Honor says it, policy says it; without we drift into confusion. Our escutcheon is unstained. We can better afford to accept disappointment and defeat than by parliamentary shifts and tricks to avoid the orderly execution of the law against which only eighteen democrats of this House and only one in the Senate voted.

Something has been said of bargaining with the South. You cannot win them over by bribes; they want nothing but justice. I see before me a distinguished and cherished friend from that section, [Mr. LAMAR,] a gentleman of the highest ability and unspotted integrity; honored by his people and worthy of their trust. I speak not by his authority, but as his name has been mentioned in this connection, I say that I am sure he would shrink from such a coalition as his soul would recoil from a cruel wound of dishonor.

The men you could bribe in the South are not worth having. You would loathe them when you got them; they would have no following or influence at home. And if they were to join with your party to sustain it in its past and present policy, they would find themselves political pariahs in the land of their birth. Nothing will conciliate the South but justice, and you will so find it. They want rest, order, home rule. Your largess there will be thrown away if given to corrupt. These people are your peers, equals, before the law; and neither

by bribery nor force can you change them from serfdom to villainy. In the precious name of their manhood and womanhood I repudiate the intimation with scorn unutterable.

There will be no division in the democracy. Lay not that flattering unction to your souls. It is a difference to-day only among them as to the policy of the hour. And now I ask you, my countrymen of the republican party, in the name of justice, of peace, of truth, of liberty, of civilization, in the name of all these, I ask you to halt. Forbearance has its limits; I say it not in menace but in sorrow and solemn earnestness.

The manacles must fall from the limbs of our sister Southern States. You must call off your dogs. These unfortunate people have been baited and badgered until the just sentiments of the world in indignation condemn your cruel policy.

Is yours to be an imitation of the celebration of a Roman victory with these long-suffering States chained to your triumphal car? Are the clanking of their chains to be heard mingling with your hosannahs to liberty and free government? If the fraudulent action of a villainous returning board of a State is so sacred in your eyes that by reason of State rights you will not go behind the certificate of a governor whom you have adjudged a usurper, how dare you longer keep your soldiers there to sustain the thieves who have been necessary to your disgrace, unless it is by a bargain with successors in villainy?

While you stand up for the inviolability of State rights, while you cannot go behind the corrupt return of a board in Louisiana that huckstered the vote of their State from one end of the country to the other for a price, you organize the Legislature of that State with your bayonets. While the gentleman from Ohio [Mr. FOSTER] says that "the flag shall float only over States and not provinces, over freemen and not slaves," your President forbids in South Carolina a peaceful celebration of the anniversary of the birth of Washington! While the gentleman from Ohio says this, your Senate on the same day, twelve years after the close of the war, is refusing amnesty and your President has a pardon for every bribe-taker and every whisky thief!

"States and provinces—freemen and slaves!" What means this language, but a confession on the part of the gentleman from Ohio [Mr. FOSTER] who represents the district of Mr. Hayes that sovereign Commonwealths have been degraded and their citizens denied their rights? Ah! well do you know the crimes you have committed upon these States. But I must hurry on as my ten minutes are nearly gone.

Inconsistency and contradiction mark the whole course of your policy. You have seemed to try to achieve for yourselves the lament of Junius concerning a party of whom he wrote, you have given "immortality to the perishable parts of your infamy." What a hollow mockery will be the pageant of your inauguration of your President. With this record, with the sun of truth blazing upon the iniquities by which your power was obtained, this instead of being the day of your victory will be the day of your death. The vials of the people's indignation will be emptied upon you; you will hear the hisses of scorn for what you have done. The page of history will record the eternal verdict against you. Just so surely as a God of justice rules the affairs of men, just so surely will the victories of truth and justice in time prevail.

Democrats, peace, courage, prudence, moderation! I implore you now to remember the millions whom we represent.

As I have stood here for moderation and peace throughout this Congress, I accept to-day defeat, bitter as it is, rather than dishonor. I "bear the ills I have rather than fly to those I know not of." When I am asked to give my vote to resist the execution of this law, my answer is, no objective point is given to which we would move that would not bring upon us confusion, anarchy, and chaos.

The strength of our position is in its moral grandeur. Let us not impair this and throw away our great opportunities. Let us not take counsel of our passions. Principle, statesmanship, policy—all these command us to stand by the execution of the law we have made. We agreed to trust certain men, and they have betrayed us. To rush into revolution would be suicidal; it is madness. Be patient; the people will rebuke the iniquities of which we complain. The day of deliverance will soon come. The authors of misrule will call upon the mountains to fall upon them to hide them and their crimes from the sight of men. There will be no divided democratic party. Those who so prophesy only proclaim what they wish.

Unshaken, unseduced, let us stand for our honor, like Clan Alpine's oak, "the firmer it roots him, the ruder it blows." [Loud applause.]

[Here the hammer fell.]

Mr. SAMPSON. Mr. Speaker, we have had many searching investigations since the commencement of this session in relation to transactions connected with the late presidential election. Gentlemen on the other side of the House have been crying "fraud, bribery, and corruption" from the time they first set their feet upon this floor at the commencement of the session. Yet in this very case, in connection with the Oregon election, we find the first positive evidence of bribery; we find the first evidence of a bribe taken to influence a man in relation to casting an electoral vote, that bribe being taken by a democrat and paid by a democrat. The evidence in the Oregon case, when you examine it, demonstrates these facts. It is not rumor; it is sworn evidence taken before a committee of the Senate.

I wish to call attention to a few of the leading facts in connection with the Cronin vote. About the 13th of November it came to light that Mr. Watts, one of the republican electors, was a postmaster. From that time telegrams and letters and politicians were pouring into the State of Oregon in order to see if a democratic vote could not be secured. Mr. Cronin had many letters directed to him. He had many conferences with his party friends, who urged upon him the necessity of casting that vote; but he repeatedly declared, and declared to the chairman of the democratic committee of that State, Mr. Bellinger, that he would not cast that vote, even if Governor Grover should issue a certificate to him. But that man was "seen," between the 28th of November and the 2d of December, by Mr. Patrick, who went from Omaha at the instance of some one in New York City. That man was "seen" in the city of Portland. He was met on the streets by Mr. Bellinger. He was invited to go up and see Mr. Patrick. He then declared he would have nothing whatever to do with this transaction. But he was prevailed upon to go. He went into Judge Strong's office and there found Mr. Patrick. He came down with a pledge upon his lips to cast that vote. He went to Salem and received the certificate from Governor Grover on the morning of the election. He went into the electoral college; he retained that certificate in the face of decency and against all right; and he cast that vote. On the next Friday he was taken to the bank of Ladd & Tilton, in the city of Portland, by Mr. Bellinger, and there were delivered to him drafts for $3,000 in gold.

These are the facts. Mr. Patrick was breathed on from Gramercy Park, New York City; Mr. Patrick breathed on Mr. Cronin; Mr. Cronin cast that vote and received the $3,000, after having repeatedly declared that he would not be a party to depriving the people of Oregon of their voice in this election.

Let me refer to another striking feature in this Oregon matter. I have not time to consider the law; but I wish to call attention to another fact. I notice that Governor Grover states in his evidence that he never announced what his decision would be in relation to the issuing of that certificate until the morning of the election, until he filed that written opinion which had been prepared days before, and until he whispered in the ear of his private secretary to issue that certificate to Cronin. What do we find? We find that on the 1st day of December there was sent from the city of Portland a telegram, which translated is as follows:

DECEMBER 11, 1876.

To Hon. SAMUEL J. TILDEN,
No. 15 Gramercy Park, New York:

I shall decide every point in the case of post-office elector in favor of the highest democratic elector and grant the certificate accordingly. Rule morning of 6th instant. Confidential.

That purported to come from Governor Grover himself or under his direction.

They say he never directed that telegram to be sent and that it was not sent by him or under his direction. I say there is positive internal and conclusive evidence that Governor Grover did dictate that telegram. Mr. Patrick saw him between the 28th and the 1st. He was there in the city of Portland. That telegram is in Mr. Patrick's handwriting. That telegram states that he would rule on the morning of the 6th, and what his decision would be. He did rule on the morning of the 6th, and did decide precisely as the telegram stated. He had a written opinion which he had been preparing some time before that, which he actually filed on that day, which bore date of that day.

Not only that, Mr. Speaker, but there were gathered there the democratic candidates for electors, one living between two hundred and three hundred miles from that point, and another living over three hundred miles from there; they gathered there on that day prepared to act as the body-guard of Mr. Cronin, in order that he should retain that certificate and cast that vote.

Not only that, but Mr. Cronin selected the very men who were to act with him before Governor Grover announced that decision. There is positive evidence he had done that before the opinion was pronounced. He selected Mr. Parker and Mr. Miller to act with him in the electoral college. Before the certificate was issued preparations were made, and a crowd of the leading democrats gathered there to see that performance.

Notwithstanding this, notwithstanding the decision had been made a week before, notwithstanding it had been communicated to the highest democratic authority in the United States, the chief at Gramercy Park, what the decision would be, we find Governor Grover donning the judicial robes of the State of Oregon, marching in and taking his seat in the room of the supreme court, and there hearing argument from ten in the morning until ten o'clock at night on that very proposition.

[Here the hammer fell.]

Mr. CALDWELL, of Tennessee. Mr. Speaker, we are now nearing a completion of the electoral count. We are able to see the end, and know that it means the inauguration of a minority candidate into the presidential office. No man denies that the people of this Republic have by more than a quarter of a million majority at the ballot-box expressed a preference for another candidate; but the public will is to be set aside and stand for nought and the will of faction be executed.

Sir, it is useless and would be distasteful to review the steps by

which we have been brought to this result. The most obvious, the most dangerous, the most criminal of all the influences that have conspired to produce it has been the wanton and wicked perversion of governmental powers by those in whose hands they were lodged. When a Cabinet minister, an executive counsellor became comptroller-general of the republican forces, subjecting himself to the necessity of abusing his high functions in the abject service of party, the design was deliberately formed, in my judgment, to thwart by all the power and patronage of Government that adverse judgment which the people stood ready to pronounce upon the general official delinquency that existed in all the Departments. They have pronounced that judgment, and although you may annul it through the machinery of servile and corrupt returning boards, and prevent its execution, there it stands and will forever stand, a perpetual record against you and an imperishable reminder of the transcendent villainies that have defeated its execution.

Mr. Speaker, I desire here, sir, briefly to state that I yielded such support to the electoral bill as a man always gives who has to choose between disagreeable alternatives, and I have as yet no occasion to regret the choice I did make. It did not seem to me that the Houses would ever agree upon so just a thing as the counting in of Governor Tilden. It did seem to me that in the event of that disagreement that seemed inevitable the republican party would force its candidate into the presidential office and force upon the outraged majority in this country the dire alternatives of submission to outrage or resistance by force. Resistance meant war, "the sum of all evils;" submission might have been construed into dishonor. I could not feel certain, sir, that the American people would restrain their righteous indignation in the presence of such a provocation and look for relief to the peaceful ballot or the tardy methods of the law. My vote, therefore, was in the interest of peace—to prevent the rule of force by providing a right of law.

Mr. Speaker, a few words now in reference to the principles by which the commission seems to be guided in the exercise of its great jurisdiction. It is painfully evident, sir, that the spirit of party has crept into and corrupted its deliberations. It seems but too manifest that a majority of the tribunal have been embarrassed by the almost insurmountable difficulty of laying down general principles that would leave in their applications every controverted vote to Hayes. Before the governor of Oregon certified to the election of Cronin, the doctrine, as I could collect it from the press and debates in the other end of the Capitol, was that the governor's certificate was conclusive, and behind it you could not go. Governor Grover's action made it necessary that this position should be abandoned, and the discomfited leaders are driven back to the returning boards. "You may look," said they, "to see if the governor's certificate is founded upon the decision of a returning board, but when you reach a returning board, then indeed do you approach an insurmountable barrier. To go behind that is to invade State rights—a sacred domain." To deny the solemn certification of the highest officer of a State and inquire into its truth is all right, a governor being supposed to be a cipher in a State government; but when you get to a returning board by overriding the governor you must stop, for there you reach the domain of State jurisdiction. There is no sanctity, according to this doctrine, about the solemn certificate of a mere governor, though he be a man like Grover, of high culture and repute among his people and worthy of a seat in the first deliberative assembly of the world. Though he be all this, and the highest executive officer of a prosperous and intelligent people, there is nothing sacred about his certificate, as there is about the certificate of the sweet-scented quartette we are now entertaining so royally in the basement of this building—the virtuous Wells, the meek Anderson, and their pious confederates in the business of peddling State franchises.

To be brief, Mr. Speaker, on this point, if you impute conclusiveness to either certificate, to concede it to the subordinate tribunal—the returning board—and deny it to the highest executive authority, the governor, is a gross absurdity that only the most frightful exingency of party could prompt fair-minded men to embrace.

Mr. Speaker, one other point. My idea has been that upon the various doubtful and disputed questions it would be right and just and patriotic to give the people the benefit of all the doubts. I had hoped the commission would take that view. It has seen proper to take a different view and has given to party, to a minority party, the benefit of every doubt. In Florida it decides to hear proof when a case of ineligibility cannot be made out against Humphreys. In Louisiana it refuses when a case of ineligibility can be made out against Levissee and Brewster. In Oregon it hears proof because the necessities of the one side require that proof shall be heard upon other points.

From Florida a protest came up from every department of her government against the counting of her vote for Hayes; still the commission count it. From Louisiana came an appeal from 10,000 voters, disfranchised by the returning board, and to that appeal the commission turn a deaf ear; but no technicality stands in the way of the commission when a small majority in Oregon plead for a recognition. Sir, I proceed no further with the review because the subject is sickening. This commission will pass into history and its judgments will meet the solemn and deliberate inquest of posterity.

I could wish for the honor of my country that its action had been such as to free it from all suspicion of that bias and prejudice that do so often pervert human judgment and defeat the ends of justice. As it is I have this to say, that if through its action, partisan, unfair, and dishonest as I believe it to be, Hayes should become President, I will and the people I represent will recognize him as the head of the Government, but they can never regard him as rightfully there. They will feel that justice, that fair play, that common honesty have been shamefully violated to place him there; and whatever consideration they accord him will be given to him as a President *de facto* and not one of right. They will submit because they will think it better to bear the evils they have than fly to others they know not of. They will trust to peaceful remedies, confident that sooner or later a righteous retribution will return upon the heads of the tormenters the unspeakable wickedness with which they have afflicted a nation.

Mr. WOODWORTH. Mr. Speaker, I did not know until I came into the Hall this morning that this opportunity was to be accorded to me. I cannot, of course, under the circumstances, and in a ten-minute speech, express myself as I desire upon the subjects involved in this debate.

The questions before the House, touching the electoral vote of Oregon, were learnedly argued in the presence of the commission, and have been deliberated upon here and throughout the country until nothing new remains to be said.

