

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SURRENDER OF FUGITIVE SLAVES.

Mr. WADE. I move now to take up Senate bill No. 323, requiring an oath of allegiance in certain cases, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that before any person owing service or labor shall be delivered up on the demand of the person or persons to whom such service or labor is claimed to be due, and before any process shall be hereafter issued by any officer of the United States, or any other person, for the arrest of any fugitive from service or labor, the person or persons so claiming shall, in addition to the oath now required, take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign; that I will bear true and faithful allegiance to the same, any ordinance, resolution, or law of any State, convention, Legislature, or order or organization, secret or otherwise, to the contrary notwithstanding; that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever, and especially that I have not, by word or deed, or in any manner whatever, given countenance, aid, comfort, or encouragement to the present rebellion, or to those who have been or are now engaged in the conspiracy against the Government, and that I have always been loyal and true to the Government of the United States. So help me God." Any person violating this oath, or making a false statement in taking it is to be deemed guilty of willful and corrupt perjury, and on conviction, to be sentenced to solitary confinement in the penitentiary for a period of not less than five years, and to pay a fine of not less than five hundred dollars, and to be committed to the common jail till the fine is paid. In all cases of arrest of persons claimed as fugitives from service or labor, it is to be the duty of the officer before whom the fugitive shall be taken, to summon before him such witnesses as the fugitive shall, on oath, declare to be material to disprove any of the allegations of the claimant or claimants, or person or persons on whose affidavit the arrest was made, or to establish his freedom, and in the examination and trial of such cases no witness is to be excluded on account of color. The bill also provides that in the Territories, the District of Columbia, and all other places where the Government of the United States has exclusive jurisdiction, it shall hereafter be competent for any person of color to make complaint, on oath, before a magistrate, or other proper officer, against any white person or persons, who shall attempt to arrest, or kidnap, or carry away any colored person without legal authority, or who shall assault, or commit any other outrage or violence on the person or property of any colored person, and it shall be the duty of such magistrate or other officer, as the case may be, to cause the offender or offenders to be brought before him forthwith, to be dealt with in the same manner as if the offense had been committed on or against the person or property of a white person. And in all such cases, on the examination before the magistrate or other officer, and on the inquest before a grand jury, as well as on the trial before any court having jurisdiction, the evidence of persons of color is to be received with the same force and effect as if given by white persons.

Mr. POWELL. I hope that bill will be postponed until I can have some time to look into it. It strikes me that it is specially designed for the purpose of obstructing the execution of the fugitive slave law. It absolutely makes negroes competent witnesses in all matters touching the arrest of fugitive slaves. I have not had time to examine it; I have only heard it read at the desk; and I move that it be postponed until to-morrow in order that I may have an opportunity to look into it.

Mr. WADE. I desire barely to state that I shall not resist this motion if the gentleman desires to examine the bill, though it has been printed and laid on the table for some time; but I give notice that I shall call it up at an early day, and press its consideration.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The question is on the motion of the Senator from Kentucky to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ETHERIDGE, its Clerk, announced that the House had passed the following bills of the Senate, without amendment:

A bill (No. 281) defining additional causes of challenge and prescribing an additional oath for grand and petit jurors in the United States courts;

A bill (No. 282) for the relief of Oliver Spencer Wood; and

A bill (No. 339) making provision for raising property of the United States sunk in the waters thereof.

The message also announced that the House had passed the following bill and joint resolution of the Senate with amendments; in which it requested the concurrence of the Senate:

A bill (No. 175) to define the pay and emoluments of certain officers of the Army, and for other purposes; and

A joint resolution (No. 86) regulating the employment of the convicts in the penitentiary of the District of Columbia for their improvement and benefit.

The message also announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 413) making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and for other purposes.

