FORTY-FOURTH CONGRESS.

SECOND SESSION.....Jan. 5.

SUMMARY OF THE DAY'S PROCEEDINGS.

In the Senate, the resolution declaring William M. Turner bound, under his oath, to answer questions put by the Election Committee regarding the transmission of telegraphic messages through his office, at Jacksonville, Oregon, was called up and discussed at length. When a vote was reached it was discovered that there was not a quorum present, and the Senate adjourned till Monday

In the House the Senate amendments to the Pension bill were concurred in. Mr. E. W. Barnes, the New-Orleans Manager of the Western Union Telegraph Company, was brought to the bar by the Sergeant at Arms, and presented a long argument in reply to the question what excuse he had to offer for not producing before the committee in New-Orleans the telegrams called for in the subpœna served on him. The answer, the report of the Investigating Committee, and all the papers on this subject were referred to the Committee on the Judiciary. The bill making an appropriation to meet the deficiency in the contingent fund of the House was passed. The House adjourned till to-morrow.

SENATE.

PRIVACY OF TELEGRAPHIC MESSAGES.

Mr. MORTON, of Indiana, called up the resolution submitted by the Committee on Privileges and Elections on Wednesday last, declaring that William M. Turner is in duty bound, under his oath, to answer the questions propounded to him by the committee, in regard to the transmission of telegraphic messages through his office at Jacksonville, Oregon, and that he cannot excuse himself from answering the same by reason of his official connection with the Western Union Telegraph Company, as the manager of their office at Jacksonville, Oregon.

Mr. KELLY, of Oregon, said he hoped the resolution would be adopted. There was no reason why telegraphic communications should not be made public when justice demanded it. It was a well-known principle of law that written communications, no matter how confidential, must be produced in courts of justice when necessary to serve the ends of justice; and nothing was more sacred than a confidential letter between two persons. This witness [Turner] had unquestionably been leaky; he had disclosed something about dispatches passing through his office, and now he should be made to tell the whole. He [Mr. Kelly] was very confident that no communication referring to the political events at Salem, Oregon, would show that anything wrong had been done. If any improper telegram had passed over the wire he [Mr. Kelly] would have known something about it. He was satisfied that nothing improper could be shown; that not a dollar had been expended unlawfully or improperly. He was present at Salem at the time, and knew of all the transactions. He was very much astonished at the vituperative assault made by the Senator from Iowa [Mr. Wright] yesterday upon the Governor of Oregon. Why that Senator took occasion to assault the Governor of Oregon on the floor of the Senate when he knew that the Governor was present and could not reply, he [Mr. Kelly] could not understand. The Senator from Iowa was mistaken in his facts, mistaken in his law, and doubly mistaken as to the duties of the Executive of a State. The Governor, so vilified yesterday, had been twice elected Governor of the State, and recently elected to succeed him [Mr. Kelly] in the Senate of the United States. In everything that became a man of honor, a man of principle, Gov. Grover was the peer of the Senator from Iowa.

Mr. WRIGHT, of Iowa, said it was far from his thoughts yesterday to arouse or vilify any one. He accepted the facts as he understood them, and stated his conclusions. If the facts stated by him were true, he had no word to take back.

Mr. KELLY argued that the Governor of Oregon was justified in his action by the decisions of the Supreme Courts of Indiana and of Oregon.

Mr. WRIGHT said the Governor was a mere ministerial officer, and there was no decision which authorized him to decide a judicial question.

Mr. KELLY argued that the question decided by the Governor of Oregon was not a judicial one; it was a political question, and the Governor had the right to decide it.

Mr. SHERMAN, of Ohio, said the Senate should consider the question as to the extent of its power in calling for private telegrams between citizens. As a rule the courts did not compel the production of private papers unless particular papers were called for, and it was shown at the same time that they were necessary to serve the ends of justice. He was not prepared to say that this case was one which justified the Senate of the United States in calling for telegrams in a general way. He hoped the Senate of the United States would not be the first to break down the ordinary barriers of confidential communication between private individuals. The power of the Senate in compelling the production of letters and telegrams should be kept within the limits to which a court would go. He trusted that the call for telegrams would be confined strictly to those telegrams from public officers upon public business and there would be no general call for telegrams. The power was a dangerous one and likely to be abused, and he hoped some law would soon be passed to govern the production of telegrams and letters. Private property and private papers should be kept sacred. If the Committee on Privileges and Elections desired certain telegrams they should be pointed out, and it should be shown that their production was necessary to bring out the whole truth in the investigation. The Senate was acting as a court, and should act with exceeding care in ordering the production of telegrams.