I have no disposition, sir, rising as I do late in this discussion, to repeat the now familiar arguments which support the finding of the commission. Upon those questions that may be denominated legal and constitutional questions, I shall content myself by saying that in my judgment the commission, acting in its high capacity of arbiter upon the dispute submitted, could have returned no other finding than the one it did return without violence to the Constitution of the United States and to the laws of Oregon, and without assault upon the rights of the people, not only of that State, but of the whole Union.

But, sir, aside from these questions there are other considerations clustering about the history of the electoral vote of Oregon, and of the crisis from which we shall soon emerge, which ought to be potent in shaping the judgment of the House upon the question soon to be called.

It is meet, it seems to me, that the attention of the House and of the country should be directed to these considerations, as has been done to some extent by others; and I only regret now that my poor ten minutes will be too short to enable me to speak in detail.

Sir, we have heard to-day from the gentleman from Pennsylvania, [Mr. CLYMER,] and again from the gentleman from Kentucky, [Mr. BROWN,] as we have heard upon the occasions of each debate that has followed the preceding reports of the commission, charges of fraud hurled with whatever force of voice and of rhetoric these gentlemen were able to command against the party that was triumphant at last November's election, commingled with which were denunciations, bitter denunciations of the commission for finding upon the oaths and consciences of its members the fact of that triumph. I volunteer no defense of the commission. From such puerile and pusillanimous attacks it needs no defense.

I did not, sir, aid in the creation of this commission, but I am to-day proud as an American citizen in the knowledge that it occupies a position so exalted that even the swiftest arrow from the quivers of the little men who assail cannot reach it, and that its members walk among their calumniators like giants among pigmies; and so, sir, they shall take their place upon the page with which the historian is now busy. Neither the tearful words of the distinguished gentleman from Pennsylvania nor the ambitious philippic of the no less distinguished gentleman from Kentucky, to both of whom I have already alluded, will serve to quite destroy the commission or its members in the esteem of mankind, nor can anything that may be said upon this side of the Chamber add to the brightness of their already established good fame.

Partisanship is the crime of the commission. Is it not curious that while the supposed partisanship of the eight who concur is denounced there is a silence profound as the hush of death as to the at least equal partisanship of the seven who dissent? No one upon this side has uttered a word of censure of these seven, for no doubt they acted, as did their associates, upon an honest conviction, and were guided by a high sense of duty as they comprehended its dictations to them.

Sir, we have to-day been regaled not only with these expressions of impotent anger, but filibuster has been called in to aid those who cannot accept defeat. I am not surprised at this, nor at the chagrin and natural wrath of our democratic friends, for with everything to gain and nothing to lose they cunningly set a trap and were themselves caught; caught by the act of God, who disposes of all human events, and by the act of the Illinois Legislature, which disposed of Judge Davis. [Laughter.]

> They digged a pit, they digged it deep,
> They digged it for their brother;
> But through their sin they did fall in
> The pit they digged for 'tother.

[Renewed laughter.]

The quotation may be neither exact nor elegant, but its aptness will not be questioned.

Mr. Speaker, upon this whole subject I think we would do well to act upon the suggestion that was made the other day in the course of the Louisiana debate, and leave the reckoning for all these things to

the *dies iræ, dies illa*, to which the gentleman from Kentucky, [Mr. WATTERSON,] who gathers the lambs, so pathetically pointed as "the sweet by and by" of his party that loomed up before his enraptured vision somewhere in the *eons* of the shadowy future.

Seriously, sir, I have no inclination to exult in the discomfiture of the men who were their own victims.

No doubt many gentlemen upon that side, as I know there were some upon this, consented to the commission believing that it would prove a wise and constitutional means of settling an otherwise irreconcilable difference. For such all honor. But let them now abide by the results like men, as some of their number are inclined to do, and have done with the spume, the impotent raging of words, the Mexican symptom that we have been compelled to witness to-day and heretofore. From such exhibitions I am glad to note that the men here from the Southern States who were of the late confederacy are generally exempt, and that they are disposed to keep faith and to stand by the results of the law. I have noted it, and it has been noted I know by the people of the Northern States who accept it as a good omen for the future. I hope and believe that the incoming administration of President Hayes will be so considerate and just toward the section and the interests which they represent that their manly and dignified acquiescence now may turn to gratification hereafter—the gratification that springs from the consciousness that the best has been done for their interests and for the interests of the whole country.

It is, sir, a consideration second in importance to no other that the finding of the commission, upon which we are soon to pass, pronounces against the success of bribery and chicane in politics. Let gentlemen gather up for a moment in their memories the substance of the cipher telegrams, which the gentleman from Iowa [Mr. SAMPSON] so fully exposed, and the full history of the attempt to steal the electoral vote of Oregon, and my meaning will be apprehended.

Sir, since the first day of the present session charges of corruption and fraud against the republican party have been rung in this Chamber until its four walls seem never to have been silent with their echoes. Of whatever wrongs the republican party may be guilty (and I do not claim it to be perfect by any means) I have no words of palliation or excuse, nor have any been uttered upon this side. While we have been compelled to listen to these charges, uttered with the usual vehemence of falsehood, it was reserved until this closing act in the drama of the presidential count to reveal the white-souled purity of the source from which these charges emanate.

Look at it for a moment, gentlemen. Certain managers of a great national political party; a party which believes in its divine right to rule this country more solemnly than it believes in the right of God to rule the universe; a party which is frantic for power, with a half million of expectant henchmen, many of whom are now swarming the streets and avenues of this capital, blear-eyed with watching, lank with waiting, with an incurable itch for the loaves and fishes of public office—certain managers I say of such a party coolly and boldly attempt to utilize the genius that was able to steal a railroad to steal the franchise of the entire people of a State.

It is not, sir, alone the people who dwell upon the banks of the stream that erst heard

No sound save its own dashings

that were to have been the victims. The victims were to have been the whole American people. When the day dawns that shall witness the first success of such an attempted crime the people will do well to look carefully to the title-deeds of their democracy and to prepare for all that has been imagined or feared from the downfall of their liberties.

A bastard republicanism, the beginning of some unknown end, and the most terrible of despotisms will then usurp the place of a free and just government. Whoever attempts to corrupt the ballot-box or seeks to stifle its decrees stands proclaimed by the act an enemy to free institutions, and every hand in America should hold a whip to lash the scoundrel through the land. The crime of Oregon will go upon the page of history involving the names of men in high places and deep in the confidence and schemes of a great political party as the equal in perfidy, although wanting the attribute of manliness, of the crime of Aaron Burr and of the men who plotted against the Republic in 1861.

Sir, when the flag which the watchful statesman and sleepless attorney [Mr. FIELD, of New York] saw by the dim light of the midnight stars when the Senate was in the last agony of parturition for the law under which we are now acting shall be next lowered upon its staff, a heartfelt thank God will go up from all the length and breadth of the land that the man whose genius inspired this crime is not to be foisted upon the American people as their Chief Magistrate. [Applause.]

[Here the hammer fell.]

Mr. STEVENSON. Mr. Speaker, when this Congress assembled in December last it witnessed the great American people from one end of the country to the other divided upon the question as to which candidate had been lawfully elected to the high office of President of the United States. The business industries of the country were paralyzed, public confidence destroyed, and the danger of civil war was imminent. That Mr. Tilden had received a majority of more than two hundred thousand of the popular vote was not disputed. That he had secured a majority of the presidential electors in the several States and was lawfully entitled to be inducted into this great office was the firm belief of more than one-half of the people of this great country. The hour was one of great peril to our institutions, and many were apprehensive that we were but entering into the dark night of anarchy and confusion. After many weeks of angry discussion, which resulted in still further arousing the passions of the people, a measure of adjustment was proposed. It was believed that there was still patriotism enough left in the American Congress to vouchsafe an honorable and fair settlement of this most dangerous question. You remember, sir, we all recall at this moment how our hopes revived and how gladly we hailed the introduction of the bill recommended by a joint committee of conference of the Senate and House of Representatives. It was welcomed as the harbinger of peace by the people of this great country.

Mr. Speaker, I gave that bill my earnest support. It had upon this floor no friend more ardent in its advocacy than myself. I believed it to be a measure in the interest of peace. I believed that those who framed it, as well as those who gave it their support upon this floor, were honest in their statements, that no man could afford to take the Presidency with a clouded title, and that the object of this bill was to ascertain which of the candidates was lawfully entitled to the electoral votes of Florida and Louisiana. I never mistrusted for a moment that statesmen of high repute could in so perilous an hour, upon so grave a question "palter with words in a double sense."

Mr. Speaker, we who are the actors in this drama know, and history will record the fact, that the conference bill became a law, and the electoral commission was organized, *not* for the purpose of ascertaining which candidate had *prima facie* a majority of the electoral votes; *not* for the purpose of ascertaining that the governor of Florida and the *de facto* governor of Louisiana had given certificates to the Hayes electors. It was never dreamed that a tribunal consisting in part of five judges of the highest court upon earth was to be constituted whose sole duty was to report a fact known to everyman in the land: that the returning board of Louisiana had given the votes of that State for the Hayes electors. I state, sir, now, in the presence of this House and of the country, that the avowed object of that bill was to ascertain which candidate had received a majority of the legal votes of those States. The avowed object of the bill was to secure the ends of justice; to see that the will of the people was executed; that the Republic suffered no harm; to see, sir, that the title to this great office was not tainted with fraud. How well this tribunal has discharged the sacred trust committed to them, let them answer to history.

The record will stand, Mr. Speaker, that this tribunal shut its eyes to the light of truth; refused to hear the undisputed proof that a majority of 7,000 legal votes in the State of Louisiana for Tilden was by a fradulent returning board changed to 8,000 majority for Hayes. The republican Representative from Florida [Mr. PURMAN] has solemnly declared upon this floor that Florida had given its vote to Tilden. I am not surprised that two distinguished republican Representatives from Massachusetts [Mr. SEELYE and Mr. PIERCE] have in such thrilling tones expressed their dissent from the judgment of this tribunal. By this decision fraud has become one of the legalized modes of securing the vote of a State. Can it be possible that the American people are prepared to accept the doctrine that fraud, which vitiates all contracts and agreements, which taints the judgments and decrees of courts, which will even annul the solemn covenant of marriage, fraud which poisons wherever it enters, can be inquired into in all of the relations of human life, save only where a returning board is its instrument and the dearest rights of a sovereign people are at stake.

But we are told that we created this tribunal and must abide its arbitrament. I propose to do so in good faith. I have from the beginning opposed every movement that looked to delay. I have voted against all dilatory motions. But, sir, the decision of this tribunal is too startling and too far-reaching in its consequences to pass unchallenged. That the returning board of Louisiana will find no imitators in our future history is more than I dare hope. The pernicious doctrine that fraud and perjury are to be recognized auxiliaries in popular elections is one that may yet return to plague its inventors. The worst effect of this decision, Mr. Speaker, will be its lesson to the young men of our country. Hereafter old-fashioned honesty is at a discount and villainy and fraud the legalized instruments of success. The fact may be conceded, the proof overwhelming, that the honest voice of a State has been overthrown by outrage and fraud, and yet the chosen tribunal of the people has entered of solemn record that there is no remedy.

Oh judgment, thou art fled to brutish beasts.

Mr. Speaker, my criticism of the decision of this tribunal rests upon its finding in the cases of Louisiana and Florida; upon the Oregon case I have no criticism to offer. It is true that but two votes of this State could have been given to Hayes, had the decision first adopted by the commission been followed in the case of Oregon. However inconsistent it may be with other rulings of the commission, standing alone it is in the main correct. The sanctity of seal of State and certificate of governor applied only to Louisiana and Florida; the governor of Oregon was not "of the household of the faithful."

The people of Oregon cast their votes for Hayes, and no vote or act of mine shall stand in the way of its being so recorded. Such have been my convictions from the beginning, and the great wrong done to Louisiana and Florida cannot warp my convictions at this hour.

Mr. Speaker, we have now reached the final act in this great drama, and the record here made will pass into history. Time, the great healer, will bring a balm to those who feel sick at heart because of this grievous wrong. But who can estimate, what seer can foretell the evils that may result to us and our children from this judgment? Fortunate indeed will it be for this country if our people lose not faith in popular institutions; fortunate, indeed, if they abate not their confidence in the integrity of that high tribunal for a century the bulwark of our liberties. In all times of popular commotion and peril the Supreme Court of the United States has been looked to as the final arbiter, its decrees heeded as the voice of God. How disastrous may be the result of decisions so manifestly partisan I will not attempt to forecast.

Sir, let this vote be now taken and the curtain fall upon these scenes forever. To those who believe, as I do, that a grievous wrong has been suffered, let me entreat that this arbitrament be abided in good faith, that no hinderance or delay be interposed to the execution of the law, but that by faithful adherence to its mandates, by honest efforts to revive the prostrate industries of the country and restore public confidence by obedience to the constituted authorities, we will show ourselves patriots rather than partisans in this hour of our country's misfortune.

Mr. NEAL. Mr. Speaker, each successive decision of the majority of the members of the electoral commission has but added, if anything could add, to the dishonor and infamy of that tribunal, which, conceived in patriotism and organized in the interest of truth, justice, and peace, has, violating all law and annulling the Constitution itself, become the avowed champion and defender of perjury and fraud. But unless we upon this side of the House propose to forfeit our own self-respect and share with them their shame and dishonor, we must adhere strictly to the letter and spirit of the law under which they are empowered to act. To do otherwise will be to transfer from them to ourselves, in part at least, the opprobrium which they have so justly merited, and to lose all the advantages to be gained by a continuance in the straightforward, manly course that has characterized our action as a party thus far; and this in my judgment we cannot afford to do. I have endeavored on all occasions as a representative of the people to apply to my public acts the same rule of action that has guided me in the private walks of life, and applying this test here, it is perfectly clear to my mind that the paths of duty and honor alike lead in the direction I have indicated. There, and there alone, lies whatever hope we may dare to entertain for the perpetuity of the Republic. In no other way can there be even a possibility of preserving civil liberty and a free government. Both may survive the wrongful, unjust, and corrupt decisions of a partisan tribunal, with all their lamentable consequences, including that of the installation of a President counted in by fraud, until we can again appeal to the people for their reversal. But neither can exist where anarchy reigns supreme, and anarchy will prevail whenever an attempt to delay the declaration of the final result of the late presidential election, until after the 4th day of March, shall succeed. The popular idea that the President of the Senate will, in such a contingency, become the acting President of the United States until a new election can be held is entirely erroneous. The Government will in such a case be without an Executive head or officer, and there is no law under which the vacancy can be supplied by another election. It will be worse than folly, therefore, it will be suicidal, for us, one of the fundamental principles of whose party has ever been obedience to law, to refuse now to permit the enforcement of a law which we ourselves have enacted. I was about to say that it would be revolution itself. But whether that would be true or not, nothing can be more certain than that when the only law-abiding party in a country breaks from its mooring and drifts into the whirlpool of popular passion that is the beginning of the end.