The message also announced that the House had passed the following bills and joint resolution; in which the concurrence of the Senate was requested:

A bill (No. 397) for the relief J. W. Nye;

A bill (No. 519) to increase the pay of Edmund H. Brooke, the chief clerk in the paymaster's department;

A bill (No. 520) for the relief of Seneca G. Simmons;

A bill (No. 521) for the Relief of William B. Dodd and others;

A bill (No. 493) providing that the officers of volunteers shall be paid on the pay rolls of the regiments or companies to which they belong; and

A joint resolution (No. 57) tendering the thanks of Congress to Lieutenant George W. Morris, his officers, and men.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution:

A bill (S. No. 193) to repeal that part of an act of Congress that prohibits the circulation of bank notes of a less denomination than five dollars in the District of Columbia;

A bill (S. No. 279) providing for the selection of jurors to serve in the several courts in the District of Columbia;

A bill (H. R. No. 354) for the relief of Lieutenant Ulysses S. Grant;

A bill (H. R. No. 475) to authorize the Secretary of the Treasury to change the names of certain vessels; and

A joint resolution (H. R. No. 77) to change the name of the bark Quebec to General Burnside.

OATH OF OFFICE.

Mr. TRUMBULL. I move to postpone all prior orders, and take up House bill No. 371.

Mr. McDOUGALL. I protest against taking up any matter that will lead to discussion.

Mr. TRUMBULL. I think this will not lead to any discussion. It is a bill which has passed the House of Representatives, and is reported from the Committee on the Judiciary. I think there will be no objection to it.

The motion was agreed to; and the bill (H. R. No. 371) to prescribe an oath of office, and for other purposes, was considered as in Committee of the Whole. It provides that hereafter every person elected or appointed to any office of honor or profit under the Government of the United

States, either in the civil, military, or naval departments of the public service, shall, before entering upon the duties of his office, and before being entitled to any of its salary or other emoluments, take and subscribe the following oath or affirmation: "I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the Government of the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the Government of the United States; that I have neither voluntarily renounced my allegiance to the Government of the United States, nor yielded a voluntary support to any pretended government, authority, power, or constitution hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution and Government of the United States, and all laws made in pursuance thereof, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." The oath so taken and signed is to be preserved among the files of the court, House of Congress, or Department to which the office may appertain. And any person who shall falsely take the oath is to be deemed guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offense, is to be deprived of his office, and rendered incapable forever after of holding any office or place under the United States.

The bill was reported to the Senate, ordered to a third reading, and read the third time.

Mr. SAULSBURY. I shall make no objection to the passage of this bill; but I wish simply to suggest to the chairman of the Committee on the Judiciary for his consideration this fact: that for many officers, the Constitution prescribes the oath, and says what the oath shall be. Is it competent for the Congress of the United States to pass an act requiring an additional oath, and saying that an officer who takes the oath prescribed by the Constitution shall not exercise the functions of the office unless he takes such additional oath? That is the question I wish to suggest. I have no objection to Congress passing such an act; but to my mind the question is at least doubtful as to the power of Congress to say that a person who takes the oath prescribed as a qualification for his office shall not exercise its functions unless he takes an additional oath prescribed by Congress.

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

The yeas and nays were ordered.

Mr. TRUMBULL. I wish simply to say in reply to the Senator from Delaware, that I do not think there is anything in the Constitution of the United States which prohibits Congress from prescribing a form of oath that is not inconsistent with the Constitution. Where the Constitution prescribes that an oath shall be required, we cannot leave that out; but I do not understand that there is anything in the Constitution to prevent Congress prescribing a form of oath, so that it does not come in conflict with what the Constitution requires.

Mr. SAULSBURY. Suppose at the next presidential election the present Chief Magistrate of the United States should be reelected; suppose, on the 4th of March, 1865, he presents himself in the east front of this Capitol, and the Chief Justice of the United States proceeds to administer to him the oath of office, and the President says, "the Constitution requires such a form of oath; I am willing to take that oath." The Chief Justice replies that Congress has prescribed an additional oath, which he must take. Would he be the President of the United States elect or not; and would he not have the right to demand that he be permitted to exercise the functions of the office of the President of the United States by complying with the constitutional requirement and taking the oath prescribed in that instrument? The fact that this does not impose any obligation inconsistent with the oath in the Constitution of the

United States, is not an answer to this objection. You say positively by this bill that the person shall not exercise the office unless he takes this additional oath; that is, you say, notwithstanding he complies with every requirement of the Constitution of the United States, still he shall not exercise an office which the Constitution of the United States says he shall.