Mr. MORTON, of Indiana, in reply to a question of Mr. Cockrell, said if it was proper in any case to compel the production of private telegrams, he believed that this was a case where it was proper.

Mr. COCKRELL inquired if there was any precedent for the case now before the Senate.

Mr. MORTON replied that he did not know if this matter had ever been brought to the attention of the Senate before, though it had been discussed in newspapers and in the House of Representatives.

Mr. CONKLING, of New-York, said the witness in his answers to the committee referred to some statute of the State in which he lived (Oregon) which, according to his statement, seemed to be a penal statute visiting punishment upon him for disclosing the contents of any message.

Mr. INGALLS, of Kansas, said there had been in Pennsylvania a penal statute punishing telegraph operators for divulging matters passing over the wires, but the courts had held that it did not apply when the cause of justice was concerned.

Mr. BAYARD, of Delaware, said he was heartily in favor of all disclosures of matters pertaining to this Oregon matter, and he was disposed to go very far in compelling the production of testimony; at the same time he believed there was no safety for any party or any man except under the laws of the land. He did not believed in liberty divorced from law. He believed that the Senate had full power to authorize the investigation now being made by the Committee on Privileges and Elections, but it must not forget that it was now making a precedent. He reviewed the questions which the witness, Turner, had declined to answer, and said most of them would be allowed in a court of justice, though one or two should be narrowed down and made more specific. He then referred to the investigation by the Special Committee of Mississippi Affairs, made a year ago, and said a wholesale production of telegraphic communications was ordered by the majority of that committee; but he objected to such a general production of telegrams. In his opinion, postal cards were not much more public than telegrams of to-day. Skillful telegraph operators could be in the room where an instrument was located, and by their ear could take a message just as well as if seated at the instrument. The Senate had all the rights which a court of justice had in the production of testimony, and he would aid the committee all in his power to enforce the disclosures of any dishonesty, in regard to the late election, and any question which the law would compel a witness to answer elsewhere he would compel him to answer before a committee of the Senate.

Mr. CONKLING, of New-York, said it seemed to him unfortunate that with so many empty seats the Senate should be called upon to run the boundaries of those communications which passed between citizen and citizen. This question in regard to telegraphic communication was under consideration in another forum. The witness Turner, he understood, had not yet been instructed by those for whom he acted on account of the belief that the matter of divulging telegraphic communications might be settled in another forum to-day. He therefore thought his testimony might be allowed to stand until the party called upon to certify could be advised, and in the meantime the Senators could consider the subject. There was one thing certain, and that was either the telegraph would cease to be, as it is, a great convenience, or those who managed it would adopt some measure which would make it impossible, legally and physically, for any body to rummage the file of dispatches. As was said of some great military commander, "He will burn his bridges." The telegraph company would burn their dispatches in case Congress asserted the right to fumble and handle every message which passed between man and man. Those who patronized the telegraph companies would force them to keep messages secret; he would vote with all the Senators to unmask fraud, but the Senate now was proceeding upon slippery ground; there were metes and bounds which should be adhered to.

Mr. MORTON, of Indiana, said he believed that this whole subject in regard to the secrecy of telegraphic communications was within the power of Congress and might be regulated by Congress. It was a subject for Congressional legislation, and should be legislated upon. There was no law to punish the disclosure of telegraphic communications in this District or any of the Territories of the United States, although the Government daily sent messages of the most important character. The statute of Oregon referred to did not prevent the witness Turner from testifying. It provided for the punishment of any wilful disclosure of a telegraphic communication, but a telegrapher called upon to testify in any court could not be punished under it. There was no doubt Congress could put a telegraphic dispatch upon the same footing with a letter in the mail in regard to secrecy, and dispatches should be protected to some extent.

Mr. INGALLS, of Kansas, said there was no reason why copies of telegraphic dispatches should be retained. The trouble was with the telegraph com-

panies themselves. If a law should be passed requiring telegraph companies to destroy all messages there would be no further difficulty about these drag-net investigations, and when courts of justice or committees of Congress desired telegrams they would be compelled to supply to the sender or receiver, and not to the custodian of such messages.