Sir, the eyes of the nation are upon us. Our action is awaited with breathless anxiety. If we can rise above the level of the mere partisan politician and establish some claims to statesmanship, by subordinating passion to reason, and adopting the only policy that can save the Government, all will yet be well. But if we cannot do this, if driven to madness by a bitter sense of the outrageous and iniquitous wrong that has been perpetrated upon us we shall find ourselves unequal to the situation in which we are placed, then farewell, a long farewell to civil liberty and free government.

> A thousand years scarce serve to form a state;
> An hour may lay it in the dust; and when
> Can man its shattered splendor renovate,
> Recall its virtues back, and vanquish time and fate?

[Here the hammer fell.]

Mr LE MOYNE. In disposing of the questions now before us much allowance is to be made for the bitterness of the disappointment which the defeated party must naturally feel, and although participating fully in the bitterness of that disappointment, yet it seems to me the only duty of to-day is the duty of submission. But he who has considered the controversy as merely a contest between two parties has greatly underestimated its importance. The result is not only a triumph of the republican party, for one of the issues was whether a popular majority could peaceably change the administration of this Government in opposition to the minority while that minority had the control of the Federal offices. Any politician of ordinary intelligence can see that if the republican party had not controlled the office-holders it could not have came near enough to a majority to have continued the contest. The result shows how completely the people can be controlled by the office-holders. But the contest has brought us face to face with another great danger which threatens our national existence; that is, that we have such an army of office-holders appointed or to be appointed by the President, and our people are so infected with the greed for office that many men in both parties are willing to cheat for the control of the offices and many of them also willing to fight for them. Will this element be encouraged or repressed by the result; which has been demonstrated to be the stronger: the will of the majority of the people or the control of the machinery of the Government, including the power of appointment to the supreme bench?

The whole democratic party felt assured that they had secured the victory, and honestly believed that in all fairness they should be allowed honest returns and to inaugurate the President, but we found this was to be denied; we were called turbulent and ready for rebellion, and were threatened with the Army in spite of all this. Confident in the justice of our cause, we submitted it to an unfriendly tribunal, believing it impossible that party animosity could deny us justice. Here was a great tribunal organized, bound by no precedent, and had for its only cause the rights of 40,000,000 to an honest election. The criminal is arraigned, one party charging that a great people has been robbed of its most sacred rights and offering the proof, the other denying and pleading not guilty; and this whole people looked anxiously to know what is the very truth, and this great tribunal refuses to hear the case, and instead of trying the criminal on a technicality quashes the indictment. In the repetitions of history when a similar condition is reached, will the party having the popular majority repeat our experiment? No, sir; never. That majority will take its right, and those who have taught us this lesson can take the whole responsibility.

I do not complain so much of the result of this experiment as of the method by which it has been reached. To say that our proof shall not be heard is to acknowledge that the foreordained result could not otherwise have been secured.

What right had we to expect any better from judges? When did popular freedom ever get its support from the bench as against an organized existing tyranny in power? Never! On which side was the judiciary in the revolutionary war? It was with the existing government. Where was it in the struggle here with slavery? It was always in support of the present power. And what could you expect from a bench organized to decide a particular question in a particular way; and that, too, in deciding upon the rights of a President who would have the appointment of some of their associates? Was it feared that Mr. Tilden would strengthen the element unfriendly to the majority?

But we had no freedom of choice. This House had to abdicate and submit absolutely to some such tribunal. There was an influence which seemed to have its fountain-head in New York and the money centers of the country which was born of fear; and it was by that most despicable passion, the fear of loss of money, we were repressed and the bold disposition to stand up for our rights was smothered. We could not afford to be free. We had to choose between shame and danger, and like cowards we chose the shame; not our own shame, but it was the shame of constitutional liberty. Will the bondholder be made secure by this sacrifice? No. If in this Government we cannot be protected in life, liberty, and property, but to save our property we relinquish any share of liberty, will we give up that property to discharge old obligations? No, sir. The nation which through fear of loss relinquishes liberty is ripe for repudiation.

But, sir, this result has one consolation—we of the West are done in politics with the domination of New York. Under her leadership we have not only lost the victory after it had been fairly won, but, what is still worse, we have been disgraced.

If Mr. Tilden could only be made President by getting the vote from Oregon in opposition to the vote of a majority of the people he had better remain a private citizen. I have never believed in this Oregon road, and it does not satisfy me to say that it is only using the same means employed by the republicans. Such means are unworthy of any party or any cause, and no allegiance to party will ever make me acquiesce in dishonesty or trickery. And if Mr. Tilden either directly or indirectly consented to the purchase of a republican elector, he deserves double condemnation from every man who supported him. Sir, sooner than see the party which I have supported succeed in gaining the administration by such means, I would a thousand times prefer to see the republican party take it, loaded down with the frauds and outrages of Louisiana and Florida, and the military usurpation of South Carolina, believing that these outrages and this usurpation will be remembered and avenged by an intelligent people.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had adopted the following resolution:

Resolved, That the decision of the commission upon the electoral vote of the

State of Oregon stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The Secretary of the Senate further announced that he had been directed to notify the House that the Senate was now ready to meet the House to proceed with the counting of the electoral votes for President and Vice-President.

ELECTORAL VOTE OF OREGON.

Mr. PHILLIPS, of Kansas. Mr. Speaker, it is to be regretted that the democratic majority of this House, during the whole of this controversy on the electoral count, has indicated by a turbulent and factious course and dilatory motions that it was their purpose to defeat the will of the people. It is also to be regretted that the partisanship and bitterness it has shown is not relieved by originality or wit. Has the democratic party lost all its versatility? Shall we never hear the last of military despotism, scalawags, and carpet-baggers? Shall "bull-dozer" and "returning board" be imbedded in our dictionaries—the latter as gross an outrage on the English language as the thing itself is on all good government and morals? They tell the same stale old story; the story with which they maligned the republican party in the canvass of last year; the same story with which in their wrath they impeached the result of the election last November; the very same with which they now calumniously seek to indict the electoral commission. The result in all its stages has rebuked them all.

Under these stale misrepresentations and calumnies, it is a relief to find the defeated democrat in the rôle of Jeremiah, the weeping prophet. How he doth moralize on the decadence of republics, and in this unexpected calamity like another Marius on the ruins of Carthage. Surely it must have been a desperate emergency that drove the reformer of Tammany to the Oregon telegrams and the Oregon negotiations, or the witty gentleman from New York to the Bible.

It was enough to abuse the politics of Florida and Louisiana. Failing in that region of alligators and parishes, an unhappy democracy might have found vent for its mortification and spleen in assailing the sins, real or imaginary, of the republican party. Why assail the commission? It is their own baby. They fished it out of the vasty deeps unfathomed by a political precedent, yet subject to the genius of parliamentary invention. I wish to remind them that there is a peculiar heinousness in the crime of child murder. Is it possible that they begin to discover it is unconstitutional? Are they in the habit of palming off unconstitutional measures on the country in the hope of reaping political advantage, and failing to do so do they contemplate going before the country to denounce their bantling as a wicked innovation on our fundamental law?

I am not here as the assailant or apologist of the measure. The day is past for either. It is a fact, and a notable one. It was a necessity, or sprang from the conviction that it was a necessity. I think existing forms were adequate. Had they been applied the result would have been precisely the same. Partisan bitterness had clouded the election with a doubt, and the dominant party, victory in its grasp, accepted your proposition that it might not be said that an American President had been unfairly chosen. Whatever posterity may say of it, the electoral commission was one of Uncle Sam's things—a tribute to his traditional love of fair play—voluntary, deliberate, unprecedented. Both parties were appealed to for their ablest and purest representatives. The Supreme Court, the highest representative of the national sense of justice and honor, held the scales. If we must appeal at all could we offer to the contemplation of the world a higher or better tribunal, or a fairer representative of all that was good in our Government and people?

Shall disappointed and imbittered partisanship belittle its capacity or impeach its fame? Can the patriotic American denounce its verdict as a crime, and "detestable?" Who shall dare to say that the mantle of Marshall has unworthily fallen? I do not hesitate to say, sir, that whether we weigh its proceedings by the standard of a just legal measure, whether we estimate it by its conception of the Constitution and the principles of the American Government, whether we consider the accomplished lawyers who presented each side of the case, its laborious and complicated investigations, or the verdicts it rendered, the electoral commission was not unworthy of the occasion, of our civilization, of our country.

"The stars in their courses fought against Sisera." Let no democrat flatter himself that he can fish the elements of the next presidential campaign from the result of this commission. The republicans said that Hayes was properly elected, and this judicial inquiry proves it. Campaigns based on calumny shall never again possess so much power. Let the traducer of the republican party stand face to face with Cronin's electoral college and the Oregon telegrams. Let him abuse the republicans of Louisiana. Let him abuse the republican portion of this commission and say that eight were partisans and seven judicial patriots, but let him remember that whatever may have been the price of a democratic governor, thank God not even the "bar'l" of money could buy a republican elector.

Alackaday! Our disconsolate democrat is the Cassandra of all politics, yet is his repentance imbued with religion and the spirit of prophecy. He is "a angel." An angel with which our literature is not altogether unfamiliar, for Sam Slick pointed to the gilded figures on his five-dollar clock and said, "Them with the bowie-knives is angels." Did these angels expect that the Presidency of the United States would be the reward of anarchy and murder? All humanity cries out against a conspiracy called an election which would compass its ends by such means. Low appeals have been made to the guilty traditions of the past and the jealousies of race, and in order to trample a helpless people under foot a cotton conscience has pandered to the meanest and lowest and basest passions of the human heart. Political rights to the negro have proved too often a fatal gift. Intimidation took the place of electioneering, and violence and murder took the field when an awakened spirit of independence would not be stifled. The reign of white law was a reign of terror. Vainly shall those who countenanced such proceedings hope to profit by them. The blood of the slain cries up from the ground against them. Could there be no redress for wrongs so grievous, no remedy for calamities so great? The gentleman from Kentucky spoke of a day of reckoning. That day of reckoning is here. The ghosts of a thousand murdered victims come up from the forests and swamps of the South to see it. I can almost fancy I hear the rustle of their garments in these Chambers, "*Dies iræ—dies calla!*"

Mr. HEWITT, of New York. Although I am physically in no condition to address the House, I feel nevertheless that I have a duty, a painful duty to perform which can no longer be deferred. The decision rendered this day is the completion of the fraudulent scheme for counting in a President who was not elected and for counting out a President who was elected by the votes of the people of this country. The consummation of this scheme was a foregone conclusion from the hour when the decision in the Florida case was rendered. It is not to be disguised that there is in this country a deep-seated feeling of injury, a keen sense of wrong. It comes up from the heart of the people, from every class; from the lawyer, the doctor, the clergyman, as well as from the farmer, the mechanic, and the laborer. I have been overwhelmed by letters from every part of the country appealing to me to do something that would make this outrage a nullity. These people feel, not that they have lost the fruits of victory; that is not what stirs their indignation—they feel that they were willing to confide their case to a just tribunal; that they did confide their case to a tribunal whose judgment is not a just one; that they and the members of this House who voted for that tribunal, and the members of the committee who framed the bill creating it, have been deceived. They ask me where the responsibility lies. They ask me whether this feeling is well founded; and I am compelled to say that it is. It is my purpose in the few minutes that I now have to try to fix that responsibility.

In the record which gives the decision in the Florida case appears this entry:

> Mr. Commissioner HOAR submitted the following order:
> *Ordered*, That evidence be not received.

This order was adopted by a vote of 8 to 7, the eight commissioners voting in the affirmative being Messrs. EDMUNDS, FRELINGHUYSEN, GARFIELD, HOAR, and MORTON, together with the three judges, Mr. Bradley, Mr. Miller, and Mr. Strong.

Now, as to the three judges, I propose to say only this: they took no part in the formation of this measure; they made no request to sit upon this tribunal; they were put there, so far as we know, without their consent, and probably against their will. Their action, therefore, is to be judged not by us, but by a higher tribunal, to whom they must render their account at the last. In regard to the other members of that tribunal, they are to be judged by the record which they have made in committee and in the discussions of the two Houses. Of Judge EDMUNDS I desire to bear witness that at no time to my knowledge did he express an opinion as to the power of this commission to go behind the returns. It might possibly have been inferred from his action on previous occasions that he entertained the view that the two Houses of Congress could go behind the returns; but neither in his speech on the bill nor elsewhere do I know that he ever expressed that view. Mr. FRELINGHUYSEN undoubtedly expressed the opinion that there was no such power. Mr. GARFIELD, in the discussion in this House, unquestionably expressed the opinion that there was such power. Mr. MORTON, in the discussion in the Senate, undoubtedly expressed the opinion that it was the bounden duty of the tribunal to go behind the returns. In replying to the Senator from Ohio, [Mr. THURMAN,] he stated in unmistakable language that the Senator from Ohio had declared that it was the judgment of every democratic member of the House and of the Senate that there was power to go behind the returns, and without this power the bill could not have received a single democratic vote in either House; and it was the judgment of every democrat who sat upon the committee that there was such power.

In regard to the remaining member of that commission, Mr. HOAR, in his speech in this House on the 25th of January he used the following language:

> Some gentlemen have spoken of this as a compromise bill. There is not a drop of compromise in it. How can that man be said to compromise who, having a just and righteous claim, asserts it, maintains it, enforces it by argument and *proof*, yielding no jot or tittle of it, to a tribunal so constituted as to insure its decision in accordance with justice and righteousness, so far as the lot of humanity will admit?

What does the word "proof" mean? There can be no "proof" without the right to take it and unless it is received. When, therefore, that commissioner brought in an order before the tribunal that evidence be not received, I hold it was in direct contradiction of his declaration made upon this floor that *proof* was admissible.

But I go further, Mr. Speaker. I will violate none of the confidence

which belongs to the deliberations of that committee. At the close of those deliberations, it was generally conceded that the injunction of secrecy was removed; but as some question has been raised about that, I wish to adhere strictly to the rule.

Mr. HOAR. No question is raised on my part.

Mr. HEWITT, of New York. The gentleman then relieves me from any embarrassment which I might have in referring to what passed in the committee.

Several MEMBERS. Let us have it.

Mr. HEWITT, of New York. Then I am allowed in speaking of the proceedings of the committee to say that the original draught submitted by the gentleman from Iowa [Mr. MCCRARY] contained this provision:

And the said Chief-Justice, together with the justices of said Supreme Court senior in office, shall constitute a tribunal to whom shall be referred the certificates objected to, together with the objections and all papers and *evidence* in the possession of the Houses of Congress relating thereto. * * *

In addition to the papers and proofs which may have been referred to said tribunal as aforesaid, they shall have power, if they deem it necessary, to send for persons and papers and to compel the attendance of witnesses; also, to cause testimony to be taken before one or more commissioners to be appointed by them for that purpose.