I submit, therefore, that all these oaths, from beginning to end, requiring any additions to be made to the oath required by the Constitution, are utterly null and void; and when you provide that a man who swears falsely in taking the oath is guilty of perjury, and shall be punished with the consequences of legal perjury, there is not a court in the United States that would or could convict a man taking that oath of perjury. What is perjury? It is not swearing falsely in every instance. A man may swear falsely and not be guilty of perjury; but he must swear falsely in reference to a matter that is material to the issue; and an officer can only be visited with the pains and penalties of perjury who violates an oath which the Constitution requires him to take, if it be such an office as that the Constitution requires an oath should be taken before the discharge of his duties is entered upon by the person who presents himself as entitled to the office.

Mr. DAVIS. I have every disposition in the world to favor the passage of all proper and constitutional laws to secure the fidelity of the officers of the Government; but it seems to me the Senator from Delaware has suggested an objection to this bill that deserves serious consideration. I hold it to be an undoubted principle that the Congress of the United States can neither add to nor subtract from the qualifications prescribed in the Constitution for any office. The qualifications for a candidate for the Presidency and Vice Presidency are prescribed and established by the Constitution. There is no power on earth save the power that alters the Constitution and in the act of altering the Constitution, that can either add to those qualifications or take away from them. It is so with every other officer whose qualifications are fixed and established by the Constitution. There are certain qualifications which are necessary to make a man eligible to a seat in the Senate or House of Representatives. These qualifications cannot be enlarged by an act of Congress; they cannot be diminished by an act of Congress. Whenever any citizen comes up to the constitutional rule and measure, he is entitled to a seat, if he is elected according to the forms of the Constitution; and Congress, by prescribing another oath for him to take, different from that which the Constitution prescribes, or by adding to the qualifications of a member of either House, cannot place a single obstacle in the way of his taking his seat. Now, let us illustrate it in relation to members of the Senate. They must be citizens of the United States; they must be thirty years of age; and they must be residents of the State from whence they are elected. I believe these are the three enumerated qualifications. What does this bill propose to do? It lays down as a rule, though a man may have all these qualifications, unless he takes the oath prescribed by this bill he shall not be eligible to his seat and shall not be admitted.

It is only necessary, according to my opinion, to state the objection that it may receive the assent of every intelligent man. This question has been decided in the State of Kentucky in relation to State officers whose qualifications were prescribed by the constitution of that State. I will give an example that has frequently occurred. Laws were passed against dueling, and men were required to take an oath against dueling before they could be admitted to a seat in either branch of the Legislature. Gentlemen that stood vulnerable to that objection, who had either sent or accepted a challenge, or acted as a second in an affair of that kind, met the question by refusing to take the oath. In that form the question has repeatedly come up and been decided by the Legislature of Kentucky at various times within the last fifty or sixty years; and it has invariably been adjudged by that body that such an oath was in the nature of an additional qualification to a seat in the legislative body of the State and could not be imposed by law. It seems to me that this bill comes plainly within that principle:

That hereafter every person elected or appointed to any office of honor or profit under the Government of the Uni-

ted States, either in the civil, military, or naval departments of the public service, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation.

And then follows the oath. Now, suppose a member presents himself for qualification in the Senate, and refuses to take this oath, would that debar him from his right to be admitted to his seat? Not at all, sir, because he would have all the constitutional qualifications necessary to fill the office. The qualifications are prescribed by the Constitution, and there is no law or authority that can add to them, or that can subtract from them. If the Congress may add to those qualifications, it may subtract from the qualifications prescribed by the Constitution, and may diminish them. No gentleman would be prepared to admit that it would be competent for Congress to pass a law abrogating one of the qualifications to a seat in either House of Congress that is prescribed in the Constitution.