Mr. WALLACE, of Pennsylvania, argued that it was the duty of the Senate to compel those telegraphic communications to be brought to light when they affected the administration of justice.

Mr. WHYTE, of Maryland, said there had been no legislation making communications by telegraph confidential, and he could not see why a party having possession of information which passed through a telegraph office should not be made to disclose that information. If any statute of a State proposed to punish a witness for disclosing such information he was fully protected by the act of 1862. The law of Oregon had no application whatever to this case. Whenever it was made to appear that the inquiry was a pertinent one a telegraph operator had no privilege upon which he could refuse to divulge the information required. He asked where the difference existed between a telegraph operator and an expressman; and if anybody denied that the Senate had the right to send to an express office and compel the production of books and receipts, as it did during the late Belknap impeachment trial? Express and telegraph companies, he said, were private corporations, and the agent of any corporation could not shield himself from answering an inquiry by either house of Congress on account of the rules of such corporation. In the absence of law creating a bulwark around a telegraph operator he had no privilege. He favored the passage of the resolution.

Mr. CAMERON, of Pennsylvania, also favored the passage of the resolution, and said he would give telegraph companies all rights guaranteed them by charters, but no more. He would vote for this resolution and everything else which would show that there had been wrong-doing in the election of a President of the United States.

Mr. COCKRILL, of Missouri, said no Senator had been able to state that a precedent for this case had ever been before the Senate. He had, upon examination, found that during the impeachment of Andrew Johnson the Senate of the United States, with the Chief Justice presiding, had summoned Charles A. Tinker and compelled him to produce certain telegrams which passed between Mr. Johnson and Mr. Parsons, of Alabama. He [Mr. Cockrell] was decidedly in favor of letting the people know what the two political parties which pretended to act for the people had been doing, and would therefore vote for the resolution.

The question being on the passage of the resolution, resulted, yeas, 33; nays 3, as follows:

YEAS—Messrs. Allison, Bogy, Booth, Boutwell, Bruce, Cameron of Pennsylvania, Chaffee, Clayton, Cockrell, Cragin, Edmunds, Ferry, Gordon, Ingalls, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Mitchell, Morrill, Morton, Patterson, Price, Randolph, Robertson, Sherman, Spencer, Wallace, White, Withers, Wright—33.

NAYS—Messrs. Barnum, Burnside, Eaton—3.

The Senate adjourned till Monday.

HOUSE OF REPRESENTATIVES.

THE PENSION BILL.

On motion of Mr. ATKINS, of Tennessee, the Senate amendments to the bill making appropriation for the payment of invalid and other pensions were concurred in.

The House then went into Committee of the Whole (Mr. Hooker, of Massachusetts, in the Chair) on the private calendar.

Five Pension bills only were passed, all the other bills which were reached on the calendar having been objected to.

THE TELEGRAPHIC DISPATCH QUESTION.

The committee rose at 2 o'clock, and the House thereupon proceeded to the question of the recusant witness, Mr. E. W. Barnes, the New-Orleans Manager of the Western Union Telegraph Company, the Sergeant at Arms presenting him before the bar of the House.

The SPEAKER, addressing Mr. Barnes, said that it was his [the Speaker's] duty to ask him what excuse he had to offer for the failure to produce before the House Committee sitting at New-Orleans telegrams called for in the subpœna served on him.

Mr. Barnes replied that his answer had been prepared in writing by his counsel, Messrs. Lowrey & Ashton, and he asked that it be read by the Clerk.

The SPEAKER suggested that the answer should be under oath, and Mr. Barnes replied that it was under oath.

Messrs. CONGER, of Michigan, and KASSON, of Iowa, objected to a precedent being set for requiring the answer of a witness charged with contempt to be made under oath.

Mr. GARFIELD, of Ohio, agreed with the Speaker that the facts contained in the answer should be made under oath, but he thought it would be rather hard to require a man to swear to the argument of his counsel.

The SPEAKER said he sympathized with Mr. Garfield in that sentiment. [Laughter.]