That bill proposed practically to submit the decision of this question to the Supreme Court of the United States; but, being objected to, a second draught was made which submitted it to a tribunal composed of five justices, and this clause was retained in the second draught of that bill. I heard not only no dissent, sir, to the proposition that a tribunal so constituted should be empowered to take testimony, but I heard from *every* member of that committee, including the gentleman from Massachusetts, that the tribunal had and would have such power under this bill. There was no protest against it.

Now then if Congress had the power to confer upon a tribunal so constituted the right to send for persons and papers and take testimony, how did they lose that power when they added five members of the House and five members of the Senate to such tribunal? If they had the power and conferred the power upon that tribunal, how could the commissioner who assented to the right of Congress, and therefore the right of these commissioners sitting as a tribunal, to take evidence, consistently bring in an order that no testimony should be received?

Mr. SPRINGER. I ask the gentleman from New York to turn to section 5 of MCCRARY'S bill.

Mr. HEWITT, of New York. I am afraid I have no time.

The SPEAKER. The gentleman has but one minute left.

Mr. HEWITT, of New York. If I have but one minute left I can only use it in this wise: I think that we have been deceived as to the position of certain gentlemen who sit upon that tribunal. I think their declarations in this House are at variance with their decisions on that tribunal. I can say that the feeling of injury is thus justified in this people; but I want to close what I have to say with this final remark: No matter how great the grievance, how deep the wrong, let us on our side of the House, representing this great democratic party who have been waging a war of principle, stand up like men to principle, and not allow ourselves to be driven from the firm ground of truth and justice by any violation of it upon the other side of the House. [Cries of "Good!" "Good!" and loud applause.]

[Here the hammer fell.]

Mr. HOAR. Mr. Speaker, I do not propose to debate whether the question of the right of Congress to pass upon the election, qualification, and return of presidential electors, a right expressly conferred in regard to its members and expressly withheld in regard to them, be a technicality, or whether it be one of the gravest questions of constitutional power. I do not propose to debate the question whether the alleged usurpations of power by the returning board of Louisiana counteracting what they claim were great crimes, should properly be encountered by a greater usurpation upon the part of Congress. I do not mean to debate whether the opinion be sound of one of the most distinguished leaders of the democracy, [Mr. BAYARD,] a member of this commission, uttered within two years in his place elsewhere:

Nowhere is the power given to either House of Congress to pass upon the election, either the manner or the fact, of electors for President and Vice-President; and if Congress or either House shall assume under the guise or pretext of telling or counting the vote to decide the fact of the election of the electors, then they will have taken upon themselves an authority for which I for one can find no warrant in the charter of our liberties.

Nor do I mean to discuss the question whether that gentleman and his colleague, who changed that opinion honestly I have no doubt, are more liable to the charge of partisanship than we are who adhere to it.

Mr. DAVIS. Will the gentleman from Massachusetts permit me to ask him a question right there?

Mr. HOAR. No, sir. I now propose to address myself directly to the charge made by the gentleman from New York, [Mr. HEWITT.] I spent three days in that gentleman's presence in putting into a bill the declaration that this question of going behind these returns should be submitted to the tribunal as a question about which he and I differed. We provoked the derision almost of the members of the committee by our care to avoid committing the tribunal to either view of this great fundamental question with our "if anys" constantly repeated. One of the very last acts of the committee of conference was this: One of its members said: "I am afraid you leave it open to some one to claim this bill requires us to go behind the action of the returning boards, instead of submitting it to this tribunal whether such right exists in the two Houses." Every member of that committee assured that gentleman that it was not so; that they perfectly understood it did not decide it, and when they got through, the gentleman from New York sitting within four feet of me, I rose and said: "Now, here is a question upon which we are all agreed. We agree that one side is to contend one way and the other side is to contend the other way, and the commission is to decide on that question. If any gentleman, however, can suggest clearer language than we have got in this bill let him rise and make the suggestion and we will all adopt it," and no man did it.

Further, Mr. Speaker, this bill went to another place and there the honorable Senator from Ohio, [Mr. THURMAN,] a distinguished and honored and honorable man, rose in his place to persuade a republican Senate to accept the bill and to differ with their republican associates in this House, and he said, "Here are certain questions concerning which the two parties differ," and he enumerated them. After stating three, he said:

Let us proceed to the fourth; that touches the amendments. It is that it is competent to go behind the certificate of the governor, and the directly opposite opinion that it is not competent to go behind the certificate of the governor.

Then, sir, comes another question:

The fifth is that it is competent to go behind the decision of a canvassing or returning board, and in opposition that it is not competent to do so * * * It is held by some that the decision of a returning board can be impeached for want of jurisdiction, and by another set that it cannot be. Then, sir, comes another question. Supposing them not to have gone beyond their jurisdiction but to have acted fraudulently, some say that their decision may be impeached for the fraud, because fraud vitiates everything, even the decisions of a court, and others say that no such inquiry is admissible at all.

Sir, we took the only course that was open to us. We provided a tribunal. * * * This bill leaves every question to this tribunal. * * * It decides not one of them; it does not intend to decide one of them.

No, not one. Now, when I turned to my republican associates in this House, that bill being passed by a republican Senate on the assurance of the man who framed the section, and said "there is not a drop of compromise in it; you are to go before that tribunal to assert, to maintain, to defend your claim, that they cannot go behind the decision of this canvassing board," am I to be charged with bad faith in the face of the House and of the country by a gentleman who shuts his eyes to those facts and undertakes to lead his party; he acting as he says, under a different understanding?

Mr. Speaker, a distinguished Senator from Massachusetts being charged, as I have been, with dishonor in the performance of a public duty, said, "We have a maxim in New England: when certain men make exhibitions of themselves, that in the mind of such a man there is a screw loose somewhere. In this man's mind all screws are loose. [Laughter and applause.] I am quoting Mr. Webster about Mr. Ingersoll, you understand. "The whole machine," said Mr. Webster, "is rickety, shaky, crazy, out of joint," and I have sometimes thought I have seen instances of gentlemen whom great responsibilities have brought into like condition of mind. [Laughter.]

Mr. COCHRANE. Mr. Speaker, we have again heard from the eight partisan members of the joint commission, and of course they have given Oregon to Hayes. Nothing else was expected. Men who could violate every principle of law and equity in the cases of Florida and Louisiana could scarcely be expected to do justice in the case of Oregon. The question involved in the Oregon case was a very simple one. The Constitution of the United States provides that "no person holding an office of trust or profit under the United States shall be appointed an elector." It was admitted that one of the republican electors, named Watts, was at the time of his election a postmaster. Being ineligible, his appointment as an elector was void, and under the law of Oregon, as announced by the chief-justice of the supreme court of that State, the elector upon the democratic ticket having the highest number of votes was duly elected. It made no difference, however, to the eight partisan commissioners what the law was. They proposed to declare Hayes elected, and they had one of a majority. By their decision they have won the plaudits of the leaders of their party. A cry of joy has gone up from the army of office-holders throughout the land; but the people whose rights have been disregarded and whose liberties have been threatened bow their heads in shame and grief. Some gentlemen have spoken about an attempt to bribe a republican elector. If such an attempt was made, I do here stamp it with my unqualified condemnation. The democratic party, unlike the republican, would never consent to ratify and indorse a fraud even if by so doing they could inaugurate a President. It is not pretended here, however, that any such bribery was consummated. Even although Cronin's vote be not counted, the fact yet remains that there were but two republican electors chosen and Mr. Hayes is not elected.

Mr. Speaker, I had thought it my duty, if under the Constitution and laws it could be done, to prevent the consummation of this fraud; not because of party, not for the sake of party, but in the name and for the sake of the American people. If under the Constitution and laws it cannot fairly be prevented, it is the duty of every Representative to cease opposing even so great an outrage as this. Let no democrat in this trying hour consent to an act unlawful or revolutionary. I say to gentlemen upon the other side of the House, that if they had honestly desired that this whole presidential matter should have

been decided by a fair and unbiased tribunal they should not have nominated as one of their members upon that tribunal a man who had prejudged the whole case, a man who had been bitterly hostile to the bill, and had declared in his place upon this floor that he believed the act to be unconstitutional.

The gentleman from Massachusetts, [Mr. HOAR,] in the defense which he has just made of the course he has adopted as a member of the commission, has said that he turned to his friends when the electoral bill was under discussion and assured them—I quote his language, which I took down at the time—that "there was not a drop of compromise in this bill." Well, the gentlemen surrounding the honorable member from Massachusetts could not have had much confidence in what he said because they voted against this compromise. There was not a member upon the other side of the House who countenanced the conspiracy to overthrow the will of the people who did not vote against this bill, and why? Because they believed that they had a certainty of counting in their President by fraud and inaugurating him by force. They knew they had Federal bayonets at their back. When they discovered that they could not defeat the bill they thus reasoned with themselves, "We will not trust honest, unbiased men to determine this matter; we will select a man from among us who has prejudged this whole case, who has gone as a visitor down into Louisiana and has sent broadcast over this whole land his partisan judgment; we will put him up as an honest judge to determine who has been elected President of the United States." Why, gentlemen, it was an outrage upon all decency and a violation of good faith. I rejoice to know that for one at least my vote did not help to send him there.

[Here the hammer fell.]

Mr. GARFIELD rose.

The SPEAKER. The time allowed for debate has expired. The original proposition will now be read and then the substitute.

The order moved by Mr. HALE and the substitute offered by LANE were again read.

The SPEAKER. The first vote will be upon the substitute.

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

The yeas and nays were ordered.

Mr. LANE. I ask that the substitute may be again reported. I wish the House to observe this fact, that it only applies to the disqualification of Mr. Watts and does not reject the votes of the other electors.

The substitute was again read.

Mr. SPRINGER. Would the gentleman from Oregon admit an amendment that the votes of the other two electors be counted.

Mr. LANE. I deem such an amendment totally unnecessary. That follows as a matter of course.

The question was taken; and there were—yeas 152, nays 106, not voting 32; as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Bell, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Ellis, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Glover, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Lynde, Mackey, Maish, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Neal, New, Odell, Payne, Phelps, John F. Philips, Poppleton, Powell, Rea, Reagan, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, Yeates, and Young—152.

NAYS—Messrs. Adams, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Buttz, Campbell, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, King, Lapham, Lawrence, Leavenworth, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, O'Neill, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Pratt, John Reilly, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—106.

NOT VOTING—Messrs. Anderson, Bass, Burleigh, Douglas, Durand, Faulkner, Gibson, Goode, Goodin, Haymond, Goldsmith W. Hewitt, Hopkins, Frank Jones, Le Moyne, Levy, Lewis, Lord, Luttrell, McFarland, O'Brien, Packer, Piper, Purman, Rainey, James B. Reilly, Schumaker, Stephens, Tarbox, Thomas, G. Wiley Wells, Wheeler, and Whitehouse—32.

So the substitute was adopted.

During the roll-call the following announcements were made:

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

Mr. BURLEIGH. On all political questions I am paired with Mr. JONES, of New Hampshire. Not being sure how he would vote if he were here, I desire to withdraw my vote.

Mr. WELLS, of Mississippi. I am paired with Mr. LUTTRELL, of California, on all these questions.

Mr. O'NEILL. My colleagues, Mr. PACKER and Mr. JAMES B. REILLY, are paired on this question.

The result of the vote was then announced as above recorded.

The question recurred on the resolution as amended.

The question being taken, the resolution as amended was agreed to.

Mr. CLYMER. I submit the following order:

Ordered, That the Senate be informed of the action of this House on the electoral vote of the State of Oregon, and that the House of Representatives is now ready to meet them in joint convention in its Hall.

The order was adopted.

LEAVE TO PRINT.

Mr. LANE. I ask unanimous consent to have printed in the RECORD some remarks in relation to the electoral vote of Oregon.

There was no objection, and leave was granted.

Mr. NEW. I ask unanimous consent to have printed in the RECORD some remarks on the Louisiana election.

There was no objection, and leave was granted.

Mr. SCALES. I ask the same privilege.

There was no objection.

Mr. LE MOYNE. I ask the same privilege.

There was no objection.

Mr. ATKINS. I ask the same privilege, that I may be permitted to have printed some remarks in relation to the Oregon case.

Mr. KELLEY. I object to any one having leave to print except the gentleman from Oregon, [Mr. LANE.]

The SPEAKER. If the gentleman desired to object in the case of other gentlemen except the gentleman from Oregon, he ought to have risen and objected in time. His objection can now only apply to the request of the gentleman from Tennessee.

Mr. KELLEY. I object to him and to anybody else having leave to print.

The SPEAKER. The gentleman has not the privilege to object after consent has been given.

Mr. KELLEY. I rose before the request of the gentleman from Tennessee was submitted.

The SPEAKER. Exactly so; and the gentleman from Tennessee has not permission in consequence of the objection of the gentleman from Pennsylvania; but other gentlemen got permission.

Subsequently,

Mr. KELLEY said: Learning as I do now for the first time, that other gentlemen than the gentleman from Oregon obtained leave to print their remarks, I withdraw my objection as regards the gentleman from Tennessee and all others.

The SPEAKER. Objection being withdrawn, the request of the gentleman from Tennessee is granted.

By unanimous consent, the same privilege was granted to Mr. WALLING, Mr. HOLMAN, Mr. WATTERSON, Mr. BLAND, Mr. FINLEY, Mr. SMALLS, Mr. REA, Mr. BOONE, Mr. YEATES, Mr. PHILIPS of Missouri, Mr. ROBBINS of North Carolina, Mr. FRANKLIN, Mr. BLACKBURN, Mr. BLISS, Mr. CLARK of Missouri, Mr. RICE, Mr. CANNON of Illinois, Mr. PAGE, Mr. WIGGINTON, Mr. MAGOON, Mr. BANNING, Mr. WARNER, Mr. HARRISON, Mr. HUMPHREYS, Mr. HENKLE, Mr. SOUTHARD, and Mr. CATE.

Mr. FORT. I move that the permission be general.

The SPEAKER. The Chair thinks it has been pretty general.

COUNTING THE ELECTORAL VOTES.

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

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

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

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separately determined upon the objections to the decision of the commission on the certificates from the State of Oregon, the Secretary of the Senate will read the resolution adopted by the Senate.

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

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

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

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

Ordered, That the vote purporting to be the electoral vote for President and Vice-President, and which was given by one J. W. Watts, claiming to be an elector for the State of Oregon, be not counted.

The PRESIDING OFFICER. The two Houses not concurring otherwise, the decision of the commission will stand unreversed, and the counting of the vote will proceed in conformity therewith. The tellers will announce the vote of Oregon.

Senator INGALLS, (one of the tellers.) Oregon casts 3 votes for Rutherford B. Hayes for President and 3 votes for William A. Wheeler for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificates from

the State of Pennsylvania received by messenger, the Chair hands it to the tellers, and it will be read in the presence and hearing of the two Houses. A corresponding certificate, received by mail, is also handed to the tellers. If there be no objection the reading of the certificates will be waived, as at the last joint meeting of the two Houses, and the tellers will read simply the result of the vote.