I know that it is becoming odious, and it is becoming stale, and almost disgusting, to make constitutional objections to a proposed law here. But, sir, I can as well conceive of repudiating the Bible in making a Christian sermon as I can of passing a law without testing that law by the Constitution. I think that the man would be just as orthodox as a preacher who should get up and attempt to preach a Christian sermon regardless of the law of God, as revealed in His word, and in violation of it, as it would be for the Congress of the United States to attempt to pass a law without measuring that law by the Constitution; and however stale and offensive it may be to gentlemen, and however distasteful to myself, whenever a bill is presented that is in my opinion justly obnoxious to constitutional objections, I shall feel bound to make them.

I have merely said this much for the purpose of showing the ground on which I shall vote against this bill.

Mr. TRUMBULL. I quite agree with the Senator from Kentucky that no law should be passed which is unconstitutional; and I do not think there is any force in the suggestion that objections taken to laws on account of their want of constitutionality should not be made because of their staleness; but I think the Senator from Kentucky has fallen into an error in his argument upon this bill; and I should be very glad to satisfy him, if I could, that such was the case. He will observe that the Constitution of the United States prescribes the form of the oath in a single case only, in regard to the President. The form of oath is given which the President of the United States shall take. This bill, if he will look at it carefully, does not apply to the President of the United States. It applies to persons elected or appointed "either in the civil, military, or naval departments of the public service." I apprehend that that would hardly embrace the Executive, the Chief Magistrate of the nation. Therefore, I will lay aside the suggestion which came from the Senator from Delaware, and any suggestion made by the Senator from Kentucky in regard to the President. I do not think he fairly comes within the purview of the act.

Then, sir, there is no form of oath prescribed by the Constitution which Senators and Representatives shall take, but there is a general clause in the Constitution, which will be found in the concluding paragraph of the sixth article, declaring that—

"The Senators and Representatives beforementioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

That is the general clause. Now, will the Senator from Kentucky undertake to say that nothing more than that can be required? Is it not the practice to swear every member of the Legislature in Kentucky, and every judge of a court and every officer in Kentucky, not only to support the Constitution of the United States, but also the constitution of the State of Kentucky? That is the oath prescribed in the State of Illinois and in all the States of this Union. While every State officer is required to support the Constitution of the United States, he also has added to that the obligation to support the constitution of his own State.

Mr. CARLILE. Will the Senator allow me to interrupt him a moment?

Mr. TRUMBULL. Certainly.

Mr. CARLILE. I beg to suggest to the Senator that the officers of a State hold their offices under and by virtue of the State constitution, and not under and by virtue of the Constitution of the United States. They are purely State officers, and the State has the right, in the formation of its constitution, to prescribe for its own officers what oaths they shall take in addition to the oath required to be taken to support the Constitution of the United States. But the inquiry I desire to make of the Senator from Illinois is this: I understood him to say that this bill would not apply to the President of the United States. The bill reads, "that hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval department of the public service." I take it for granted that the office of President is an elective office, and it is a civil office, and it is an office of honor and an office of profit, and it is an office under the Government of the United States.

Mr. TRUMBULL. Is it an office in the civil, military, or naval department of the Government?

Mr. CARLILE. I think it is in the civil department. What department is it in if it is not?

Mr. TRUMBULL. The executive is one by itself; it is one of the divisions of the Government.

Mr. CARLILE. It is both civil and military.