The Clerk then proceeded to read the answer, which is a voluminous paper, quoting all the proceedings thus far in the matter. The witness protests that the paper designated as a subpœna was not in form and substance a subpœna to him, or to any one else, except to John G. Thompson, the Sergeant at Arms, named therein; that it was in no sense an order of the House which could be a subject of obedience or disobedience in him, and that such paper could not be rightfully made the ground of inflicting a penalty on him. The paper then goes on to argue the inviolability of telegraphic dispatches, citing in support of it Cooley's Constitutional Limitations. It then recites the rules of the company forbidding the communication of dispatches when applied for, unless by permission of the executive officer or by the order of a court. The witness then says that as soon as he received the paper served upon him he apprised his Superintendent of the fact, and asked for instructions. Another reason for his doing so was that some time previously he had received instructions from the Superintendent at Mobile to send to him all the business that had passed through the New-Orleans office from the 1st of November to the 6th of December, and he had done so before he had been served with the paper of the committee. The instructions received from his Superintendent were to decline furnishing the dispatches called for, and that he would be relieved of all responsibility in the matter; he declares that since the transmission of the papers to Mobile he has had no control over them, nor has he any knowledge whatever that such messages as were called for in the paper ever passed through the New-Orleans office. He does not believe that if any of them remained in the office their legal possession was in him as a subordinate employe, and he expresses the belief that if he had undertaken to rummage the office for them and carry them away he would have been committing an actual trespass. He also pleads, he says, that the paper served upon him is couched in such sweeping terms as to be a general warrant coming within the prohibition of the Constitution, and at variance with the great principles of personal liberty and right established for all freemen of the Anglo-Saxon race. Also that the Legislature of Louisiana makes the disclosure of telegraphic dispatches a misdemeanor. He declares that he did not contemplate any contempt of the authority or privileges of the House, and had only sought to do his duty as he had understood it; the messages of the office were in possession of the company, and not of himself except as a clerk; he, therefore, asks to be discharged from custody and permitted to return to his home.

The reading of the paper being concluded, Mr. KNOTT, of Kentucky, offered a resolution that the report of the committee, the answer just read, and all other papers relating to the alleged breach of contempt be referred to the Judiciary Committee, with instructions to report as early as practicable what action should be taken in relation thereto. The resolution was adopted, and the Sergeant at Arms was directed to retain Mr. Barnes in custody.

THE DEFICIENCY IN THE CONTINGENT FUND.

The House then went into Committee of the Whole on the Contingency Deficiency bill, Mr. Hoskins, of New-York, in the chair.

An amendment offered by Mr. WOOD, of New-York, to pay $600 for temporary clerk hire for the Committee of Ways and Means was made the text for a good deal of raillery and satire on the Democratic Party as the party of economy and reform, but Mr. GARFIELD, of Ohio, came to the rescue, and explained that the extra clerk hire was owing to the illness of the regular clerk. The amendment was agreed to.

After about two hours spent over the Deficiency bill the committee rose, and the bill was passed, and the House adjourned till to-morrow, a motion by Mr. Knott, of Kentucky, to adjourn over till Monday having only been lost by the absence of a quorum voting.

A SENATOR'S DISAPPOINTMENT.

The Boston *Post* divulges the following: "A slight mistake was made by a prominent member of the upper branch of the State house yesterday. The mantle of the agricultural doctor didn't fall exactly where many of the wise ones thought it would, and where the aforesaid member had prepared to receive it, the consequence being a rather funny complication. The expectant member, with full faith in caucus promises and the surface drift of the waves political, had even gone so far as to prepare a speech, thanking his fellow-members for the honor, &c. There is nothing remarkable in this, however, for most legislators know something of the trouble of altering an impromptu address to suit an occasion for which it was not originally intended; but in the fullness of his heart the confident Senator actually yielded his manuscript to an insinuating reporter, and while the balloting was in progress on the hill the typesetters were busy in a trio of newspaper offices. When the result was finally reached, there was a tumult among the legislative scribes, and it was only by the most frantic efforts that the grateful thanks of the wrong man were not given to the world."

THE BORDER LINE.

The San Francisco *Chronicle* of Dec. 29 says: "Mrs. Antonio Verdugo, a Mexican lady of prepossessing appearance, 33 years of age, and worth $500,000 in her own right, has been the subject of an investigation by the Commissioners of Lunacy the past two days. She left her husband in Mexico about 18 months ago and came to this city, where she has on several occasions invoked the aid of the Police to protect her from imaginary enemies. Yesterday she consented, after repeated refusals, to return home with her husband, and she was discharged from custody, the Commissioners coming to the following conclusion: 'We think, after a patient investigation of this case, that her mind is in that condition that may be regarded as the border line between eccentricity and insanity, but we do not find sufficient evidence of insanity to justify us in the opinion that she should be deprived of her freedom.'"