Mr. TUCKER and Mr. SPRINGER objected.

The PRESIDING OFFICER. The certificates, then, will be read in full.

Senator ALLISON (one of the tellers) read the certificates in full.

The PRESIDING OFFICER. Are there objections to the certificates from the State of Pennsylvania?

Mr. STENGER. I submit on behalf of myself and others the objection which I send to the desk.

The PRESIDING OFFICER. The Clerk of the House will read the objection.

The Clerk of the House read as follows:

The undersigned Senators and Representatives object to the counting of the vote of Henry A. Boggs as an elector for the State of Pennsylvania on the grounds following, namely:

That a certain Daniel J. Morrell was a candidate for the post of elector for the State of Pennsylvania at the election for electors of President and Vice-President on the 7th day of November, 1876, and was declared by the governor of the State of Pennsylvania to have been duly elected an elector at said election.

And the undersigned aver that the said Daniel J. Morrell was not duly elected an elector for the State of Pennsylvania, because for a long period before, and on the said 7th day of November, 1876, and for a long period subsequent thereto, the said Morrell held an office of trust and profit under the United States, that is to say, the office of commissioner under the act of Congress, approved March 3, 1871, entitled "An act to provide for celebrating the one hundredth anniversary of American Independence by holding an international exhibition of arts, manufactures, and products of the soil and mine, in the city of Philadelphia and State of Pennsylvania, in the year 1876," to which he was appointed by the President of the United States under the provisions of said act.

Wherefore the undersigned aver that the said Morrell could not be constitutionally appointed an elector for the State of Pennsylvania on the said 7th day of November, 1876, under the Constitution of the United States.

And the undersigned further state that on the 6th day of December, 1876, the said Morrell did not attend the meeting of the electors of the State of Pennsylvania, and that he was not according to the laws of Pennsylvania, and under the Constitution of the United States, duly elected an elector of said State, and could not be constitutionally, and legally declared duly elected as such elector, and had no legal right to attend the said meeting of electors.

And the undersigned further state that the college of electors had power under the law of Pennsylvania to fill vacancies in the office of elector under and by virtue of the law of Pennsylvania which is in the words following, and by none other whatsoever, namely:

"If any such elector shall die, or from any cause fail to attend at the seat of government at the time appointed by law, the electors present shall proceed to choose *viva voce* a person to fill the vacancy occasioned thereby, and immediately after such choice the name of the person so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election, and the person so elected [and not the person *in whose place* he shall have been chosen,] shall be an elector, and shall, with the other electors, perform the duties enjoined on them as aforesaid."

And the undersigned further state that under said law the electors present had no authority to appoint the said Henry A. Boggs to fill the vacancy of the said Daniel J. Morrell, or on any other grounds whatever, and that said supposed appointment of said Henry A. Boggs was wholly without authority of law, and was, and is, null and void.

Wherefore the undersigned aver that the said Henry A. Boggs was not duly appointed by the State of Pennsylvania in the manner that its Legislature directed, and that he was not entitled to cast his vote as elector for said State, and that his vote as such should not be, because it cannot be constitutionally, counted.

And the undersigned hereto annex the evidence to sustain the above objections which has been taken before the committee of the House of Representatives on the powers, privileges, and duties of the House.

WILLIAM A. WALLACE, Pennsylvania;
M. W. RANSOM,
WM. PINKNEY WHYTE,
Senators.

W. S. STENGER, Pennsylvania;
J. R. TUCKER, Virginia;
CHARLES B. ROBERTS, Maryland;
F. D. COLLINS, Pennsylvania;
JAC. TURNEY, Pennsylvania;
W. F. SLEMONS, Arkansas;
WM. MUTCHLER, Pennsylvania;
ALEX. G. COCHRANE, Pennsylvania;
JOHN L. VANCE, Ohio;
G. A. JENCKS, Pennsylvania;
Representatives.

UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the document hereto annexed is a true copy of the original now on file in this Department.

In testimony whereof I, Hamilton Fish, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 23d day of February, A. D. 1877, and of the Independence of the United States of America the one hundred and first.

[SEAL.] HAMILTON FISH.

EXECUTIVE CHAMBER,
Harrisburgh, Pennsylvania, March 10, 1871.

DEAR SIR: I have the honor to inform you, that in conformity with the recent act of Congress "to provide for celebrating the one hundredth anniversary of American Independence," &c., I have made the following appointments, which I submit for your approval:

Hon. Daniel J. Morrell, Johnstown, Cambria County, Pennsylvania, to be United States commissioner for Pennsylvania, in accordance with the provisions of the second section of the act.

Hon. Asa Packer, Mauch Chunk, Carbon County, Pennsylvania, to be the alternate United States commissioner for Pennsylvania, in accordance with the fourth section of the same act.

With assurances of my kindest regards, I am, general, very respectfully and truly yours,

JNO. W. GEARY.

General U. S. GRANT,
President of the United States, Washington, D. C.

WASHINGTON, D. C., *February* 22, 1877.

JOHN REILLY, a member of the House from the State of Pennsylvania, sworn and examined.

By Mr. FIELD:

Question. Do you know Daniel J. Morrell, of Pennsylvania?
Answer. I do.
Q. How long have you known him?
A. I suppose fifteen or eighteen years.
Q. Where does he reside?
A. In Johnstown, Cambria County, Pennsylvania.
Q. Was he one of the centennial commissioners appointed by the President?
A. Yes, sir.
Q. Is he still such?
A. I believe he is; he was at the close of the exhibition; I have not heard of him in connection with it since.
Q. How near to him do you live?
A. I live within thirty-eight miles of him.
Q. Do you know him very well?
A. Yes, sir.
Q. Is he the same gentleman who was appointed one of the presidential electors in the State of Pennsylvania?
A. Yes, sir.
Q. On the republican ticket?
A. Yes, sir.

By Mr. BURCHARD:

Q. Did you serve with him on the centennial commission?
A. No, sir.
Q. Did you vote for him?
A. I did not.
Q. You have no personal knowledge as to what you have testified to, have you?
A. I have seen Mr. Morrell at the centennial exhibition, in the discharge of his duties.
Q. What duties did you see him perform at the exhibition?
A. I saw him around there. I don't know that I can state specifically that I saw him perform any particular act.
Q. Did you not see 20,000 other individuals about there at the same time?
A. I saw a great many more than that.
Q. One hundred thousand?
A. Perhaps 200,000.
Q. Walking about the grounds?
A. Yes, sir.
Q. Can you mention any particular thing you saw Mr. Morrell do at that time?
A. No, sir; but it is a well-known fact that he was a centennial commissioner.
Q. It is rumor and general information that you have on the subject?
A. I may state that I had from Mr. Morrell himself, directly, a statement that he had paired with a man on the day of the election, for the purpose of attending to his duties as centennial commissioner.

By Mr. FIELD:

Q. You saw him at the centennial exhibition, in the apparent discharge of his duties?
A. Yes, sir.
Q. And you heard him speak of his duties as centennial commissioner?
A. Yes, sir.
Q. Is he universally reported to be a centennial commissioner?
A. Yes, sir, he was formerly a member of Congress.
Q. Do you know that he was the candidate for presidential elector?
A. Yes, sir.
Q. Do you know that it was the same person?
A. Yes, sir.

By Mr. BURCHARD:

Q. Do you know that from him?
A. I do not know that I ever heard him speak of it himself directly.

By Mr. FIELD:

Q. But it was well understood among the people in Pennsylvania that Daniel J. Morrell, who was centennial commissioner, was also a candidate for presidential elector on the republican ticket?
A. It was generally understood in that district. I cannot speak as to the whole of the State.

WASHINGTON, D. C., *February* 23, 1877.

JOHN WELSH sworn and examined.

By Mr. TUCKER:

Question. Where do you reside?
Answer. I reside in Philadelphia, Pennsylvania.
Q. Were you a candidate for the position of presidential elector at the late presidential election, and were you certified as one of the electors for the State of Pennsylvania?
A. I was, from the first district.
Q. Did you attend the college of electors?
A. I did.
Q. And cast your vote?
A. Yes, sir.
Q. Do you hold any office of honor, trust, or profit under the United States?
A. No, sir.
Q. What is your connection with the centennial exhibition?
A. I am a director and also president of the Centennial Board of Finance which was chartered by the United States on the 1st of June, 1872. It is a stock company. I was elected a director in April, 1873, and every year since then by the stockholders and have been chosen president every year by the directors.
Q. Were you president of that corporation on the 7th of November, 1876?
A. I was.
Q. And on the 6th of December, 1876?
A. Yes, sir; and am still.
Q. You are a stockholder in the corporation?
A. I am a stockholder in the corporation.
Q. And have been since 1873?
A. Yes, sir.
Q. You held no position as centennial commissioner?
A. No, sir.
Q. Do you know Mr. Daniel J. Morrell?
A. I do.
Q. Was he a centennial commissioner under appointment of the President?

A. He was and is.
Q. He was acting as such on the 7th of November, 1876, and on the 6th of December, 1876.
A. Yes, sir.
Q. Is he the same gentleman who was elected one of the presidential electors for the State of Pennsylvania?
A. He is.
Q. Did he appear at the meeting of the electors?
A. He did not.
Q. Did he assign any reason for not appearing?
A. He was not present; I cannot say that he ever assigned any reason for his absence.
Q. Did he send a letter?
A. No. I think he was absent and that his place was supplied.
Q. Who was appointed in his place?
A. If I recollect right, it was Mr. Boggs, of Cambria County, the same county that Mr. Morrell lives in.
Q. Who appointed Mr. Boggs?
A. He was appointed by the electoral college.
Q. Did he hold any Federal office?
A. I think not.
Q. His title as an elector for the State of Pennsylvania was due to an appointment by the college of electors?
A. Entirely.
Q. To fill the place of Mr. Morrell?
A. Yes, sir.

By Mr. LAWRENCE:

Q. The corporation was a mere private stock corporation?
A. Yes, sir.
Q. You had no appointment from the President of the United States?
A. No, sir.
Q. There is no salary fixed by law to the office of director or president?
A. The law allows a salary to be paid to the president and the treasurer, but I have never received any salary. I declined to receive it.
Q. The law does not fix any salary?
A. No, sir.

By Mr. BURCHARD:

Q. The salary would have been paid by the corporation?
A. Yes, it would have been paid by the corporation.
Q. And your relation to the centennial exhibition was simply that of stockholder in this corporation and of an officer elected by the stockholders?
A. I was elected a director by the stockholders and president by the board of directors.

By Mr. LAWRENCE:

Q. You are no more an officer of the Government of the United States than would be a director of a railroad company incorporated by Congress?
A. No, sir. I have never held any office under the United States.

By Mr. TUCKER:

Q. Did you give any bond, as president of the Board of Finance, to the United States?
A. Yes, sir; not as president of the board of finance. Congress appropriated $1,500,000, and there was a provision in the appropriation bill that the president and treasurer should give a bond in $500,000. That bond was given by us, signed by one hundred citizens of Philadelphia.
Q. You executed that bond?
A. Yes, sir.
Q. To whom was the bond given?
A. I suppose the Secretary of the Treasury. The bond was conditioned on our applying the money to the purpose stated, namely, having the building open on the 10th of May, free of debt. The bond was filed and vouchers to the amount of $1,727,000 were sent voluntarily by us.
Q. Is this the provision of law on the subject, [reading?]
A. Yes, sir; that is it.
Q. You say that you presented vouchers?
A. Yes, sir.
Q. When?
A. In the course of the season we sent to the Treasury Department vouchers for $1,727,000. They were sent at various periods during the summer.
Q. Did you send them all to the Treasury before the presidential election?
A. Long before.
Q. Did you get an acquittance or discharge of the bond?
A. No, sir, we get no acquittance or discharge.
Q. The bond, therefore, is still outstanding as an obligation?
A. Yes, sir. I do not know whether the Government ever gives up a bond.
Q. It gave you no acquittance?
A. No, sir.
Q. Was there any provision for returning this money to the Government?
A. I have no opinion to offer on that subject. There is a difference of opinion on the subject between gentlemen skilled in the law. My own reading of it is that there is no provision for the return of the money to the Government until after the stockholders shall be paid unless there be a profit, but I pretend to express no opinion on the subject. It was submitted to the court, and the circuit court has determined that there is no such provision in the law, in other words, that the money which we have on hand belongs to the stockholders; but an appeal has been taken to the Supreme Court of the United States and it will be argued there.
Q. Then the question was whether there was any money to be paid to the Government in any event?
A. The question was whether any money was to be paid to the Government out of the capital or out of the profits. The construction of the court is that it was to come out of the profits.
Q. Then the court has decided that there is an obligation to refund the money to the Government if there shall be a profit sufficient for that purpose?
A. Yes, sir.
Q. Do you hold any fund in your hands now awaiting the decision of that case?
A. We do. We placed before the court a statement that we have about $2,000,000 on hand, for which there are two claimants.
Q. Who are the two claimants?
A. The stockholders and the Government. We asked the court to instruct us what to do with the money.

By Mr. BURCHARD:

Q. You were the president of a board of directors elected by the stockholders under sections 4 and 5 of the act of 1872?
A. Yes, sir.
Q. There has been no change in the law, to your knowledge, in reference to the duration of your term of office or your duties in regard to the Government?
A. No, sir; no change.
Q. That law provides that the president, two vice-presidents, treasurer, and secretary, and such other officers as may be required to carry out the purpose of the corporation, shall hold their respective offices during the pleasure of the board; and the board adopts by-laws for its own government?
A. Yes.
A. And you are in no way represented as an officer of the United States?
A. No, sir.
Q. You had no power to incur any liability to be charged to the United States?
A. No, sir. Each of the acts of Congress has had specific provisions in that respect that no debt or responsibility should be incurred on behalf of the United States.
Q. And your relation to this money which was appropriated by Congress was simply that of applying it as the law required?
A. Yes, sir.
Q. But it was appropriated to the corporation?
A. Entirely.
Q. For the purpose of the exposition?
A. Yes.
Q. And the act required the president of the board and the treasurer to give bond to the United States?
A. Yes.
Q. You had no special custody of the funds?
A. The treasurer had custody of the funds, but a bond was required from the president as well as the treasurer.
Q. Your only relation to it was simply that of giving a bond?
A. Yes. The fund was under the control of the board of directors, to be disposed of by them. I was their servant. The funds were all applied in exact accordance with the memorial sent to Congress and signed by me, and it is a very curious fact that the $1,500,000 asked for was precisely the amount that was required.
Q. You hold no office of profit or trust under the United States unless the giving of a bond created you an officer?
A. No, sir. If so, I am an officer of the United States in a great many instances, for I am on a good many custom-house bonds for the last fifty years.