Mr. TRUMBULL. Then the bill does not apply to it, because it is in the alternative; it applies to persons "elected or appointed" to any office, "either in the civil, military, or naval department." But the Senator from Virginia makes the suggestion that State officers are elected in pursuance of State constitutions and laws. That is a very valuable suggestion; but what that has to do with this question I do not see. The precise same words in this Constitution which prescribe the oath for an officer of this Government prescribe the oath for the officer of the State government. If the words are exclusive in one instance they are in the other. What is the point made by the Senator from Kentucky? That you can require no oath except to support this Constitution. The very language of this Constitution which says that the Senator shall be sworn in the Senate of the United States says that the Senator shall be sworn in the Senate of the State of Kentucky. You find the very same words in the very same clause. The Constitution of the United States says that the Senator of the United States and the Senator of the State of Kentucky shall take an oath to support this Constitution. Then will you read it by saying the Senator of the United States shall take an oath to support this Constitution, and he shall take nothing else, and the Senator of the State of Kentucky shall take an oath to support this Constitution and he shall take something else? If this Constitution is an inhibition upon requiring any addition to the oath of a United States officer, it is also an inhibition to requiring any additional oath from a State officer, because the language is applicable to both, and precisely the same in both cases. What is the language? It is, "the Senators and Representatives before mentioned"—that is, the Senators and Representatives of the United States—"and the members of the several State Legislatures"—shall do what? What shall they do? "Shall be bound by oath or affirmation to support this Constitution." Now, it is argued that you can impose no addition to this oath; that nothing else can be required. Sir, if it cannot be required of a United States officer it cannot be required of a State officer.

Now, as to the gentleman's legal authority, he says it has been decided in the State of Kentucky that the dueling oath, which was required by a legislative act, was not binding. In one sense that may be true. I have not the Kentucky constitution before me, but I presume that the constitution of Kentucky provides, as do most of the State constitutions, the qualifications of members of the Kentucky Legislature, and it confers upon each branch of the Legislature authority to pass upon the qualifications, election, and returns of its own members. That authority is exclusive; there is no appeal from it, and although a law of Kentucky might declare, and although the courts might decide that an act of the Legislature which required a member of the Kentucky Legislature to take the anti-dueling oath was constitutional, it would be in the power of either branch of the

Kentucky Legislature arbitrarily to decide that they would not administer that oath, and admit to the floor of either body a person who refused to take it; but, sir, that law would be enforced where ever the judicial tribunals could be brought to bear upon it. This precise question occurred in the State of New York, and I had occasion to read the authority to the Senate. It was decided first in the supreme court of that State, and afterwards taken to the court of errors, where the decision was affirmed. The question was not in regard to the oath, but it was in regard to the qualifications. The law of the State of New York provided that persons convicted of a certain offense should hold no office in that State. The supreme court of the State decided that the law was constitutional, and the court of errors decided that that law was constitutional; and in the argument the chancellor, in arguing it, stated, as I have here to-day, that, notwithstanding their decision, the Senate of the State of New York would have the arbitrary power to admit the individual as a member of their body; but the court said that in all cases subject to judicial decision, the decision of the court would have to be respected.

Mr. SAULSBURY. Will the Senator from Illinois, just at that point, allow me to refer him to a case?

Mr. TRUMBULL. Certainly.

Mr. SAULSBURY. It is a case decided a number of years ago in the courts of Alabama on this very question to which he now refers, and decided against the position that he now assumes. The constitution of Alabama prescribed the qualifications of attorneys who should practice in the courts of Alabama. The Legislature of that State subsequently passed an act declaring that any person who had been engaged in a duel should not practice as an attorney within the courts of that State. A gentleman who had been engaged in a duel applied for admission to the bar. The Senator will find the case reported, although I cannot now refer him to the number of the Reports. After very able arguments, the subject being maturely considered, the court of that State held that the Legislature of Alabama had no constitutional authority to impose such a qualification, and admitted the gentleman to practice in the courts.

Mr. TRUMBULL. I have not looked into the case to which the Senator from Delaware refers, but if there be such a decision in the State of Alabama, it is in direct conflict with the decision to which I have referred in the State of New York, and is, I think, unsound law.

Now, sir, having replied to these suggestions, which I think are untenable, I will state what I think the object of this bill is. It is to prevent persons who have been engaged in the rebellion from hereafter holding office under the Government, by requiring that they shall take an oath, specifically stating that they have not been engaged in armed hostility against this Government voluntarily. I think we had better pass such a bill as that. I know my friend from Kentucky, and I should hope my friend from Delaware, does not wish any persons to exercise official duties under this Government who have voluntarily waged war against it. I never wish to see a person admitted as a Senator or a Representative who has voluntarily taken up arms to fight against this Government; and if I can prevent it, no such man ever shall have a seat in this body, or in the other, or hold any office of honor, profit, or trust under this Government. The bill is carefully drawn. It comes to us from the House of Representatives. It does not touch the case of those who may have been coerced. The language is, "that I have voluntarily given no aid, countenance, counsel, or encouragement to the rebellion, and that I have never voluntarily borne arms against the Government of the United States." Now, sir, I think we had better pass this bill; and wherever the judicial tribunals of the country can reach I think it will be held to be constitutional and valid upon the principle decided in the State of New York, to which I have referred. I admit, that if after this rebellion is closed the State of Mississippi were to return Jefferson Davis here as a Senator, it would be in the power of the Senate, notwithstanding this law, to admit him to a seat, because by the Constitution the Senate is made the judge of the election, qualification, and returns of its own members; but I should hope the Senate would never do it; I do not believe my friend from Kentucky would do it; I think he

would find reasons enough why he should not be admitted; and I should hardly expect that the Senator from Delaware would do it. I can see no objection to the bill, and so far as it applies to all the appointees of the Government and of the Departments—civil, military, and naval—it will be a positive inhibition against their receiving any such appointment, or any salary under the appointment. In my judgment it is constitutional; I think it wise; and I hope the Senate may pass it.

Mr. CARLILE. Mr. President—

Mr. LATHAM. I rise to a question of order. Was not the unfinished business of yesterday to come up at one o'clock to-day—the Pacific railroad bill?

The PRESIDING OFFICER. The Chair is advised that no measure was left unfinished yesterday.

Mr. LATHAM. Yes, sir; the railroad bill was left unfinished.

The PRESIDING OFFICER. The Chair understands it was postponed on the motion of the Senator from Massachusetts. That is the record. The Chair can be governed only by the record.

Mr. LATHAM. I did not hear any such motion made.

The PRESIDING OFFICER. It was postponed until one o'clock to-day, not making it a special order. Such a motion gives it precedence over the general Calendar, but does not set aside a pending question.

Mr. LATHAM. The Senator from Maine [Mr. MORRILL] was in the middle of a speech when the Senator from Wisconsin [Mr. DOOLITTLE] made a motion to go into executive session. The Senator from Maine gave way for that purpose, leaving the railroad bill, as my colleague desired and expressly stated, the unfinished business to come up at one o'clock to-day.

Mr. McDUGALL. That was my understanding yesterday.

Mr. DOOLITTLE. I desire to say that my recollection is very distinct that the executive session was moved while the railroad bill was pending.

The PRESIDING OFFICER. The Chair is now advised that the Pacific railroad bill was left the unfinished business of yesterday upon the Senate going into executive session, and as such it takes precedence of the pending question, and is now the measure before the Senate, the question being on the amendment reported from the select committee on the bill, and to that amendment a proposition of amendment was moved by the Senator from Wisconsin, which is the immediate question before the Senate.

Mr. FESSENDEN. I suppose that the Senator from Maine, my colleague, is entitled to the floor, he being in the middle of a speech upon that subject.

The VICE PRESIDENT. That is the situation of the case.

Mr. FESSENDEN. I ask my colleague to give way to me in order that I may move, as I design to do, to postpone all prior orders for the purpose of taking up the naval appropriation bill. I desire to test the sense of the Senate on that motion.

Mr. MORRILL. I was making some comments upon this bill, and had not quite concluded what I desired then to say. I am ready at the present time to proceed; but if it is the sense of the Senate to take up the other bill, I do not care to interpose, and therefore I yield to my colleague with a view of taking the sense of the Senate upon that motion.

Mr. McDUGALL. I will state that for the purpose of disposing of the bill mentioned by the Senator from Maine, I shall not object to its present consideration.

NAVAL APPROPRIATION BILL.

Mr. FESSENDEN. I move, then, to postpone all prior orders for the purpose of taking up the naval appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 423) making appropriations for the naval service for the year ending 30th of June, 1863.