By Mr. TUCKER:

Q. You say that $1,500,000 was just enough?
A. Just enough to enable us to open the exhibition.
Q. How much money have you on hand now interpleaded between the Government of the United States and the stockholders?
A. Something rising $2,000,000. We cannot yet determine definitely the amount, because there are certain large claims which may or may not be allowed. If the Government is to be refunded the $1,500,000, then we shall pay 25 per cent. to the stockholders, and in the other case we shall have probably 85 per cent. to pay to the stockholders.

WASHINGTON, D. C., *February* 24, 1877.

DANIEL J. MORRELL sworn and examined.

By Mr. TUCKER:

Question. Where do you reside?
Answer. Johnstown, Pennsylvania.
Q. Are you or have you been a centennial commissioner by appointment of the President of the United States?
A. Yes, sir.
Q. What was the date of your appointment and up to what time did you hold the office?
A. I don't remember the exact date, but I think it was in 1871 or 1872.
Q. You were appointed by commission by the President?
A. I was nominated by the governor of Pennsylvania and commissioned by the President of the United States.
Q. Are you still a centennial commissioner?
A. Yes, sir.
Q. And you have continued to be such from the time of your appointment until the present time?
A. Yes, sir.
Q. Were you a candidate for the position of elector at the late presidential election held on November 7, 1876?
A. I was nominated and voted for as an elector.
Q. Was your election certified to you by the governor of the State?
A. Yes, sir.
Q. Did you attend the meeting of the college of electors?
A. No, sir.
Q. Did you resign the position?
A. No, sir; I did not. I was advised that it was not necessary that I should resign but that I should not attend; that I was not eligible.
Q. Not eligible by reason of your being a centennial commissioner?
A. Yes, sir.
Q. You absented yourself on that account?
A. I did.
Q. Who was appointed in your place?
A. Henry A. Boggs.
Q. Henry, not Harry?
A. I have always understood that his name was Henry; he is called Harry generally, however.
Q. He was appointed in your place?
A. That was my understanding. I was not present at the meeting of the electors.

By Mr. BURCHARD:

Q. Are you paid any compensation out of the Treasury of the United States as centennial commissioner?
A. No compensation whatever from any source.
Q. The position you hold is under the act creating the centennial commissioners?
A. Yes, sir.

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Pennsylvania? [After a pause.] If there be none, the Senate will now withdraw, that the two Houses separately may consider and determine the objection.

The Senate then (at four o'clock and twenty minutes p. m.) withdrew to their Chamber.

Mr. VANCE, of Ohio. I move that the House take a recess until ten o'clock on Monday morning.

Mr. WALLING. I ask my colleague to waive his motion for a moment to enable me to offer a resolution.

Mr. VANCE, of Ohio. I yield for that purpose.

Mr. PAGE. I object.

Mr. WALLING. Let the resolution be read for information.

The Clerk read the resolution, as follows:

Resolved, That the Committee on the Powers and Privileges of the House of Representatives be, and are hereby, instructed to inquire into and report forth-

with, or without unnecessary delay, what are the powers and privileges of this House in view of the rulings and decisions of the electoral commission under the law creating such commission, which law authorized an inquiry into the facts of the presidential election in Louisiana and Florida, but which inquiry has been partisanly disregarded and defeated by said commission.

Mr. KASSON. I object to that; it is not in order as being business.

Mr. VANCE, of Ohio. I renew my motion that the House take a recess until Monday morning at ten o'clock.

Mr. WILSON, of Iowa. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 122, not voting 35, as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Blackburn, Bland, Bliss, Blount, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Durham, Eden, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, Lane, Levy, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morrison, Mutchler, New, O'Brien, Odell, Payne, John F. Philips, Poppleton, Rea, Reagan, John Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Sheakley, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Swann, Tarbox, Teese, Terry, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Warren, Whitthorne, Wigginton, Wike, James Williams, Benjamin Wilson, Fernando Wood, and Yeates—133.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Campbell, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Garfield, Hale, Haralson, Benjamin W. Harris, Hatcher, Hathorn, Haymond, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, King, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Monroe, Morgan, Nash, Neal, Norton, Oliver, O'Neill, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Warner, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, William B. Williams, Willis, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—122.

NOT VOTING—Messrs. Anderson, Bass, Beebe, Boone, Chapin, Douglas, Durand, Egbert, Frye, Gibson, Glover, Goode, Goodin, Hays, Goldsmith W. Hewitt, Hopkins, Hurd, Frank Jones, Lewis, Luttrell, Miller, Packer, Phelps, Piper, Purman, James B. Reilly, John Robbins, Schumaker, Stephens, Thomas, Walsh, Wheeler, Jere N. Williams, Wilshire, and Young—35.

During the roll-call,

Mr. FRYE said: I am paired upon this question with Mr. HURD. If he were present he would vote "ay" and I should vote "no."

So the motion was agreed to; and accordingly (at four o'clock and fifty-two minutes p. m.) the House took a recess until Monday morning at ten o'clock.

AFTER THE RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m., (Monday, February 26.)

ORDER OF BUSINESS.

Mr. BURCHARD, of Illinois. I submit the resolution which I send to the Clerk's desk to be read.

Mr. CLYMER. It is manifest that there is no quorum present, and I therefore move a call of the House.

Mr. RICE. I move that the House now take a recess until five minutes before twelve o'clock.

Mr. WILSON, of Iowa. We have already taken one recess for this legislative day, and a motion for another is not in order. A call of the House is in order.

The SPEAKER. The motion for a call of the House is in order.

Mr. WOOD, of New York. The only business before the House is the discussion of the objections to the vote of an elector from the State of Pennsylvania. That discussion can proceed at this time.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLYMER] raises the point that there is no quorum present, and the Chair is bound to recognize his right to do so. The Chair thinks that the most expeditious way to test the question is to have a call of the House.

Mr. WOOD, of New York. I think there are many speeches to be made here which less than a quorum can listen to quite as well as a full House, and they will have just as much effect. If the design of the gentleman from Pennsylvania [Mr. CLYMER] by his motion is to delay the consideration of the regular order, I am sorry he has made it.

Mr. CLYMER. I do not admit the right of the gentleman to inquire what my design is. It is manifest there is not a quorum of the House present, and I insist upon my right to raise that point.

Mr. WOOD, of New York. Technically the gentleman has that right.

Mr. KELLEY. We on this side of the House are ready to go on with the discussion.

Mr. MORRISON. But we are not; that is the difference between us.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLYMER] is clearly in the exercise of his right, when he moves that there be a call of the House.

Mr. CONGER. Can the question whether there be a quorum present or not be raised without some action of the House?

The SPEAKER. The manner of raising it is by the motion of the gentleman from Pennsylvania, [Mr. CLYMER.] It is manifest there is not a quorum present; and by a division on the motion of the gentleman from Pennsylvania that fact can be accurately determined one way or the other.

Mr. McCRARY. I should like to appeal to the gentleman from Pennsylvania to withdraw his motion. There may not be a quorum present at this moment, but gentlemen on this side of the House are ready to go on with the debate. I have never before known a demand for a call of the House when any gentleman was willing to go on with the debate without a quorum.

Mr. CLYMER. I am very certain that this question will receive the most speedy settlement by pursuing the mode I have indicated. I therefore insist upon my motion for a call of the House. As to gentlemen being ready to proceed with the debate, I am informed that there are gentlemen on this side of the House who desire to engage in this discussion and who are not now in their seats.

Mr. BURCHARD, of Illinois. Will the gentleman allow me to say that so far as I am advised all the gentlemen on this side of the House who desire to speak upon the pending question are present and ready to proceed.

Mr. EDEN. Is debate in order?

The SPEAKER. It is not.

Mr. EDEN. Then I object to further debate.

The SPEAKER. The question is on the motion of the gentleman from Pennsylvania [Mr. CLYMER] that there be now a call of the House.

The question was taken; and upon a division there were—ayes 13, noes 53.

Mr. CLYMER. No quorum has voted, and I therefore ask that the roll be called.

The SPEAKER. The vote on a division developing the fact that there is no quorum voting, it is the duty of the Chair to direct the Clerk to call the roll.

The roll was called; and the following members failed to answer to their names:

Messrs. Abbott, Ainsworth, Anderson, Bagby, John H. Bagley, jr., Bass, Beebe, Belford, Blackburn, Bliss, Samuel D. Burchard, Burleigh, Buttz, Cabell, Chapin, Cochrane, Cowan, Culberson, Danford, Darrall, Douglas, Durand, Egbert, Ellis, Field, Flye, Fuller, Gibson, Glover, Goode, Goodin, Gunter, Robert Hamilton, Hancock, Henry R. Harris, John T. Harris, Hartzell, Haymond, Hays, Hendee, Henkle, Goldsmith W. Hewitt, Hill, Hoge, Hopkins, House, Frank Jones, King, Franklin Landers, Leavenworth, Levy, Lewis, Luttrell, Lynde, McFarland, Meade, Metcalfe, Milliken, Mills, Money, Mutchler, Payne, William A. Phillips, Piper, Platt, Pratt, Purman, Rainey, Rea, James B. Reilly, Savage, Sayler, Schumaker, Sheakley, Slemons, Smalls, Sparks, Stephens, Stone, Strait, Thomas, Turney, Charles C. B. Walker, Gilbert C. Walker, Ward, Watterson, Wheeler, White, Wike, Willard, Wilshire, Benjamin Wilson, Yeates, and Young—94.

The SPEAKER. Upon the call of the roll 196 members have answered to their names, which is more than a quorum.

Mr. ROBERTS. I desire to state that Mr. HOPKINS is absent on account of sickness.

Mr. FORT. I move that all further proceedings under the call be dispensed with.

The motion was agreed to, upon a division—ayes 151, noes 21.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had adopted the following resolution:

Resolved, That the vote of Henry A. Boggs be counted with the other votes of the electors of Pennsylvania notwithstanding the objections made thereto.

The message further announced that the Senate is now ready to meet the House for the purpose of proceeding with the count of the electoral votes for President and Vice-President.

ELECTORAL VOTE OF PENNSYLVANIA.

Mr. KELLEY. I offer the following resolution:

Resolved, That the vote of Henry A. Boggs be counted as an elector for the State of Pennsylvania, the objections to the contrary notwithstanding.

Mr. STENGER. I offer the following resolution, as a substitute for that of my colleague:

Resolved, That the vote of Henry A. Boggs, as an elector for the State of Pennsylvania, should not be counted, because the said Boggs was not appointed an elector for said State in such manner as its Legislature directed.

Mr. Speaker, I ask that the objection, together with the testimony, which was not read in the joint meeting of the two Houses, be now read, that members may vote intelligently.

The SPEAKER. The gentleman from Pennsylvania asks that the Speaker cause to be read the objection, and the Chair thinks it his duty to do so.

Mr. KELLEY. I understood the gentleman to refer to the testimony. I will ask the Chair whether the two hours allowed for debate on this question run while this paper is being read.

The SPEAKER. They do not.

The Clerk began the reading, but was interrupted by

Mr. KELLEY, who said: I rise to a question of order. Is the mover of the original resolution or of the substitute entitled to the floor?

The SPEAKER. The mover of the original resolution is entitled to the floor undoubtedly.

Mr. KELLEY. Then how could I be taken off the floor by my colleague?

The SPEAKER. The Chair means the gentleman who presented the original objection. In accordance with all parliamentary practice, the gentleman from Pennsylvania, [Mr. STENGER,] who presented the objection in joint convention, is entitled to control the floor in the first instance. He consents to his colleague speaking first.

Mr. KELLEY. Is he entitled under the law to the floor for more than ten minutes? Does not the law require the debate upon an objection to proceed in speeches not exceeding ten minutes each?

The SPEAKER. Whenever the debate commences the Chair will rule that according to the law no member has a right to more than ten minutes, and that the debate must close after two hours.

Mr. KELLEY. Is not the reading of such papers as part of a gentleman's speech (involving more than ten minutes as this paper evidently will) excluded by the terms of the law?

The SPEAKER. The gentleman from Pennsylvania, [Mr. STENGER,] if the Chair heard him correctly, did not suggest that the reading of the objection was to be in his time at all. He claimed the reading of the objection as a right, and the Chair is of opinion that it was his duty to order the objection to be read.

Mr. KELLEY. If each gentleman may ask that some official paper, the reading of which involves four or six times the ten minutes allowed him, may be read, what becomes of the provision of the law which restrains debate to two hours, divided in speeches of ten minutes?

The SPEAKER. It is always within the power of the House to have a paper read or not.

Mr. KELLEY. The question whether this paper shall be read has not been submitted to the House.

The SPEAKER. Because no one has asked to have it submitted.

Mr. KELLEY. Well, I am here now to object to further proceeding in the reading of that paper.

The SPEAKER. The Chair desires to say that he considers it part of his ministerial duty to lay before the House the objection. As to any paper accompanying the objection, the reading of that is within the control of the majority of the House, as has often been decided.

Mr. KELLEY. The House has had no voice upon the question whether this extraneous paper——

The SPEAKER. This is not an extraneous paper.

Mr. KELLEY. It has already been read in the hearing of the House.

The SPEAKER. It comes from the joint convention signed according to law.

Mr. CONGER. But it has been read in the presence of the joint convention.

The SPEAKER. It has not been read at all in the House.

Mr. CONGER. It has been read in the presence of the House; in the joint convention.

Several MEMBERS. Not at all.

Mr. CONGER. It was read in the hearing of us all.

Mr. WILSON, of Iowa. One word, if you please, Mr. Speaker. The law provides that "every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof." The law prohibits anything in the nature of argument. It is, of course, in order to read the objection now; that is, a clear, concise objection in writing, but not an argumentative paper accompanying the objection. Section 2 of the law precludes that.

The SPEAKER. The Chair thinks it is clearly within the province of any member to demand the reading of the objection.

Mr. WILSON, of Iowa. The objection as such.

The SPEAKER. If the majority of the House do not want to hear the testimony, they can so determine.

Mr. WILSON, of Iowa. Would the Chair hold that a paper in the nature of an argument—testimony, or something of that kind accompanying the objection—can be read by order of the House contrary to the very terms of this law?

The SPEAKER. The Chair thinks that the objections are really founded upon the testimony; but if the majority of the House do not desire to hear this testimony read, it is within the province of that majority, under the rules, to prevent it.

Mr. BANKS. The law forbids the reading of the testimony.

The SPEAKER. The Chair has ruled over and over again on this point.

Mr. WILSON, of Iowa. I beg the Chair's pardon; not on this point particularly.

Mr. BANKS. The law forbids the reading of the testimony; it is in the nature of argument.

The SPEAKER. That a majority of the House can determine.

Mr. BANKS. But if the law forbids the reading, it is not in the power of a majority to order the reading.

The SPEAKER. To what part of the law does the gentleman refer?

Mr. BANKS. The provision that the objection shall be stated clearly and concisely, without argument. The testimony is in the nature of argument.

The SPEAKER. In what part of the law is that provision?

Mr. WILSON, of Iowa. In section 2.

The SPEAKER. That applies to the joint convention.

Mr. BANKS. I will read the provision:

> Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received.