Mr. HALE. I suggest that it is hardly necessary to read the bill. It has been before the Senate and been printed for some time. There are a good many amendments to be offered, and it can be read as we go along with the amendments.

The VICE PRESIDENT. The Senator from New Hampshire moves to dispense with the reading of the bill in detail. That course will be taken if there be no objection. The Chair hears none. The amendments reported from the Committee on Finance will be read.

The first amendment was on page 6, section one, line ninety three, in the appropriations for the Portsmouth navy-yard, to strike out "\$293,000," and insert "\$233,032;" so that the clause will read:

For machine shop and smithery, fitting and furnishing the same, reservoir, capstan for sheers, quay wall repair landing, extension of storehouse No. 11 fifty feet, and increase of ordnance machinery and shops, and repairs of all kinds, \$233,032.

Mr. FESSENDEN. That is merely to make it correspond to the estimates. There was a mistake in the footing up of the House bill.

The amendment was agreed to.

Mr. FESSENDEN. I suggest that all the amendments in sections two be taken together.

The next amendments were in section two, line two, to strike out the words "commissioned officer," and insert "captain," and in line three to strike out the words "or assistant," and in lines five and six to strike out the words, "not, however, exceeding the sum of \$3,500 per annum," and to insert, "to take effect from the date of the act regulating the pay of the Navy, approved June 1, 1860;" so that the section will read:

That the pay of any captain of the Navy who shall, in pursuance of law, perform duty as chief of a bureau in the Navy Department, shall be the pay of a captain in the Navy "on other duty," to take effect from the date of the act regulating the pay of the Navy, approved June 1, 1860.

Mr. HALE. Before the vote is taken on that amendment, I desire to suggest to the chairman of the Committee on Finance that that section was under revision by the Committee on Naval Affairs, and they thought it was proper, inasmuch as we made commanders eligible to the place captains to have, that it should be captains or commanders, so as to read:

That the pay of any captain or commander of the Navy, who shall, in pursuance of laws, perform duty as chief or assistant of a bureau in the Navy Department, shall be that of a captain in the Navy "on other duty," &c.

Mr. FESSENDEN. Then we should have to insert the words "or commander" after the word "captain" in the fourth line.

Mr. HALE. We proposed to insert a new section in lieu of section two, which I will read. We propose to strike out the whole section, and insert this:

And be it further enacted, That the pay of Navy captains or commanders, who, under existing laws, as chiefs of bureaus, perform duty under the appointment of the President, confirmed by the Senate, be that of captain "on other duty," to take effect from the date of the act to regulate the pay of the Navy, approved June 1, 1860.

Mr. FESSENDEN. Then you will be under the necessity of giving a commander \$3,500. You give him the pay of a captain on other duty. A commander who receives \$3,600, for instance, when on other duty, should not receive more than \$3,500, which he would receive at the head of a bureau.

Mr. HALE. I do not see any objection to retaining that proviso—"not, however, exceeding the sum of \$3,500 per annum."

Mr. FESSENDEN. That I do not want in.

Mr. HALE. That is the way we fixed it.

Mr. FESSENDEN. I think you had better let it go as it is.

The VICE PRESIDENT. The question is on the amendments of the Committee on Finance.

The amendments were agreed to.

The VICE PRESIDENT. The Chair is informed that those are all the amendments reported from the Committee on Finance.

Mr. HALE. I am instructed by the Committee on Naval Affairs to propose several amendments to this bill. In section one, after line twenty-four, I move to add what I send to the Chair:

Provided, That the preserved meats forming part of the Navy ration may be prepared and packed under the direction of the Secretary of the Navy, if he shall deem it advisable, and that the cattle or fresh beef therefor may be purchased under his directions and from this appropriation, and that he be authorized to do whatever else may be necessary to the procuring, preparing, and packing said preserved meat in the most approved and advantageous manner, the expense for machinery and tools to be defrayed from the last named sum, and not to exceed \$5,000.

Let me state the reason for this amendment. These preserved meats are put up in cans and can-