The SPEAKER. That is before objections are received by the joint convention.

Mr. SPRINGER. That reference to argument has nothing to do with the facts in the case. Will the Chair hear me on this point of order?

Mr. BROWN, of Kentucky. I think, Mr. Speaker, more time will be consumed in discussing this question than in reading the paper; therefore I demand the regular order of business.

The SPEAKER. The regular order of business is the reading of the paper asked for by the gentleman from Pennsylvania, and the paper will accordingly be read.

Mr. KELLEY. Including the testimony?

The SPEAKER. That is within the province of a majority of this House to determine, as the Chair has more than once suggested.

Mr. KELLEY. When will the time come to dispense with the reading of the testimony.

Mr. RICE. This testimony was part of the original objection, and was not read when the two Houses were in joint meeting. We cannot vote intelligently without knowing what that testimony is, and I ask that it be read.

The SPEAKER. The Clerk will proceed with the reading.

The Clerk proceeded to read the objections.

Mr. KELLEY. Now, the response in law to the objections made are so——

Mr. WALLING. I call for the continuation of the reading of the objections, including the testimony.

The SPEAKER. There is no occasion for either side to take any technical advantage, as the Chair proposes to submit the question to the decision of the majority of the House.

Mr. KELLEY. I have no desire to take any technical advantage.

The SPEAKER. The gentleman rose to object to the reading of the testimony.

Mr. KELLEY. No, Mr. Speaker; I supposed that was not asked for, but that the time had come for discussion.

The SPEAKER. The gentleman from Pennsylvania has objected to the reading of the testimony, and the gentleman from Ohio [Mr. RICE] has asked for its reading.

Mr. WALLING. I asked for its reading, and still continue to ask for its reading.

Mr. KELLEY. If that be demanded I shall not object, because the reading of the testimony will take less time than the ay and no vote might.

Mr. WALLING. I asked for the reading of the testimony, and its reading would have been proceeded with some time ago if the gentleman from Pennsylvania had not objected.

Mr. WILSON, of Iowa. If we are going in the face of the electoral act, which provides that nothing in the nature of argument shall be allowed to come in, then all that is necessary will be to bring in testimony that will take a whole day to read and that would be the same thing as taking a recess.

The SPEAKER. The gentleman from Iowa objects to the reading of the testimony.

Mr. WILSON, of Iowa. I certainly do.

The SPEAKER. Rule 141 of the House provides when the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House. Objection being made, therefore, the question will be submitted to the House whether the paper shall be read or not.

Mr. WILSON of Iowa. Mr. Speaker, if you will bear with me for a moment I wish to remark, what has been read by the Chair is a rule of the House; but that rule of the House was suspended by this feature of section 2 of the electoral act, which absolutely prohibits any argument being read in connection with the objections.

The SPEAKER. The Chair considers it as the testimony presented in the joint meeting of the two Houses, upon which the objection itself was based.

Mr. WILSON, of Iowa. The Chair can see very well, under his previous rulings, that while in the performance of a constitutional duty anything in the nature of delay would be fatal to the execution of that duty, and therefore must be ruled out.

The SPEAKER. The Chair did not say "delay," but ruled out dilatory motions.

Mr. WILSON, of Iowa. This is a dilatory motion.

The SPEAKER. The Chair thinks not. The gentleman from Ohio asks for the reading of a paper accompanying the objections, and upon which the objections themselves are based.

Mr. WILSON, of Iowa. The Chair will see that while the testimony accompanying these objections will not take longer to read than would be occupied in a call of the yeas and nays, yet a time may come when all the testimony taken in one of the Southern States by one of our investigating committees may be attached to objections presented in the joint meeting, and the whole of that will be asked to be read, consuming two or three days perhaps.

The SPEAKER. The Chair will not rule, nor can he be asked to rule, on any such contingency until that contingency occurs.

Mr. BANKS. If the Chair rules to hear this testimony now I wish to say——

The SPEAKER. The Chair has not ruled that the testimony shall be read, but he has decided that, under the one hundred and forty-first rule, when the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the

House, and objection being made by the gentleman from Iowa the Chair will submit the question to the House. This whole question is within the power of the House, and in that regard the rule of the House is explicit.

Mr. BANKS. It is not within the power of the majority to have the testimony read in this case. That is a matter of argument which is expressly excluded by the letter of the law, and that law cannot be evaded by the Speaker by a pretended submission to the House.

The SPEAKER. The Speaker evades no responsibility, and never has since he has occupied the chair.

Mr. BANKS. Permit me to say this is an evasion, if the Chair claims the right to submit this to the House without a decision being made on the point of order. It is an evasion of the point of order to submit the question to the House.

The SPEAKER. The Chair passes by, and properly, as the Chair thinks, the suggestion of the gentleman that he desires to evade anything. He only does not desire to evade the one hundred and forty-first rule, which reads:

When the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House.

Mr. BANKS. The gentleman from Iowa [Mr. WILSON] raised a question of order, and I ask the decision of the Chair on that question.

The SPEAKER. What is the point of order made by the gentleman from Iowa?

Mr. WILSON, of Iowa. I make the point of order that that rule is suspended by the operation of that provision of the law under which we are now acting, which I have read.

Mr. WALLING. There is so much confusion in the Hall that we on this side cannot hear what is going on. I would like to hear the gentleman from Iowa.

Mr. BANNING. It is hoped that the country will take notice who is making the delay now.

Mr. HENDEE. O, yes; no doubt it will.

Mr. WILSON, of Iowa. I do not know that I will ask for the ruling of the Chair. I desire to say that I never in my life appealed from the decision of the Speaker, because as a general proposition I believe the rulings of the Chair ought to be sustained.

Mr. COX. I ask that order be maintained. We cannot hear one word that is said.

The SPEAKER. The House will come to order.

Mr. WILSON, of Iowa. If the judgment of the Chair is clear that the one hundred and forty-first rule is not suspended by the provision of the law to which I have called his attention, then I will not raise the question to the extent of asking the Chair to rule upon it. If the Chair is perfectly satisfied on that point, then I am content that the question shall be submitted to the House.

The SPEAKER. The Chair is clearly of opinion that the call for the reading of the testimony attached to the objection is a call for the reading of a paper; and under the rule the Chair thinks it is not left to his volition to do otherwise than to submit the question to the House.

Mr. WILSON, of Iowa. Very well.

Mr. BANKS. Does the Chair overrule the point of order?

The SPEAKER. The gentleman from Iowa does not make the point of order.

Mr. BANKS. Then I make the point of order.

The SPEAKER. The gentleman from Massachusetts will submit in writing the point of order which he makes.

Mr. HALE. I would suggest to the gentleman from Massachusetts that he allow the question to be submitted to the House and withdraw his point of order.

Mr. BANKS. Very well. I withdraw the point of order.

The SPEAKER. The point of order being withdrawn the Chair will submit the question to the House. Shall the paper the reading of which is demanded by the gentleman from Ohio [Mr. RICE] be read?

Mr. PAGE. That is, the testimony?

The question being taken there were—ayes 88 noes 99.

Mr. RICE and Mr. VANCE, of Ohio, called for tellers.

Tellers were ordered.

Mr. HALE. I ask that rather than take up further time——

Many members called for the regular order.

The SPEAKER. The Chair appoints as tellers the gentleman from Ohio [Mr. WALLING] and the gentleman from Massachusetts, [Mr. BANKS.]

Mr. HALE. I think we had better have the paper read than take up so much time in calling yeas and nays. I think unanimous consent will be given if requested.

Objection was made.

The House again divided and the tellers reported—ayes 94, noes 100.

Mr. O'BRIEN and Mr. RICE called for the yeas and nays.

The yeas and nays were ordered.

Mr. KELLEY. Before the call of the roll proceeds, I ask the Chair again to state the question.

The SPEAKER. The question is: Shall this paper be read?

Mr. MCMAHON. I understand the paper asked to be read is the testimony upon which the objection is based.

The SPEAKER. That is not a parliamentary question.

Mr. RICE. It is a part of the objection. Let that be understood.

The yeas and nays were taken; and there were—yeas 133, nays 116, not voting 41; as follows:

YEAS—Messrs. Abbott, Ainsworth, Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Bland, Bliss, Boone, Bradford, Bright, John Young Brown, Cabell, John H. Caldwell, William P. Caldwell, Candler, Carr, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Glover, Goode, Gunter, Andrew H. Hamilton, Robert Hamilton, Hardenbergh, Henry R. Harris, Harrison, Hartridge, Hartzell, Hatcher, Henkle, Abram S. Hewitt, Hill, Holman, Hooker, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McMahon, Money, Morrison, Mutchler, Neal, New, O'Brien, Odell, Payne, John F. Philips, Piper, Poppleton, Powell, Rea, John Reilly, Rice, Riddle, John Robbins, William M. Robbins, Roberts, Miles Ross, Savage, Scales, Schleicher, Sheakley, Singleton, William E. Smith, Southard, Springer, Stanton, Stenger, Stone, Swann, Teese, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Warner, Warren, Watterson, Whitthorne, Wigginton, Wike, Alpheus S. Williams, Jere N. Williams, Benjamin Wilson, Fernando Wood, and Yeates—133.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Burleigh, Buttz, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Goodin, Hancock, Haralson, Benjamin W. Harris, Hathorn, Haymond, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, Lapham, Lawrence, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Norton, Oliver, O'Neill, Packer, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Pratt, Purman, Rainey, Reagan, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, Ward, G. Wiley Wells, Whitehouse, Whiting, Willard, Andrew Williams, Charles G. Williams, James Williams, William B. Williams, Wilshire, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—116.

NOT VOTING—Messrs. Anderson, Bagby, Bass, Bell, Blackburn, Blount, Buckner, Samuel D. Burchard, Campbell, Douglas, Durand, Ellis, Gause, Gibson, Hale, John T. Harris, Goldsmith W. Hewitt, Hopkins, Frank Jones, King, Leavenworth, Le Moyne, Lewis, Lord, McFarland, Meade, Metcalfe, Milliken, Mills, James B. Reilly, Sayler, Schumaker, Slemons, Sparks, Stephens, Thomas, Erastus Wells, Wheeler, White, Willis, and Young—41.

So the House agreed that the evidence should be read.

During the roll-call,

Mr. ATKINS stated that his colleague from Tennessee, Mr. YOUNG, was detained from his seat by sickness.

At the conclusion of the roll-call,

Mr. HUBBELL said: I ask unanimous consent that the reading of the names be dispensed with.

Mr. RICE. I object.

The list of names having been read, the vote was announced as above recorded.

The Clerk proceeded to read the evidence annexed to the objection, which has already been published in the RECORD.

Mr. KELLEY. Mr. Speaker, I shall detain the House but very few moments. The objection in this case is so wanting in constitutional and legal support, and is based on principles which have been so often overruled in law, that I think this side of the House could well submit the question without uttering a word. The question raised is whether a director in a quasi-corporation created by the United States is rendered, by virtue of his holding that office, ineligible to the office of elector. I apprehend that no legal decision or constitutional provision can be found to sustain the affirmative thereof, and if one could be cited it would be simply to the effect that such an election was voidable and not void, and that after the vote had been cast and the result declared it was irreversible by any power.

But, as I said, I shall not consume the time of the House in argument, and will only add that I believe there will be but little said on the question on this side of the House.

The SPEAKER. The Chair understood that the gentleman desired to yield five minutes of his time to another gentleman.

Mr. KELLEY. No, sir; I have exhausted my ten minutes, so far as my power is concerned.

The SPEAKER. The gentleman stated differently to the Chair; that is all.

Mr. STENGER. Mr. Speaker, at the election on the 7th of November last Daniel J. Morrell was one of the twenty-nine candidates for presidential elector who received the highest number of votes in Pennsylvania. He was on that day and is still a member of the United States centennial commission. He did not attend the meeting of the electors on the 6th day of December following, and Henry A. Boggs was selected to fill the alleged vacancy by the other electors.

It is contended by the objectors that Mr. Morrell, as centennial commissioner, held an office of trust under the United States which made him ineligible as an elector; that under the laws of Pennsylvania there was no authority given to the other electors to substitute another for him, and that, therefore, the vote of Mr. Boggs ought not to be counted.

The Constitution of the United States ordains that "no Senator, or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." Did Mr. Morrell, as centennial commissioner, hold "an office of trust or profit?" Inasmuch as there has been a judicial opinion emanating from high republican authority on this very point, I prefer to cite it rather than to give my own in the limited time allowed me. The supreme court of Rhode Island, in the matter of George H. Corliss, have authoritatively answered this question in these plain words:

We think a commissioner of the United States centennial commission holds an

office of trust under the United States, and that he is therefore disqualified for the office of elector of President and Vice-President of the United States.

And they proceed to show that in the discharge of this trust—

The duties and functions of these commissioners were various, delicate, and important; that they could be successfully performed only by men of large experience and knowledge of affairs; and that they were not merely subordinate and provisional, but in the highest degree authoritative, discretionary, and final in their character.

So much for that.

What is the meaning of this clause of the Constitution? It does not say "no person holding an office of trust or profit" shall *hold the position* of an elector; or that no such person shall *vote* as an elector, but no such person "shall be *appointed* an elector." It meets the citizen on the way to the polls, with his ballot in his hand, and says to him: You must not vote for any person as an elector who holds an office of trust or profit under the United States. If you do, your vote is thrown away, for even if such person receive a majority of the votes cast, such votes are utterly void and there will be one place in the electoral college unfilled. You cannot "*appoint*" an ineligible elector. To this effect is the decision, already cited, of the Rhode Island supreme court. They say:

We think the disqualification does not result in the election of the candidate next in vote, but in a failure to elect. In England it has been held that where electors vote for an ineligible candidate, knowing his disqualification, their votes are not to be counted any more than if they were thrown for a dead man or the man in the moon; and that, in such a case, the opposing candidate being qualified will be elected, although he has had a minority of the votes. (King *vs.* Hawkins, 10 East, 210; Reg. *vs.* Coaks, 3 El. and B., 253.) But even in England if the disqualification is unknown the minority candidate is not entitled to the office, the election being a failure. (Queen *vs.* Hiornes, 7 Ad. and E., 960; Rex *vs.* Bridge, 1 M. and Selw. 7.) * * * The question submitted to us does not allege or imply that the electors, knowing the disqualification, voted for the ineligible candidate in willful defiance of the law, and certainly, in the absence of proof, it is not to be presumed that they so voted. The only effect of the disqualification, in our opinion, is to render void the election of the candidate who is disqualified and to leave one place in the electoral college unfilled.

The office Mr. Corliss held in Rhode Island is exactly the same which Mr. Morrell held in Pennsylvania. Both were alike ineligible.

Mr. Corliss declined his position as an elector after the day of election and before the meeting of the electoral college, but the court disposed of that feature of the case as follows:

Before any person can decline he must first be elected, and no person can be elected who is ineligible; or, in other words, incapable of being elected.

Rhode Island has a statute which runs in this wise:

If any electors chosen as aforesaid shall after their said election decline the said office, or be prevented by any cause from serving therein, the other electors * * * shall fill such vacancies.

The court held that there was no power under this statute in the other electors to fill the place of Mr. Corliss, because the latter had not been chosen by the people, and that he, in attempting to resign his place as an elector, was attempting an impossibility, because he could not resign that which he was not entitled to and which he had no right to occupy.

The place was filled by the Legislature, convened by the governor by virtue of another statute.

Now let us look at the case in hand.

The Constitution of the United States authorizes and commands each State to appoint electors "in such manner as the Legislature thereof may direct." In Pennsylvania the Legislature has directed that the electors *shall be chosen by the people.* I have endeavored to show that as far as Mr. Morrell was concerned there was no appointment of an elector by the people, that there was a place unfilled. The other electors endeavored to fill this place by the appointment of Mr. Boggs, under a statute which reads as follows:

If any such elector shall die, or from any cause fail to attend at the seat of government, at the time appointed by law, the electors present shall proceed to choose, *viva voce*, a person to fill the vacancy occasioned thereby; and immediately after such choice the names of the person so chosen shall be transmitted by the presiding officer of the college to the governor, whose duty it shall be forthwith to cause notice in writing to be given to such person of his election; and the person so elected (and not the person in whose place he shall have been chosen) shall be an elector, and shall, with the other electors, perform the duties enjoined on them as aforesaid.

"If any *such* elector." What does this mean? Unquestionably, *any elector appointed by the people.* Mr. Boggs was not elected in place of an elector who had died, or who, from any cause, failed to attend, but in the stead of Mr. Morrell, who *was never an elector at all*, who was ineligible, who was incapable of being appointed. Mr. Morrell, in refusing to attend the meeting of the electoral college, made a show of declining a position which, in the language of the Rhode Island supreme court "he was not entitled to and which he had no right to occupy."

It was contended before the electoral commission in the case of Oregon, that when a person ineligible to appointment as an elector has received a majority of the votes cast and has acted in the capacity of an elector, "he is not a mere usurper, but an officer *de facto*, acting under color of title, and that his acts as such officer, in the absence of fraud, are binding upon third persons and the public." Had Mr. Morrell acted himself, had he cast his vote as an elector, this doctrine would doubtless have been advanced here. But he never acted at all. He never entered upon the duties of his office. He did not cast his vote. He declined to do so. He failed to attend. He was, therefore, not an elector *de facto* and this new-fangled doctrine is not applicable to this case.

Not being an elector *de jure*, because he could not be appointed on account of his disqualification, and not being an elector *de facto*, because he did not pretend to act under color of title, there was, on the day the electoral college of Pennsylvania met a place in it unfilled, and the laws of that State failing to prescribe any mode of appointment in such a contingency, the act of the other electors in choosing Mr. Boggs was simply a nullity and his vote ought not to be counted.

We are told that the governor of the State dare not inquire into the ineligibility of an elector. Governor Grover is charged with an usurpation of power in passing upon the ineligibility of Watts. It is asserted that the duty of the canvassing board, in such a case, is simply to see that a proper arithmetical calculation is made and certify to the appointment of the men receiving the highest number of votes. The argument is that there is no power in *the State* to declare an elector ineligible.

The certificate goes to the President of the Senate and is opened in the presence of the two Houses. It may accredit an alien, or a Senator, or a Representative, or any person "holding an office of trust or profit under the United States," but then, we are told, there is no power *there* to inquire into it. The two Houses are bound to take the certificate of the governor, based on the computation of the canvassing board, and ask no questions. The argument is that there is no power *in Congress* to declare an elector ineligible.

Thus this clause of the Constitution is rendered absolutely inoperative because we cannot find where the power to inquire and correct is lodged. It is as though it never had been written. It cannot assert itself in any way. It is "not self-executing." Men know that it is there and that it is being violated, but are powerless to enforce it. What a mockery such a doctrine is! I can never subscribe to it.

The power to count the votes is lodged in the two Houses of Congress. That is a power to separate the true from the false, or, in other words, to determine what are votes. The ballot of a person who is constitutionally disqualified as an elector is not a vote that is to be counted, and the two Houses of Congress, discriminating between the true and the false, must pass upon his disqualification and reject his so-called vote.

A few words with reference to the principle involved in this objection. I have made the objection in good faith, because I am profoundly impressed with the danger of the doctrine announced by the electoral commission that officers of the United States may use all their influence, patronage, and power in procuring their appointment as electors, and before the day arrives for casting their votes resign, and thus qualify themselves for reappointment by the other electors or have their places filled by persons suggested by themselves. So were Clay, Grundy, and Wright impressed when, in 1837, they said to the Senate:

The committee are of opinion that the second section of the second article of the Constitution, which declares that "no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector," ought to be carried in its whole spirit into rigid execution in order to prevent officers of the General Government from bringing their official power to influence the elections of President and Vice-President of the United States. This provision of the Constitution, it is believed, excludes and disqualifies deputy postmasters from the appointment of electors; and the disqualification relates to the time of the appointments, and that a resignation of the office of deputy postmaster after his appointment as elector would not entitle him to vote as elector under the Constitution.

It seems to me to be the duty of this House to place the seal of its condemnation upon the novel suggestion, borne of the exigencies of this crisis, that the disqualification of an elector relates to the time of the meeting of the electoral college, and not to the date of his appointment.

Mr. Speaker, the people of the United States have suffered some severe shocks during the late presidential canvass and since.

They have seen the Secretary of War acting as a delegate in a political convention and controlling the nomination of its candidates for President and Vice-President.

They have seen the Secretary of the Interior taking the championship of a political committee and conducting the campaign for the succession to the Presidency.

They have seen the Attorney-General issuing his commissions to deputy marshals by the thousand for the purpose of controlling the election.

They have seen an army of office-holders making their voluntary and forced contributions to aid in electing the candidates with whom the Administration was in sympathy.

They have seen the President of the United States send troops to certain States of the Union apparently for no other purpose.

And, when the election was over, they have seen him organize a commission, composed partially of Senators and Representatives, all of one political faith, and send them to a sovereign State to witness a fair count of the "votes actually cast" by a returning board that has never made a fair count since it has had an existence. They have seen these appointees of the President return and report to the country that this returning board, which had steeped itself in infamy and fraud, which had rejected 10,000 of the "votes actually cast," thereby reversing the decision and defeating the will of the people of the State, was entitled to the respect and commendation of the people of the country.

And they have seen one of these men who thus acted in a quasi-official capacity under the President placed, at the suggestion of the republicans of this House, upon the electoral commission to decide

how the vote of that very State should be counted. Surely, this interference of Federal office-holders and members of Congress in elections has gone far enough, in all conscience. But now we are told that any Federal office-holder may be appointed an elector, resign his office, and vote for President. In other words, a doctrine is announced under which the President of the United States, himself a candidate for the succession, may head an electoral ticket in the State in which he resides, use all the prestige of his great name and the patronage of his great office to carry that ticket at the polls, then resign the Presidency for three months, and vote for himself in the electoral college for the next term.

Mr. Speaker, I confess that I never was deeply enamored of the electoral bill. I had doubts as to its constitutionality, and have them still; but these I waived in deference to the superior wisdom and legal attainments of the men who framed it. I had doubts as to the *expediency* of passing it, but these I yielded to what seemed to be the demand of a majority of my constituents and for the preservation of the public peace. Indeed, I felt very much as a distinguished member of this House felt, when, in voting for it, he said:

Here, Lord, I give myself away,
'Tis all that I can do.

But, sir, amid all these doubts, I never dreamed that this commission would shock the moral sense of the country by refusing to unmask the frauds which lie beneath the certificates of Stearns in Florida and Kellogg in Louisiana, by asserting the pernicious doctrine that constitutionally disqualified persons are eligible as electors, and by deciding in two directly antagonistic ways inside of a week as to the admissibility of evidence touching the ineligibility of electors.

I do not wonder that there is deep anxiety on the other side of this Chamber as to whether this great fraud of counting in a President who was not elected is to be consummated. I commend to them the words of the distinguished Senator from Indiana, [Mr. MORTON,] uttered with what now seems to have been a prophetic voice, when, in 1875, from his place in the Senate, he sketched the period in our history through which we are now passing in this language:

There is imminent danger of revolution to the nation whenever the result of a presidential election is to be determined by the vote of a State in which the choice of electors has been irregular or is alleged to have been carried by fraud or violence, and where there is no method of having these questions examined and settled in advance; where the choice of President depends upon the election in a State which has been publicly characterized by fraud or violence, and in which one party is alleged to have triumphed and secured the certificates of election by chicanery or the fraudulent interposition of courts. Such a President would in advance be shorn of his moral power and authority in his office, would be looked upon as a usurper, and the consequences that would result from such a state of things no man can predict. But it may be compared to what has so often occurred in history, where the successor to the crown in a monarchy was believed by a large part of the nation to be illegitimate or not to be rightfully entitled thereto under the laws or usages of the nation.

Observe the language well: "Imminent danger of revolution where there is no method of having these questions examined and settled in advance!" What questions? Whether or not "the choice of electors has been irregular, or whether or not the State has been carried by fraud or violence."

To make the picture complete, he might have added, or where the "method of having these questions examined and settled in advance' has been established and an electoral commission appointed to examine and settle them, moved by partisan considerations, refuse to do it.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BAKER, of Indiana: Joint resolution of the Legislature of Indiana, for the restoration of the names of John H. Killgore, George W. Johnson, and Owen Johnson, late members of Company A, Fortieth Regiment Indiana Veteran Volunteer Infantry, to their original places on the roll of the Army, to the Committee on Military Affairs.

By Mr. CANNON, of Utah: The petition of K. A. Duffield and other citizens of Highland, Utah Territory, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. FREEMAN: The petition of Jerrus M. Bryant, of Philadelphia, Pennsylvania, for arrears of pension, to the Committee on Invalid Pensions.

By Mr. JONES, of Kentucky: The petition of S. W. Price, late postmaster at Lexington, Kentucky, to be relieved from paying an amount of money stolen from said office without his fault or neglect, to the Committee of Claims.

By Mr. MORGAN: The petition of the letter-carriers of Saint Louis, indorsed by the board of trade of said city and other prominent citizens, that Congress re-instate the former pay of said carriers, to the Committee on Appropriations.

By Mr. NEAL: The petition of citizens of Ohio, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. O'NEILL: Resolutions of the Philadelphia Board of Trade, favoring the temporary colony near the north pole, to the Committee on Foreign Affairs.

By Mr. POTTER: The petition of Emory O. Briggs and 42 other citizens of Paw Paw, Michigan, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. STRAIT: Resolution of the Legislature of Minnesota, opposing the passage of the bill (H. R. No. 394) relating to pensions unless amended, to the Committee on Invalid Pensions.

By Mr. W. B. WILLIAMS: The petition of Thomas D. Gilbert and 39 others, of Grand Rapids, Michigan, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

IN SENATE.

MONDAY, *February* 26, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

ELECTORAL COMMISSION.

The PRESIDENT *pro tempore*, (at one o'clock and twenty minutes p. m.) The Chair having received a communication from the president of the commission, he will lay it before the Senate. The Secretary will read the communication.

The Chief Clerk read as follows:

ELECTORAL COMMISSION,
Washington, D. C., February 26, 1877.

To the President of the Senate of the United States:

SIR: I am directed by the electoral commission, formed under the act of Congress approved January 29, A. D. 1877, entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," to communicate to the Senate a copy of a resolution of the commission this day adopted, touching a vacancy therein occasioned by the physical inability of Hon. ALLEN G. THURMAN, a Senator and member of said commission, to proceed with its duties.

Respectfully, yours,

NATHAN CLIFFORD,
President of the Commission.

ELECTORAL COMMISSION, WASHINGTON, D. C.,
February 26, 1877.

Whereas Hon. ALLEN G. THURMAN, a member of this commission on the part of the Senate of the United States, has now communicated to the commission, by a letter, in writing, the fact that he has become physically unable to perform the duties required by the act of Congress establishing said commission; and

Whereas the said THURMAN has in fact become physically unable to perform the said duties: Therefore

Resolved, That the president of the commission forthwith communicate said fact to the Senate of the United States, as required by said act, in order that the vacancy so created in said commission may be lawfully filled.

A true copy.

Attest:

JAS. H. MCKENNEY, *Secretary.*

The PRESIDENT *pro tempore*. In compliance with the act the Senate will now proceed by *viva voce* vote to elect a Senator to fill the vacancy.

Mr. MCDONALD. I offer the following resolution:

Whereas the electoral commission created under the act of Congress approved January 29, 1877, entitled "An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," has according to said act communicated to the Senate the fact of the physical inability of Senator ALLEN G. THURMAN, a member of said commission, to perform the duties required by said act: Therefore

Resolved, That FRANCIS KERNAN, a Senator from the State of New York, be, and he hereby is, appointed a member of said commission, to fill the place so made vacant by said physical inability of said THURMAN, as required by said act.

The PRESIDENT *pro tempore*. The Secretary will call the roll of the Senate.

The Secretary called the name of Mr. ALCORN, who answered "Yea."

Mr. BOUTWELL. Do we not vote by name?

Mr. ALCORN. Then I vote for Mr. KERNAN.

Mr. EDMUNDS. Voting "yea" for the resolution answers. There is only one name in the resolution, and you may as well vote "yea."

Mr. ALCORN. I suppose that would probably be as well. Let my name stand recorded "yea."

Mr. BAYARD, (when his name was called.) I vote for Senator FRANCIS KERNAN.

Mr. DAVIS, (when his name was called.) I vote for Mr. KERNAN.

Mr. MCDONALD, (when his name was called.) I vote for Mr. KERNAN.

The roll-call having been concluded, the result was announced as—yeas 46; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Bailey, Bayard, Bogy, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Cockrell, Conkling, Cragin, Davis, Dorsey, Edmunds, Ferry, Frelinghuysen, Goldthwaite, Gordon, Harvey, Hitchcock, Johnston, Jones of Florida, Kelly, McDonald, McMillan, Maxey, Merrimon, Morrill, Morton, Oglesby, Patterson, Ransom, Sargent, Saulsbury, Sharon, Sherman, Spencer, Teller, West, Whyte, Windom, and Withers—46.

ABSENT—Messrs. Barnum, Blaine, Booth, Bruce, Clayton, Conover, Cooper, Dawes, Dennis, Eaton, Hamilton, Hamlin, Hereford, Howe, Ingalls, Jones of Nevada, Kernan, Logan, McCreery, Mitchell, Norwood, Paddock, Randolph, Robertson, Stevenson, Thurman, Wadleigh, Wallace, and Wright—29.

The PRESIDENT *pro tempore*. The resolution is agreed to, and the Senator from New York [Mr. KERNAN] is unanimously elected. The commission will be notified of the election.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. U. S. GRANT, jr., his secretary, announced that the President had, on the